

**SUBSTITUTE FOR  
HOUSE BILL NO. 4546**

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 54 (MCL 421.54), as amended by 2016 PA 522.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 54. (a) A person, including a claimant for unemployment  
2       benefits, an employing entity, or an owner, director, or officer of  
3       an employing entity, who willfully violates or intentionally fails  
4       to comply with any of the provisions of this act, or a regulation  
5       of the unemployment agency promulgated under ~~the authority of this~~  
6       act for which a penalty is not otherwise provided by this act is  
7       subject to the following sanctions, notwithstanding any other  
8       statute of this state or of the United States:

9       (i) If the unemployment agency determines that an amount has  
10      been obtained or withheld as a result of the intentional failure to

1 comply with this act, the unemployment agency may recover the  
2 amount obtained as a result of the intentional failure to comply  
3 plus damages equal to 3 times that amount.

4 (ii) The unemployment agency may refer the matter to the  
5 prosecuting attorney of the county in which the alleged violation  
6 occurred for prosecution. If the unemployment agency has not made  
7 its own determination under subdivision (i), **THEN** the recovery  
8 sought by the prosecutor ~~shall~~ **MUST** include the amount described in  
9 subdivision (i). ~~and shall also include~~ **THE VIOLATION IS PUNISHABLE**  
10 **BY** 1 or more of the following: ~~penalties:~~

11 (A) Subject to redesignation under subsection (l), if the  
12 amount obtained or withheld from payment as a result of the  
13 intentional failure to comply is less than \$25,000.00, then 1 of  
14 the following:

15 (I) Imprisonment for not more than 1 year.

16 (II) The performance of community service of not more than 1  
17 year but not to exceed 2,080 hours.

18 (III) A combination of **PENALTIES UNDER** (I) and (II) that does  
19 not exceed 1 year.

20 (B) If the amount obtained or withheld from payment as a  
21 result of the intentional failure to comply is \$25,000.00 or more  
22 but less than \$100,000.00, then 1 of the following:

23 (I) Imprisonment for not more than 2 years.

24 (II) The performance of community service of not more than 2  
25 years but not to exceed 4,160 hours.

26 (III) A combination of **PENALTIES UNDER** (I) and (II) that does  
27 not exceed 2 years.

1 (C) If the amount obtained or withheld from payment as a  
2 result of the intentional failure to comply is more than  
3 \$100,000.00, then 1 of the following:

4 (I) Imprisonment for not more than 5 years.

5 (II) The performance of community service of not more than 5  
6 years but not to exceed 10,400 hours.

7 (III) A combination of **PENALTIES UNDER** (I) and (II) that does  
8 not exceed 5 years.

9 (iii) If the unemployment agency determines that an amount has  
10 been obtained or withheld as a result of a knowing violation of  
11 this act, the unemployment agency may recover the amount obtained  
12 as a result of the knowing violation and may also recover damages  
13 equal to 3 times that amount.

14 (iv) The unemployment agency may refer a matter under  
15 subdivision (iii) to the prosecuting attorney of the county in  
16 which the alleged violation occurred for prosecution. If the  
17 unemployment agency has not made its own determination under  
18 subdivision (iii), **THEN** the recovery sought by the prosecutor ~~shall~~  
19 **MUST** include the amount described in subdivision (iii). ~~and shall~~  
20 ~~also include~~ **THE VIOLATION IS PUNISHABLE BY** 1 or more of the  
21 following: ~~penalties:~~

22 (A) Subject to redesignation under subsection (l), if the  
23 amount obtained or withheld from payment as a result of the knowing  
24 violation is \$100,000.00 or less, then 1 of the following:

25 (I) Imprisonment for not more than 1 year.

26 (II) The performance of community service of not more than 1  
27 year but not to exceed 2,080 hours.

1 (III) A combination of **PENALTIES UNDER** (I) and (II) that does  
2 not exceed 1 year.

3 (B) If the amount obtained or withheld from payment as a  
4 result of the knowing violation is more than \$100,000.00, then 1 of  
5 the following:

6 (I) Imprisonment for not more than 2 years.

7 (II) The performance of community service of not more than 2  
8 years but not to exceed 4,160 hours.

9 (III) A combination of **PENALTIES UNDER** (I) and (II) that does  
10 not exceed 2 years.

11 (b) ~~Any~~**AN** employing unit or an owner, director, officer, or  
12 agent of an employing unit, a claimant, an employee of the  
13 unemployment agency, or any other person who makes a false  
14 statement or representation knowing it to be false, or knowingly  
15 and willfully with intent to defraud fails to disclose a material  
16 fact, to obtain or increase a benefit or other payment under this  
17 act or under the unemployment compensation law of any state or of  
18 the federal government, either for himself or herself or any other  
19 person, to prevent or reduce the payment of benefits to an  
20 individual entitled thereto or to avoid becoming or remaining a  
21 subject employer, or to avoid or reduce a contribution or other  
22 payment required from an employing unit under this act or under the  
23 unemployment compensation law of any state or of the federal  
24 government, ~~as applicable,~~ is subject to administrative fines and  
25 is punishable as provided in this subsection, notwithstanding any  
26 other penalties imposed under any other statute of this state or of  
27 the United States. For benefit years beginning on or after May 1,

2017, to establish fraud based on unreported earnings under this subsection, the unemployment agency must have in its possession the weekly wage information from the employer. A violation of this subsection is punishable as follows:

(i) If the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is less than \$500.00, the unemployment agency may recover the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact and may also recover damages equal to 2 times that amount. For a second or subsequent violation described in this subdivision, the unemployment agency may recover damages equal to 4 times the amount obtained.

(ii) If the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is \$500.00 or more, the unemployment agency shall attempt to recover the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact and may also recover damages equal to 4 times that amount. The unemployment agency may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the unemployment agency has not made its own determination under this subdivision, **THEN** the recovery sought by the prosecutor ~~shall~~ **MUST** include the amount described in this subdivision. ~~and shall also include~~ **THE VIOLATION IS PUNISHABLE BY** 1 or more of the following ~~penalties~~ if the amount obtained is \$1,000.00 or more:

1 (A) Subject to redesignation under subsection (l), if the  
2 amount obtained or withheld from payment as a result of the knowing  
3 false statement or representation or the knowing and willful  
4 failure to disclose a material fact is \$1,000.00 or more but less  
5 than \$25,000.00, then 1 of the following:

6 (I) Imprisonment for not more than 1 year.

7 (II) The performance of community service of not more than 1  
8 year but not to exceed 2,080 hours.

9 (III) A combination of **PENALTIES UNDER** (I) and (II) that does  
10 not exceed 1 year.

11 (B) If the amount obtained or withheld from payment as a  
12 result of the knowing false statement or representation or the  
13 knowing and willful failure to disclose a material fact is  
14 \$25,000.00 or more, then 1 of the following:

15 (I) Imprisonment for not more than 2 years.

16 (II) The performance of community service of not more than 2  
17 years but not to exceed 4,160 hours.

18 (III) A combination of **PENALTIES UNDER** (I) and (II) that does  
19 not exceed 2 years.

20 (C) If the knowing false statement or representation or the  
21 knowing and willful failure to disclose a material fact made to  
22 obtain or withhold an amount from payment does not result in a loss  
23 to the ~~commission, UNEMPLOYMENT AGENCY~~, then ~~a recovery~~ **THE**  
24 **UNEMPLOYMENT AGENCY** shall ~~be sought~~ **ATTEMPT TO RECOVER AN AMOUNT**  
25 equal to 3 times the amount that would have been obtained by the  
26 knowing false statement or representation or the knowing and  
27 willful failure to disclose a material fact, but not less than

1 \$1,000.00, and 1 of the following:

2 (I) Imprisonment for not more than 2 years.

3 (II) The performance of community service of not more than 2  
4 years but not to exceed 4,160 hours.

5 (III) A combination of **PENALTIES UNDER** (I) and (II) that does  
6 not exceed 2 years.

7 (c) (1) Any employing unit or an owner, director, officer, or  
8 agent of an employing unit or any other person failing to submit,  
9 when due, any contribution report, wage and employment report, or  
10 other reports lawfully prescribed and required by the unemployment  
11 agency ~~shall be~~ **IS** subject to the assessment of an administrative  
12 fine for each report not submitted within the time prescribed by  
13 the unemployment agency. ~~, as follows:~~ In the case of contribution  
14 reports not received within 10 days after the end of the reporting  
15 month, the fine ~~shall be~~ **IS** 10% of the contributions due on the  
16 reports but not less than \$5.00 or more than \$25.00 for a report.  
17 However, if the tenth day falls on a Saturday, Sunday, legal  
18 holiday, or other unemployment agency nonwork day, the 10-day  
19 period ~~shall run~~ **RUNS** until the end of the next day that is not a  
20 Saturday, Sunday, legal holiday, or other unemployment agency  
21 nonwork day. In the case of all other reports referred to in this  
22 subsection, the fine ~~shall be~~ **IS** \$10.00 for a report.

23 (2) Notwithstanding subdivision (1), any employer or an owner,  
24 director, officer, or agent of an employer or any other person  
25 failing to submit, when due, any quarterly wage detail report  
26 required by section 13(2), or submitting an incomplete or erroneous  
27 report, is subject to an administrative fine of \$50.00 for each

1 untimely report, incomplete report, or erroneous report if the  
2 report is filed not later than 30 days after the date the report is  
3 due, \$250.00 if the report is filed more than 1 calendar quarter  
4 after the date the report is due, and an additional \$250.00 for  
5 each additional calendar quarter that the report is late, except  
6 that no penalty shall apply if the employer files a corrected  
7 report within 14 days after notification of an error by the agency.

8 (3) If a report is filed after the prescribed time and it is  
9 shown to the satisfaction of the ~~commission~~**UNEMPLOYMENT AGENCY**  
10 that the failure to submit the report was due to reasonable cause,  
11 ~~a fine~~**THE UNEMPLOYMENT AGENCY** shall not ~~be imposed~~**IMPOSE A FINE**.  
12 The assessment of a fine as provided in this subsection constitutes  
13 a final determination unless the employer files an application with  
14 the unemployment agency for a redetermination of the assessment ~~in~~  
15 ~~accordance with~~**UNDER** section 32a.

16 (d) If any employee or agent of the unemployment agency or  
17 member of the Michigan compensation appellate commission willfully  
18 discloses confidential information obtained from any employing unit  
19 or individual in the administration of this act for any purpose  
20 inconsistent with or contrary to the purposes of this act, or a  
21 person who obtains a list of applicants for work or of claimants or  
22 recipients of benefits under this act uses or permits use of that  
23 list for a political purpose or for a purpose inconsistent with or  
24 contrary to the purposes of this act, he or she is guilty of a  
25 misdemeanor punishable by imprisonment for not more than 90 days or  
26 a fine of not more than \$1,000.00, or both. Notwithstanding the  
27 preceding sentence, if any unemployment agency employee, agent of



1 the unemployment agency, or member of the Michigan compensation  
2 appellate commission knowingly, intentionally, and for financial  
3 gain, makes an illegal disclosure of confidential information  
4 obtained under section 13(2), he or she is guilty of a felony,  
5 punishable by imprisonment for not more than 1 year and 1 day.

6 (e) ~~A person~~ **AN INDIVIDUAL** who, without proper authority from  
7 the unemployment agency, represents himself or herself to be an  
8 employee of the unemployment agency for the purpose of securing  
9 information regarding the unemployment or employment record of an  
10 individual is guilty of a misdemeanor punishable by imprisonment  
11 for not more than 90 days or a fine of not more than \$1,000.00, or  
12 both.

