

HOUSE BILL No. 4449

March 16, 2011, Introduced by Rep. Somerville and referred to the Committee on Commerce.

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. (a) If the ~~commission~~ **UNEMPLOYMENT AGENCY** determines
2 that a person has obtained benefits to which that person is not
3 entitled, ~~the commission~~ **IT** may recover a sum equal to the amount
4 received **PLUS INTEREST** by 1 or more of the following methods: ~~(1)~~
5 deduction from benefits payable to the individual, ~~(2)~~ payment by
6 the individual ~~to the commission~~ in cash, or ~~(3)~~ deduction from a
7 tax refund payable to the individual as provided under section 30a
8 of ~~Act No. 122 of the Public Acts of 1941, being section 205.30a of~~
9 ~~the Michigan Compiled Laws 1941 PA 122, MCL 205.30A.~~ Deduction from
10 benefits payable to the individual ~~shall be~~ **IS** limited to not more

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

18 (b) For benefit years beginning before ~~the conversion date~~
 19 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, if the ~~commission~~
 20 **UNEMPLOYMENT AGENCY** determines that a person has intentionally made
 21 a false statement or misrepresentation or has concealed material
 22 information to obtain benefits, whether or not the person obtains
 23 benefits by or because of the intentional false statement,
 24 misrepresentation, or concealment of material information, the
 25 person shall, in addition to any other applicable **INTEREST AND**
 26 penalties, have all of his or her uncharged credit weeks with
 27 respect to the benefit year in which the act occurred canceled as

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

wages used to establish that benefit year shall not be used to establish another benefit year. Before receiving benefits in a benefit year established within 2 years after cancellation of rights to benefits under this subsection, the individual, in addition to making the restitution of benefits established under subsection (a), may be liable ~~to the commission, by cash, deduction from benefits, or deduction from a tax refund,~~ for an additional amount as otherwise determined by the ~~commission~~ **UNEMPLOYMENT AGENCY** under this act, **WHICH MAY BE PAID BY CASH, DEDUCTION FROM BENEFITS, OR DEDUCTION FROM A TAX REFUND.** Restitution resulting from the intentional false statement, misrepresentation, or concealment of material information is not subject to the 20% limitation provided in subsection (a).

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

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

(E) INTEREST RECOVERED UNDER THIS SECTION SHALL BE DEPOSITED IN THE SPECIAL FRAUD CONTROL FUND CREATED IN SECTION 10.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) Senate Bill No. ____ or House Bill No. 4450 (request no.

1 01743'11).

2 (b) Senate Bill No.____ or House Bill No. 4451(request no.
3 01744'11).

4 (c) Senate Bill No.____ or House Bill No. 4448(request no.
5 01745'11).