

Act No. 225
Public Acts of 2017
Approved by the Governor
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Rep. Graves

ENROLLED HOUSE BILL No. 5165

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "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 levy and provide for obligation assessments; to provide for the collection of those contributions and assessments; 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 this act; and to repeal all acts and parts of acts inconsistent with this act," (MCL 421.1 to 421.75) by adding sections 54f, 54g, and 54h.

The People of the State of Michigan enact:

Sec. 54f. (1) An employer that is an interested party to a claim for benefits, or the employer's agent, may report to the unemployment agency that the claim is fraudulent because the individual who filed the claim is an impostor. The unemployment agency shall accept reports submitted under this subsection by mail, fax, and any other means approved by the unemployment agency and shall maintain a website for employers to submit reports. A report submitted under this subsection must include all of the following:

(a) A statement that the employer believes that the claim is fraudulent because the individual who filed the claim is an impostor and the facts or evidence supporting its belief.

- (b) The name and last known address of the affected individual and, if available, the affidavit signed by the affected individual under subsection (2).
- (c) A statement that the employer is not making the report frivolously and that the information contained in the report is, to the best of the employer's knowledge, complete and accurate.
- (d) The name, address, electronic mail address, and telephone number of the individual submitting the report.
- (e) The signature of the individual submitting the report.
- (2) An affected individual may submit an affidavit to an employer or the unemployment agency. The unemployment agency shall include on its website an affidavit form that meets the requirements of this subsection. An affidavit submitted under this subsection must include all of the following:
- (a) The name, address, and social security number of the affected individual.
- (b) A statement that the affected individual did not file the claim for benefits with the unemployment agency.
- (c) A statement that the information in the affidavit is complete and accurate.
- (d) The signature of the affected individual.
- (3) Upon receiving both a report submitted under subsection (1) and an affidavit submitted under subsection (2), the unemployment agency shall do both of the following:
- (a) Make a determination within 2 business days regarding whether the claim is fraudulent and whether the impostor committed identity theft and mail the determination to all interested parties. If the unemployment agency determines that the impostor committed identity theft, the determination must state that the claim is canceled and is null and void.
- (b) After making a determination under subdivision (a) that the claim is fraudulent, cancel all benefit payments on the claim.
- (4) Upon receiving only a report submitted under subsection (1) or upon receiving only an affidavit submitted under subsection (2), the unemployment agency shall do all of the following:
- (a) Notify the impostor by mail that the impostor must, within 10 days after the date of the notice, provide proof of his or her identity by providing the unemployment agency with copies of the acceptable documents as provided in the Form I-9. As used in this subdivision, "Form I-9" means the employment verification form that fulfills the employment verification obligations under 8 CFR 274a.2.
- (b) If the impostor does not provide proof of his or her identity pursuant to subdivision (a), the unemployment agency shall do all of the following:
- (i) Make a determination that the impostor did not provide proof of his or her identity pursuant to subdivision (a) and cease making payments on the claim until after making a determination under subparagraph (iii).
- (ii) Conduct an investigation to determine whether the claim is fraudulent and whether the impostor committed identity theft.
- (iii) Make a determination regarding whether the claim is fraudulent and whether the impostor committed identity theft and mail the determination to all interested parties. If the unemployment agency determines that the impostor committed identity theft, the determination must state that the claim is canceled and is null and void.
- (iv) After making a determination under subparagraph (iii) that the claim is fraudulent, cancel all benefit payments on the claim.
- (c) If the impostor provides proof of his or her identity pursuant to subdivision (a), the unemployment agency shall do both of the following:
- (i) Conduct an investigation to determine whether the claim is fraudulent and whether the impostor committed identity theft.
- (ii) Make a determination regarding whether the claim is fraudulent and whether the impostor committed identity theft and mail the determination to all interested parties.
- (5) An interested party may appeal a determination made under subsection (3) or (4) pursuant to section 32a.
- (6) If the unemployment agency determines under subsection (3) or (4) that an impostor committed identity theft to obtain benefits, the unemployment agency shall, within 60 days after the determination becomes final, credit the employer's account for the benefits paid to the impostor that were charged to the employer's account.
- (7) Upon the request of an individual, the unemployment agency shall provide the individual with any determinations the unemployment agency made regarding a claim submitted by an impostor to which the individual was an interested party.

(8) An employer that submits a frivolous report or otherwise intentionally misrepresents information in a report submitted under subsection (1), or an individual who intentionally misrepresents information in an affidavit submitted under subsection (2), is subject to the sanctions and penalties as provided in section 54.

(9) An affected individual is an interested party for purposes of this section and any appeals made under section 32a related to a determination made under this section.

(10) As used in this section:

(a) "Affected individual" means an individual whose identity was or is alleged to have been stolen by an impostor.

(b) "Identity theft" means that term as defined in section 24 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.24.

(c) "Impostor" means an individual who committed or is alleged to have committed identity theft to obtain benefits.

Sec. 54g. (1) By January 31 each year, beginning in 2019, the unemployment agency shall provide a written report regarding claims submitted by impostors under this act to the chairpersons of the standing committees and the appropriations subcommittees of the house of representatives and senate having jurisdiction over legislation pertaining to employment security. The report must include all of the following information from the immediately preceding calendar year in a form that does not identify an individual, claimant, or employer:

(a) The procedures the unemployment agency has adopted to mitigate the incidence of claims submitted by impostors.

(b) The total number of reports submitted under section 54f(1) and the number of reports submitted under section 54f(1) that the unemployment agency determined met the requirements of section 54f(8).

(c) The total number of affidavits submitted under section 54f(2) and the number of affidavits submitted under section 54f(2) that the unemployment agency determined met the requirements of section 54f(8).

(d) The number of determinations made under section 54f(3) and (4) where the unemployment agency determined that an impostor committed identity theft.

(e) The number of determinations made under section 54f(3) and (4) where the unemployment agency determined that an impostor did not commit identity theft.

(f) The total amount of benefits paid to impostors and the total amount recovered from impostors.

(2) As used in this section:

(a) "Identity theft" means that term as defined in section 24 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.24.

(b) "Impostor" means that term as defined in section 54f.

Sec. 54h. (1) The director shall appoint an individual to perform activities that include, but are not limited to:

(a) Making referrals for criminal, civil, and administrative action and disposition of appropriate cases involving impostors.

(b) Reviewing administrative policies, practices, and procedures.

(c) Reviewing procedures the unemployment agency has adopted to mitigate the incidence of claims submitted by impostors, and making recommendations to improve those procedures.

(d) Making recommendations to improve integrity and accountability within the unemployment agency.

(e) Working with the auditor general to ensure effective and efficient processes within the unemployment agency.

(2) As used in this section, "impostor" means that term as defined in section 54f.

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

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

(a) House Bill No. 5166.

(b) House Bill No. 5167.

(c) House Bill No. 5168.

(d) House Bill No. 5169.

(e) House Bill No. 5170.

(f) House Bill No. 5171.

(g) House Bill No. 5172.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor