

HOUSE BILL No. 4815

May 10, 1989, Introduced by Reps. Watkins, DeMars, Harrison, Wallace, Profit, Joe Young, Jr., Saunders, Honigman, London, O'Connor, Martin and Terrell and referred to the Committee on Labor.

A bill to amend section 54 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 197 of the Public Acts of 1985, being section 421.54 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 54 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 197 of the
3 Public Acts of 1985, being section 421.54 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 54. (a) A person who shall ~~wilfully~~ WILLFULLY vio-
6 late or intentionally fail to comply with any of the provisions
7 of this act, or a regulation of the commission promulgated under
8 the authority of this act ~~shall be deemed~~ IS guilty of a
9 misdemeanor, notwithstanding any other penalties imposed under

1 this act or any other statute of this state or of the United
2 States.

3 (b) Any employing unit or an officer or agent of an employ-
4 ing unit or any other person who makes a false statement or rep-
5 resentation knowing it to be false, or knowingly and ~~wilfully~~
6 WILLFULLY with intent to defraud fails to disclose a material
7 fact, to obtain or increase a benefit or other payment under this
8 act or under the unemployment compensation law of any state or of
9 the federal government, either for himself OR HERSELF or any
10 other person, to prevent or reduce the payment of benefits to an
11 individual entitled thereto or to avoid becoming or remaining a
12 subject employer, or to avoid or reduce a contribution or other
13 payment required from an employing unit under this act or under
14 the unemployment compensation law of any state or of the federal
15 government ~~shall be deemed~~ IS guilty of a misdemeanor, notwith-
16 standing any other penalties imposed under this act or any other
17 statute of this state or of the United States, and upon convic-
18 tion shall be punished by imprisonment for not more than 90 days,
19 or by a fine of not more than \$1,000.00, or both.

20 (C) ANY EMPLOYING UNIT OR AN OFFICER OR AGENT OF AN EMPLOY-
21 ING UNIT THAT, AS A CONDITION OF EMPLOYMENT, REQUIRES AN INDIVID-
22 UAL TO MAKE A FALSE STATEMENT OR REPRESENTATION KNOWING IT TO BE
23 FALSE TO OBTAIN OR INCREASE A BENEFIT OR OTHER PAYMENT UNDER THIS
24 ACT OR TO AVOID OR REDUCE A CONTRIBUTION OR OTHER PAYMENT
25 REQUIRED FROM AN EMPLOYING UNIT UNDER THIS ACT IS GUILTY OF A
26 FELONY, PUNISHABLE BY IMPRISONMENT FOR 1 YEAR, OR A FINE OF NOT
27 MORE THAN \$2,500.00, OR BOTH.

1 (D) ~~(c)~~ (1) Any employing unit or an officer or agent of
2 an employing unit or any other person failing to submit, when
3 due, any contribution report, wage and employment report, or
4 other reports lawfully prescribed and required by the commission
5 shall be subject to the assessment of a penalty for each report
6 not submitted within the time prescribed by the commission, as
7 follows: In the case of contribution reports not received within
8 10 days after the end of the reporting month the penalty shall be
9 10% of the contributions due on the reports but not less than
10 \$5.00 or more than \$25.00 for a report. However, if the tenth
11 day falls on a Saturday, Sunday, legal holiday, or other nonwork
12 day, such 10-day period shall run until the end of the next day
13 which is ~~neither~~ NOT a Saturday, Sunday, legal holiday, ~~nor~~
14 OR other nonwork day. In the case of all other reports referred
15 to in this subsection the penalty shall be \$10.00 for a report.

16 (2) Notwithstanding subdivision (1), if the commission con-
17 cludes after completion of the first 4 quarters of wage reporting
18 under section 13(2) that the average number of employers not
19 timely reporting the wage information as required is 5% or more,
20 an employer shall be liable for a penalty in the following amount
21 for each employee with respect to whom the employer is required
22 to file a report but who is not included in the report, or for
23 whom the required information is not accurately reported, or for
24 whom the report is not filed within 10 days after the time pre-
25 scribed by the commission: for the first failure for 1 quarter
26 in any 8 consecutive quarters, \$5.00 for each employee; for the
27 second failure for any quarter in 8 consecutive quarters, \$10.00

1 for each employee; and for the third failure for any quarter in 8
2 consecutive quarters, and for any subsequent quarters, \$25.00 for
3 each employee, but the total amount imposed on the delinquent
4 employer for all such failures during any calendar year shall not
5 exceed \$1,000.00. The assessment of the penalty shall begin with
6 the report for the first quarter of 1987, and the 4 quarters of
7 1986 shall be included in determining the 8 consecutive
8 quarters.

9 (3) When a report is filed after the prescribed time and it
10 is shown to the satisfaction of the commission that the failure
11 to submit the report was due to reasonable cause, a penalty shall
12 not be imposed. The assessment of a penalty as provided in this
13 subsection ~~(c)~~ shall constitute a determination which shall be
14 final unless the employer files with the commission an applica-
15 tion for a redetermination of the assessment in accordance with
16 section 32a.

17 (E) ~~(d)~~ If any commissioner, employee, or agent of the
18 commission or member of the appeal board ~~wilfully~~ WILLFULLY
19 makes a disclosure of confidential information obtained from any
20 employing unit or individual in the administration of this act
21 for any purpose inconsistent with or contrary to the purposes of
22 this act, or a person who having obtained a list of applicants
23 for work, or of claimants or recipients of benefits, under this
24 act shall use or permit the use of that list for a political pur-
25 pose or for a purpose inconsistent with or contrary to the pur-
26 poses of this act, he or she is guilty of a misdemeanor and upon
27 conviction shall be punished by imprisonment for not more than 90

1 days, or by a fine of not more than \$1,000.00, or both.

2 Notwithstanding the preceding sentence, if any commissioner, com-
3 mission employee, agent of the commission, or member of the board
4 of review knowingly, intentionally, and for financial gain, makes
5 an illegal disclosure of confidential information obtained under
6 section 13(2), he or she shall be guilty of a felony, punishable
7 by imprisonment for not more than 1 year and 1 day.

8 (F) ~~(e)~~ A person who, without proper authority from the
9 commission, represents himself or herself to be an employee of
10 the commission to an employing unit or person for the purpose of
11 securing information regarding the unemployment or employment
12 record of an individual is guilty of a misdemeanor and upon con-
13 viction shall be punished by imprisonment for not more than 90
14 days, or by a fine of not more than \$1,000.00, or both.

15 (G) ~~(f)~~ A person associated with a college, university, or
16 public agency of this state who makes use of any information ~~—~~
17 obtained from the commission in connection with a research
18 project of a public service nature, in such a manner as to reveal
19 the identity of any individual or employing unit from or concern-
20 ing whom the information was obtained by the commission, or for
21 any purpose other than use in connection with such a research
22 project, is guilty of a misdemeanor and upon conviction shall be
23 punished by imprisonment for not more than 90 days, or by a fine
24 of not more than \$1,000.00, or both.

25 (H) ~~(g)~~ A person as used in this section includes an indi-
26 vidual, copartnership, joint venture, corporation, receiver, or
27 trustee in bankruptcy.