

SENATE BILL No. 612

May 27, 2009, Introduced by Senators ALLEN, PATTERSON, BIRKHOLZ, PAPPAGEORGE, BROWN, JANSEN, CROSEY, VAN WOERKOM, KAHN and SANBORN and referred to the Committee on Commerce and Tourism.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 62 (MCL 421.62), as amended by 1995 PA 125.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 62. (1) ~~(a)~~ If the ~~commission~~ **UNEMPLOYMENT AGENCY**
2 determines that a person has obtained benefits to which that person
3 is not entitled, the commission may recover a sum equal to the
4 amount received **PLUS INTEREST** by 1 or more of the following
5 methods: ~~(1) deduction~~

6 (A) **DEDUCTION** from benefits payable to the individual. ~~(2)~~
7 ~~payment~~

8 (B) **PAYMENT** by the individual to the commission in cash. ~~(2)~~
9 ~~(3) deduction~~

1 (C) **DEDUCTION** from a tax refund payable to the individual as
2 provided under section 30a of ~~Act No. 122 of the Public Acts of~~
3 ~~1941, being section 205.30a of the Michigan Compiled Laws 1941 PA~~
4 **122, MCL 205.30A.**

5 (2) Deduction from benefits payable to the individual ~~shall be~~
6 **IS** limited to not more than 20% of each weekly benefit check due
7 the claimant. The ~~commission~~ **UNEMPLOYMENT AGENCY** shall not recover
8 improperly paid benefits from an individual more than 3 years, or
9 more than 6 years in the case of a violation of section 54(a) or
10 (b) or sections 54a to 54c, after the date of receipt of the
11 improperly paid benefits unless ~~+(1) THE UNEMPLOYMENT AGENCY FILED~~
12 a civil action ~~is filed in a court by the commission~~ within the 3-
13 year or 6-year period ~~+(2) OR~~ the individual made an intentional
14 false statement, misrepresentation, or concealment of material
15 information to obtain the benefits ~~+or (3) the commission~~
16 **UNEMPLOYMENT AGENCY** issued a determination requiring restitution
17 within the 3-year or 6-year period. ~~Furthermore, except~~ **EXCEPT** in a
18 case of an intentional false statement, misrepresentation, or
19 concealment of material information, the commission may waive
20 recovery of an improperly paid benefit **OR INTEREST** if the payment
21 was not the fault of the individual and if repayment would be
22 contrary to equity and good conscience.

23 (3) ~~(b)~~ For benefit years beginning before ~~the conversion date~~
24 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, if the ~~commission~~
25 **UNEMPLOYMENT AGENCY** determines that a person has intentionally made
26 a false statement or misrepresentation or has concealed material
27 information to obtain benefits, whether or not the person obtains

1 benefits by or because of the intentional false statement,
2 misrepresentation, or concealment of material information, the
3 person shall, in addition to any other applicable **INTEREST AND**
4 penalties, have all of his or her uncharged credit weeks with
5 respect to the benefit year in which the act occurred canceled as
6 of the date the ~~commission~~**UNEMPLOYMENT AGENCY** receives notice of,
7 or initiates investigation of, the possible false statement,
8 misrepresentation, or concealment of material information,
9 whichever date is earlier. Before receiving benefits in a benefit
10 year established within 2 years after cancellation of uncharged
11 credit weeks under this subsection, the individual, in addition to
12 making the restitution of benefits established under ~~subsection (a)~~
13 **SUBSECTIONS (1) AND (2)**, may be liable to the ~~commission~~
14 **UNEMPLOYMENT AGENCY**, by cash, deduction from benefits, or deduction
15 from a tax refund, for an additional amount as determined by the
16 ~~commission~~**UNEMPLOYMENT AGENCY** under this act. Restitution
17 resulting from the intentional false statement, misrepresentation,
18 or concealment of material information is not subject to the 20%
19 limitation provided in subsection ~~(a)~~**(2)**. For benefit years
20 beginning ~~after the conversion date prescribed in section 75~~**ON OR**
21 **AFTER OCTOBER 1, 2000**, if the ~~commission~~**UNEMPLOYMENT AGENCY**
22 determines that a person has intentionally made a false statement
23 or misrepresentation or has concealed material information to
24 obtain benefits, whether or not the person obtains benefits by or
25 because of the intentional false statement, misrepresentation, or
26 concealment of material information, the person shall, in addition
27 to any other applicable **INTEREST AND** penalties, have his or her

Senate Bill No. 612 as amended June 25, 2009

1 rights to benefits for the benefit year in which the act occurred
 2 canceled as of the date the ~~commission~~ **UNEMPLOYMENT AGENCY** receives
 3 notice of, or initiates investigation of, a possible false
 4 statement, misrepresentation, or concealment of material
 5 information, whichever date is earlier, and wages used to establish
 6 that benefit year shall not be used to establish another benefit
 7 year. Before receiving benefits in a benefit year established
 8 within 2 years after cancellation of rights to benefits under this
 9 subsection, the individual, in addition to making the restitution
 10 of benefits established under ~~subsection (a)~~ **SUBSECTIONS (1) AND**
 11 **(2)**, may be liable to the ~~commission~~ **UNEMPLOYMENT AGENCY**, by cash,
 12 deduction from benefits, or deduction from a tax refund, for an
 13 additional amount as otherwise determined by the ~~commission~~
 14 **UNEMPLOYMENT AGENCY** under this act. Restitution resulting from the
 15 intentional false statement, misrepresentation, or concealment of
 16 material information is not subject to the 20% limitation provided
 17 in subsection ~~(a)~~ **(2)**.

18 (4) ~~(e)~~ Any determination made by the ~~commission~~ **UNEMPLOYMENT**
 19 **AGENCY** under this section is final unless an application for a
 20 redetermination is filed with the ~~commission~~ **UNEMPLOYMENT AGENCY** in
 21 accordance with section 32a.

22 (5) ~~(d)~~ The ~~commission~~ **UNEMPLOYMENT AGENCY** shall take the
 23 action necessary to recover all benefits improperly obtained or
 24 paid under this act **PLUS INTEREST**, and to enforce all penalties
 25 under subsection ~~(b)~~ **(3)**.

26 (6) **INTEREST RECOVERED UNDER THIS SECTION SHALL BE DEPOSITED**
 27 **IN THE <<SPECIAL FRAUD CONTROL>> FUND CREATED IN SECTION 10. THE INTEREST**
SO

Senate Bill No. 612 as amended June 25, 2009

1 DEPOSITED SHALL BE EXPENDED FIRST TO ACQUIRE, THROUGH A COMPETITIVE
2 BID PROCESS, PACKAGED SOFTWARE THAT HAS A PROVEN RECORD OF SUCCESS
3 IN DETECTING AND COLLECTING UNEMPLOYMENT BENEFIT OVERPAYMENTS,
4 BEFORE BEING APPLIED TO OTHER ADMINISTRATIVE EXPENSES.

5 Enacting section 1. This amendatory act does not take effect
6 unless all of the following bills of the 95th Legislature are
7 enacted into law:

8 (a) Senate Bill No. 615.

9

10 <<

11

12 (b) >> Senate Bill No. 614.

13

14 <<(c)>> Senate Bill No. 613.

15