



HOUSE BILL No. 5131

October 14, 1993, Introduced by Reps. DeLange, Murphy and Munsell and referred to the Committee on Labor.

A bill to amend section 54b of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security 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:

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

5 Sec. 54b. (1) An employing unit or an officer or agent of
6 an employing unit, a claimant for unemployment benefits, an
7 employee of the commission, or a third party that has conspired
8 with 1 or more persons to commit an offense prohibited by this
9 act or to commit an act permitted by this act in an illegal

1 manner shall be guilty of conspiracy punishable by 1 or more of
2 the following:

3 (a) If the commission determines that an individual con-
4 spired to commit an illegal act under this act, the commission
5 may recover the amount of money so obtained or withheld from pa^y
6 ment as a result of the illegal act, and may also recover damag^es
7 equal to 3 times that amount.

8 (b) The commission may refer the matter TO THE PROSECUTING
9 ATTORNEY OF THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED
10 for prosecution. If the commission has not made its own determⁱ-
11 nation under subdivision (a), the penalty sought by the prosecu^t-
12 tor shall include the amount described in subdivision (a) and
13 shall also include 1 or more of the following penalties:

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

17 (A) ~~(a)~~ Imprisonment for not more than 2 years.

18 (B) ~~(b)~~ The performance of community service of not more
19 than 2 years but not to exceed 4,160 hours.

20 (C) ~~(c)~~ A combination of ~~(a)~~ (A) and ~~(b)~~ (B) that does
21 not exceed 2 years.

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

25 (A) ~~(a)~~ Imprisonment for not more than 5 years.

26 (B) ~~(b)~~ The performance of community service of not more
27 than 5 years but not to exceed 10,400 hours.

1 (C) ~~(c)~~ A combination of ~~(a)~~ (A) and ~~(b)~~ (B) that does
2 not exceed 5 years.

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

7 (A) ~~(a)~~ Imprisonment for not more than 2 years.

8 (B) ~~(b)~~ The performance of community service for not more
9 than 2 years but not to exceed 4,160 hours.

10 (C) ~~(c)~~ A combination of ~~(a)~~ (A) and ~~(b)~~ (B) that does
11 not exceed 2 years.

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

15 (3) This section applies to conduct that began before ~~the~~
16 ~~effective date of this section~~ APRIL 1, 1992 but that continued
17 on or after ~~the effective date of this section~~ APRIL 1, 1992
18 and to conduct that began on or after ~~the effective date of this~~
19 ~~section~~ APRIL 1, 1992.

20 (4) The penalties provided in this section shall be in addi-
21 tion to any penalty provided in this act for a late filing.

22 (5) If a determination is made that an individual has vio-
23 lated this section, the individual is subject to the penalty pro-
24 visions of this section and, where applicable, the requirements
25 of section 62.

26 (6) ~~Amounts~~ THE AMOUNT recovered by the commission
27 pursuant to ~~this section~~ SUBSECTION (1) shall be credited FIRST

1 TO THE UNEMPLOYMENT COMPENSATION FUND AND THEREAFTER AMOUNTS
2 RECOVERED THAT ARE IN EXCESS OF THE AMOUNTS OBTAINED OR WITHHELD
3 AS A RESULT OF THE CONSPIRACY SHALL BE CREDITED to the penalty
4 and interest account of the contingent fund. ~~Not less than~~
5 ~~annually the commission shall transfer to the unemployment trust~~
6 ~~fund amounts recovered under this section to the extent that the~~
7 ~~unemployment trust fund has not previously been credited for the~~
8 ~~amount obtained as a result of the conspiracy.~~

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