

Act No. 276
Public Acts of 1993
Approved by the Governor
December 22, 1993
Filed with the Secretary of State
December 28, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. DeLange, Murphy and Munsell

ENROLLED HOUSE BILL No. 5131

AN ACT to amend section 54b of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," as added by Act No. 4 of the Public Acts of 1991, being section 421.54b of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 54b of Act No. 1 of the Public Acts of the Extra Session of 1936, as added by Act No. 4 of the Public Acts of 1991, being section 421.54b of the Michigan Compiled Laws, is amended to read as follows:

Sec. 54b. (1) An employing unit or an officer or agent of an employing unit, a claimant for unemployment benefits, an employee of the commission, or a third party that has conspired with 1 or more persons to commit an offense prohibited by this act or to commit an act permitted by this act in an illegal manner shall be guilty of conspiracy punishable by 1 or more of the following:

(a) If the commission determines that an individual conspired to commit an illegal act under this act, the commission may recover the amount of money so obtained or withheld from payment as a result of the illegal act, and may also recover damages equal to 3 times that amount.

(b) The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under subdivision (a), the penalty sought by the prosecutor shall include the amount described in subdivision (a) and shall also include 1 or more of the following penalties:

(i) If the amount obtained or withheld from payment as a result of the conspiracy is \$25,000.00 or less, then 1 of the following:

- (A) Imprisonment for not more than 2 years.
- (B) The performance of community service of not more than 2 years but not to exceed 4,160 hours.
- (C) A combination of (A) and (B) that does not exceed 2 years.

(ii) If the amount obtained or withheld from payment as a result of the conspiracy is more than \$25,000.00, then 1 of the following:

- (A) Imprisonment for not more than 5 years.
- (B) The performance of community service of not more than 5 years but not to exceed 10,400 hours.
- (C) A combination of (A) and (B) that does not exceed 5 years.

(iii) If a conspiracy to obtain or withhold an amount from payment does not result in a loss to the commission, then both a fine equal to 3 times the amount involved in the conspiracy, but not less than \$1,000.00 and 1 of the following:

- (A) Imprisonment for not more than 2 years.
- (B) The performance of community service for not more than 2 years but not to exceed 4,160 hours.
- (C) A combination of (A) and (B) that does not exceed 2 years.

(2) This section shall apply even if the amount obtained or withheld from payment has been reported or reported and paid by an individual involved in a conspiracy.

(3) This section applies to conduct that began before April 1, 1992 but that continued on or after April 1, 1992 and to conduct that began on or after April 1, 1992.

(4) The penalties provided in this section shall be in addition to any penalty provided in this act for a late filing.

(5) If a determination is made that an individual has violated this section, the individual is subject to the penalty provisions of this section and, where applicable, the requirements of section 62.

(6) The amount recovered by the commission pursuant to subsection (1) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained or withheld as a result of the conspiracy shall be credited to the penalty and interest account of the contingent fund.

(7) This section shall take effect April 1, 1992.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.