

Act No. 125
Public Acts of 1995
Approved by the Governor
June 29, 1995
Filed with the Secretary of State
June 30, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. DeLange, Horton, Dalman, Llewellyn, Perricone and Bullard

ENROLLED HOUSE BILL No. 4150

AN ACT to amend section 62 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "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 provide for the collection of such contributions; 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 the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," as amended by Act No. 162 of the Public Acts of 1994, being section 421.62 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 62 of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended by Act No. 162 of the Public Acts of 1994, being section 421.62 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 62. (a) If the commission determines that a person has obtained benefits to which that person is not entitled, the commission may recover a sum equal to the amount received by 1 or more of the following methods: (1) deduction from benefits payable to the individual, (2) payment by the individual to the commission in cash, or (3) deduction from a tax refund payable to the individual as provided under section 30a of Act No. 122 of the Public Acts of 1941, being section 205.30a of the Michigan Compiled Laws. Deduction from benefits payable to the individual shall be limited to not more than 20% of each weekly benefit check due the claimant. The commission shall not recover improperly paid benefits from an individual more than 3 years, or more than 6 years in the case of a violation of section 54(a) or (b) or sections 54a to 54c, after the date of receipt of the improperly paid benefits unless: (1) a civil action is filed in a court by the commission within the 3-year or 6-year period, (2) the individual made an intentional false statement, misrepresentation, or concealment of material information to obtain the benefits, or (3) the commission issued a determination requiring restitution within the 3-year or 6-year period. Furthermore, except in a case of an intentional false statement, misrepresentation, or concealment of material information, the commission may waive recovery of an

improperly paid benefit if the payment was not the fault of the individual and if repayment would be contrary to equity and good conscience.

(b) For benefit years beginning before the conversion date prescribed in section 75, if the commission determines that a person has intentionally made a false statement or misrepresentation or has concealed material information to obtain benefits, whether or not the person obtains benefits by or because of the intentional false statement, misrepresentation, or concealment of material information, the person shall, in addition to any other applicable penalties, have all of his or her uncharged credit weeks with respect to the benefit year in which the act occurred canceled as of the date the commission receives notice of, or initiates investigation of, the possible false statement, misrepresentation, or concealment of material information, whichever date is earlier. Before receiving benefits in a benefit year established within 2 years after cancellation of uncharged credit weeks 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 determined by the commission under this act. Restitution resulting from the intentional false statement, misrepresentation, or concealment of material information is not subject to the 20% limitation provided in subsection (a). For benefit years beginning after the conversion date prescribed in section 75, if the commission determines that a person has intentionally made a false statement or misrepresentation or has concealed material information to obtain benefits, whether or not the person obtains benefits by or because of the intentional false statement, misrepresentation, or concealment of material information, the person shall, in addition to any other applicable penalties, have his or her rights to benefits for the benefit year in which the act occurred canceled as of the date the commission receives notice of, or initiates investigation of, a possible false statement, misrepresentation, or 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 under this act. 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 under this section is final unless an application for a redetermination is filed with the commission in accordance with section 32a.

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

Section 2. This amendatory act shall not take effect unless House Bill No. 4151 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.