



HOUSE BILL No. 5132

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

A bill to amend section 54c 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. 8 of the Public Acts of 1991, being section 421.54c of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 54c of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as added by Act No. 8 of the Public
3 Acts of 1991, being section 421.54c of the Michigan Compiled
4 Laws, is amended to read as follows:

5 Sec. 54c. (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 knowingly
8 or willfully appropriated or converted to his, her, or its own
9 use money to be used for the payment of benefits under this act

1 or money received as the payment of contribution liability unde
2 this act is guilty of embezzlement punishable as follows:

3 (a) If the amount obtained as a result of the knowing or
4 willful appropriation or conversion of money is less than
5 \$1,000.00, the commission may recover the amount obtained as a
6 result of the knowing or willful appropriation or conversion of
7 money and may also recover damages equal to 2 times that amount.

8 (b) If the amount obtained as a result of the knowing or
9 willful appropriation or conversion of money is \$1,000.00 or
10 more, the commission may recover the amount obtained as a result
11 of the knowing or willful appropriation or conversion of money
12 and may also recover damages equal to 3 times that amount. The
13 commission may refer the matter to the prosecuting attorney of
14 the county in which the alleged violation occurred for
15 prosecution. ~~if~~ IF the commission has not made its own deter-
16 mination under this subdivision, the penalty sought by the prose-
17 cutor shall include the amount described in this subdivision and
18 shall also include 1 of the following applicable penalties:

19 (i) If the amount obtained or withheld from payment as a
20 result of the knowing or willful appropriation or conversion of
21 money is \$1,000.00 or more but less than \$25,000.00, then 1 of
22 the following:

23 (A) Imprisonment for not more than 1 year.

24 (B) The performance of community service of not more than 1
25 year but not to exceed 2,080 hours.

26 (C) A combination of (A) and (B) that does not exceed 1
27 year.

1 (ii) If the amount obtained or withheld from payment as a
2 result of the knowing or willful appropriation or conversion of
3 money is \$25,000.00 or more but less than \$100,000.00, then 1 of
4 the following:

5 (A) Imprisonment for not more than 2 years.

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

8 (C) A combination of (A) and (B) that does not exceed 2
9 years.

10 (iii) If the amount obtained or withheld from payment as a
11 result of the knowing or willful appropriation or conversion of
12 money is \$100,000.00 or more, then 1 of the following:

13 (A) Imprisonment for not more than 5 years.

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

16 (C) A combination of (A) and (B) that does not exceed 5
17 years.

18 (iv) If the knowing or willful appropriation or conversion
19 of money made to obtain or withhold an amount from payment does
20 not result in a loss to the commission, then a penalty shall be
21 sought equal to 3 times the amount that would have been obtained
22 by the knowing or willful appropriation or conversion of money,
23 but not less than \$1,000.00, and 1 of the following:

24 (A) Imprisonment for not more than 2 years.

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

1 (C) A combination of (A) and (B) that does not exceed 2
2 years.

3 (2) This section shall apply even if the amount obtained o
4 withheld from payment has been reported or reported and paid by
5 an individual involved in the embezzlement.

6 (3) This section applies to conduct that began before ~~the~~
7 ~~effective date of this section~~ APRIL 1, 1992 but that continue
8 on or after ~~the effective date of this section~~ APRIL 1, 1992
9 and to conduct that began on or after ~~the effective date of th~~
10 ~~section~~ APRIL 1, 1992.

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

13 (5) If a determination is made that an individual has vio
14 lated this section, the individual is subject to the penalty pro
15 visions of this section and, where applicable, the requirements
16 of section 62.

17 (6) ~~Amounts~~ THE AMOUNT recovered by the commission pursu
18 ant to ~~this section~~ SUBSECTION (1)(A) OR (B) shall be credited
19 FIRST TO THE UNEMPLOYMENT COMPENSATION FUND AND THEREAFTER
20 AMOUNTS RECOVERED THAT ARE IN EXCESS OF THE AMOUNTS OBTAINED AS A
21 RESULT OF THE EMBEZZLEMENT SHALL BE CREDITED to the penalty and
22 interest account of the contingent fund. ~~Not less than annually~~
23 ~~the commission shall transfer to the unemployment trust fund~~
24 ~~amounts recovered under this section to the extent that the unem~~
25 ~~ployment trust fund has not previously been credited for the~~
26 ~~amount obtained as a result of the embezzlement.~~

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