13 (f) A person associated with ~~a college, university,~~ **AN**  
14 **INSTITUTION OF HIGHER EDUCATION, INTERMEDIATE SCHOOL DISTRICT,**  
15 **MICHIGAN WORKS AGENCY,** or public agency of this state who makes use  
16 of any information obtained from the unemployment agency ~~in~~  
17 ~~connection with a research project of a public service nature,~~  
18 **UNDER SECTION 11(B) (1) (viii)** in a manner as to reveal the identity  
19 of any individual or employing unit from or concerning whom the  
20 information was obtained by the unemployment agency, or for any  
21 purpose other than ~~use in connection with that research project,~~  
22 **THE PURPOSES STATED IN SECTION 11(B) (1) (viii)** is guilty of a  
23 misdemeanor punishable by imprisonment for not more than 90 days or  
24 a fine of not more than \$1,000.00, or both. **AS USED IN THIS**  
25 **SUBSECTION:**

26 (i) **"INSTITUTION OF HIGHER EDUCATION" MEANS THAT TERM AS**  
27 **DEFINED IN SECTION 53.**

1           (ii) "INTERMEDIATE SCHOOL DISTRICT" MEANS THAT TERM AS DEFINED  
2 IN SECTION 4 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.4.

3           (iii) "MICHIGAN WORKS AGENCY" MEANS THAT TERM AS DEFINED IN  
4 SECTION 3 OF THE MICHIGAN WORKS ONE-STOP SERVICE CENTER SYSTEM ACT,  
5 2006 PA 491, MCL 408.113.

6           (g) As used in this section, "person" includes an individual;  
7 owner, director, or officer of an employing entity; copartnership;  
8 joint venture; corporation; receiver; or trustee in bankruptcy.

9           (h) This section applies even if the amount obtained or  
10 withheld from payment has been reported or reported and paid by an  
11 individual involved in a violation of subsection (a) or (b).

12           (i) ~~If a determination is made that an~~ **AN** individual **WHO** has  
13 violated this section ~~, the individual is~~ subject to the sanctions  
14 of this section and, if applicable, ~~the requirements of~~ section 62.

15           (j) Amounts recovered by the ~~commission~~ **UNEMPLOYMENT AGENCY**  
16 under subsection (a) ~~shall~~ **MUST** be credited first to the  
17 unemployment compensation fund and thereafter amounts recovered  
18 that are in excess of the amounts obtained or withheld as a result  
19 of the violation of subsection (a) ~~shall~~ **MUST** be credited to the  
20 penalty and interest account of the contingent fund. Amounts  
21 recovered by the ~~commission~~ **UNEMPLOYMENT AGENCY** under subsections  
22 (c), (d), (e), and (f) ~~shall~~ **MUST** be credited to the penalty and  
23 interest account of the contingent fund ~~in accordance with~~ **AS**  
24 **PROVIDED IN** section 10(6).

25           (k) Amounts recovered by the unemployment agency under  
26 subsection (b) ~~shall~~ **MUST** be credited in the following order:

27           (i) From the penalty assessment recovered, an amount equal to

1 15% of any benefit overpayments resulting from fraud ~~shall~~**MUST** be  
2 credited to the unemployment compensation fund.

3 (ii) For the balance of deductions from unemployment insurance  
4 benefits, to the liability for benefit repayment under this  
5 section.

6 (iii) For all other recoveries, the balance ~~shall~~**MUST** first  
7 be credited to the unemployment compensation fund for repayment of  
8 any remaining amounts owed, and then to the contingent fund to be  
9 applied first to administrative sanctions and damages and then to  
10 interest.

11 (l) A person who obtains or withholds an amount of  
12 unemployment benefits or payments exceeding \$3,500.00 but less than  
13 \$25,000.00 as a result of a knowing false statement or  
14 representation or the knowing and willful failure to disclose a  
15 material fact is guilty of a felony punishable as provided in  
16 subsection (a) (ii) (A) or (iv) (A) or subsection (b) (ii) (A) .

17 (m) ~~An~~**THE** unemployment agency **SHALL NOT MAKE A** determination  
18 under this section ~~shall not be~~**THAT IS** based solely on a computer-  
19 identified discrepancy in information supplied by the claimant or  
20 employer. An unemployment agency employee or agent must examine the  
21 facts and independently determine that the claimant or the employer  
22 is responsible for a willful or intentional violation before the  
23 **UNEMPLOYMENT** agency makes a determination under this section.

24 Enacting section 1. This amendatory act takes effect 90 days  
25 after the date it is enacted into law.

26 Enacting section 2. This amendatory act does not take effect  
27 unless House Bill No. 4545 of the 99th Legislature is enacted into

1 law.