

HOUSE BILL 354

K2

3lr0033

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 25, 2013

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 16, 2013

CHAPTER _____

1 AN ACT concerning

2 **Unemployment Insurance – Recovery of Benefits – Monetary Penalty for**
3 **Fraud**

4 FOR the purpose of authorizing the Secretary of Labor, Licensing, and Regulation to
5 recover from a claimant a certain monetary penalty under certain
6 circumstances; altering the amount of interest the Secretary may recover under
7 certain circumstances; requiring the Secretary to notify the claimant of the
8 amount of any monetary penalty assessed under a certain provision of law and
9 the reason for the assessment; excluding certain monetary penalties from the
10 requirement that certain money be paid into a certain fund; requiring a person
11 who violates a certain provision of law to pay a certain monetary penalty;
12 altering the amount of interest a person is required to pay for a violation of a
13 certain provision of law; excluding certain monetary penalties from the amount
14 that can be recovered by the Secretary through a certain method; providing for
15 the application of this Act; making a stylistic change; and generally relating to
16 the recovery of unemployment insurance benefits.

17 BY repealing and reenacting, with amendments,
18 Article – Labor and Employment
19 Section 8–404, 8–809, and 8–1305
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Labor and Employment**

4 8–404.

5 (a) (1) The State Treasurer is custodian of the Unemployment Insurance
6 Fund.

7 (2) The State Treasurer shall manage the Unemployment Insurance
8 Fund in accordance with regulations that the Secretary adopts.

9 (b) (1) In the Unemployment Insurance Fund, the State Treasurer shall
10 maintain as separate accounts:

11 (i) a clearing account;

12 (ii) an Unemployment Trust Fund Account; and

13 (iii) a benefit account.

14 (2) Under the direction of the Secretary, the Treasurer shall establish
15 the benefit and clearing accounts in any financial institution in which the General
16 Fund of the State may be deposited.

17 (3) The Unemployment Trust Fund Account shall be the account of the
18 State in the Federal Unemployment Trust Fund that is established and maintained in
19 accordance with § 904 of the Social Security Act notwithstanding any State law to the
20 contrary that relates to administration, deposit, disbursement, or release of money in
21 the custody of the State.

22 (c) (1) On receipt of any money payable to the Unemployment Insurance
23 Fund, the Secretary shall ensure immediate deposit of the money in the clearing
24 account as required by the State Treasurer.

25 (2) **[All] EXCEPT FOR MONETARY PENALTIES ASSESSED UNDER §**
26 **8–809(B)(2) OR § 8–1305(B)(1) OF THIS TITLE, ALL** money deposited in the
27 clearing account for the payment of fines, interest, or penalties shall be paid to the
28 Special Administrative Expense Fund.

29 (3) Subject to the direction of the Secretary, the State Treasurer may
30 pay refunds under Subtitle 6, Part V of this title from the clearing account.

31 (d) (1) Immediately after payments that are made under subsection (c)(2)
32 and (3) of this section have cleared, the State Treasurer shall deposit all money that
33 remains in the clearing account with the Secretary of the Treasury of the United

1 States to the credit of the account of the State in the Unemployment Trust Fund that
2 is established and maintained under § 904 of the Social Security Act.

3 (2) Money that is requisitioned from the account of the State in the
4 Unemployment Trust Fund shall be placed in the benefit account only for use in
5 accordance with paragraph (3) of this subsection.

6 (3) Subject to § 8–405 of this subtitle and in accordance with
7 regulations that the Secretary adopts, money in the benefit account:

8 (i) may be used to pay refunds under Subtitle 6, Part V of this
9 title;

10 (ii) shall be used to pay benefits; and

11 (iii) may be used to pay administrative expenses incurred to
12 carry out this title.

13 (e) The Unemployment Insurance Fund may not be used to pay a deposit
14 insurance premium in a financial institution in which the benefit and clearing
15 accounts are deposited.

16 8–809.

17 (a) The Secretary may recover benefits paid to a claimant if the Secretary
18 finds that the claimant was not entitled to the benefits because:

19 (1) the claimant was not unemployed;

20 (2) the claimant received or retroactively was awarded wages; or

21 (3) due to a redetermination of an original claim by the Secretary, the
22 claimant is disqualified or otherwise ineligible for benefits.

23 (b) If the Secretary finds that a claimant knowingly made a false statement
24 or representation or knowingly failed to disclose a material fact to obtain or increase a
25 benefit or other payment under this title, in addition to disqualification of the
26 claimant, the Secretary may recover from the claimant:

27 (1) all benefits paid to the claimant for each week for which the false
28 statement or representation was made or for which the claimant failed to disclose a
29 material fact; [and]

30 **(2) A MONETARY PENALTY OF 15% OF ALL BENEFITS PAID TO THE**
31 **CLAIMANT FOR EACH WEEK FOR WHICH THE FALSE STATEMENT OR**
32 **REPRESENTATION WAS MADE OR FOR WHICH THE CLAIMANT FAILED TO**
33 **DISCLOSE A MATERIAL FACT; AND**

1 ~~[(2)]~~ **(3)** interest of 1.5% per month on the amount **OF ALL**
2 **BENEFITS PAID TO THE CLAIMANT FOR EACH WEEK FOR WHICH THE FALSE**
3 **STATEMENT OR REPRESENTATION WAS MADE OR FOR WHICH THE CLAIMANT**
4 **FAILED TO DISCLOSE A MATERIAL FACT PLUS THE AMOUNT OF THE MONETARY**
5 **PENALTY** accruing from the date that the claimant is notified by the Secretary that
6 the claimant was not entitled to benefits received.

7 (c) If the Secretary decides to recover benefits from a claimant under
8 subsection (a) or (b) of this section, the Secretary shall notify the claimant of:

9 (1) the amount to be recovered;

10 (2) the weeks for which benefits were paid; ~~[and]~~

11 **(3) THE AMOUNT OF ANY MONETARY PENALTY ASSESSED UNDER**
12 **SUBSECTION (B)(2) OF THIS SECTION AND THE REASON FOR THE ASSESSMENT**
13 **OF THE MONETARY PENALTY; AND**

14 ~~[(3)]~~ **(4)** the provision of this title under which the Secretary
15 determined that the claimant was ineligible for benefits.

16 (d) The Secretary may recover an amount under subsection (a) or (b) of this
17 section:

18 (1) by deduction from benefits payable to the claimant in the future,
19 excluding **THE MONETARY PENALTY ASSESSED UNDER SUBSECTION (B)(2) OF**
20 **THIS SECTION AND** interest due ~~[pursuant to]~~ **UNDER** subsection ~~[(b)(2)]~~ **(B)(3)** of
21 this section; or

22 (2) in the manner provided in § 8–630 of this title for the collection of
23 past due contributions.

24 (e) (1) The Secretary may reconsider a decision to recover benefits under
25 subsection (a) of this section within 1 year after the date that the decision was made.

26 (2) The Secretary may not make a determination to recover benefits
27 under subsection (a) or (b) of this section later than 3 years after the date that the
28 benefits were paid to the claimant.

29 (3) If an amount has not been recovered within 5 years after the date
30 of the decision to recover the amount, the Secretary may consider the amount
31 uncollectible.

1 (f) Notwithstanding any other provision of this section, the Secretary may
2 recover, under a governmental offset agreement, an overpayment of benefits paid to
3 any claimant under:

4 (1) the unemployment insurance law of another state; or

5 (2) a federal unemployment insurance benefit program.

6 8–1305.

7 (a) Unless another penalty is provided by statute, a person who willfully
8 violates a provision of this title or a regulation adopted under this title is guilty of a
9 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
10 imprisonment not exceeding 90 days or both.

11 (b) In addition to the penalty under subsection (a) of this section, a person
12 who violates § 8–1301 of this subtitle:

13 (1) shall make full restitution of the benefit unlawfully received **AND**
14 **PAY A MONETARY PENALTY OF 15% OF THE BENEFIT UNLAWFULLY RECEIVED,**
15 including interest at a rate of 1.5% a month **ON THE TOTAL AMOUNT OF**
16 **RESTITUTION PLUS THE MONETARY PENALTY** from the date the Secretary notifies
17 the person of the amount to be recovered; and

18 (2) from 1 year from the date on which a determination is made that
19 the individual filed a claim involving a false statement, false representation, or failure
20 to disclose a material fact, the individual is disqualified from receiving benefits.

21 (c) (1) An employing unit or officer or agent of an employing unit who
22 violates § 8–1303 of this subtitle is guilty of a misdemeanor and on conviction is
23 subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

24 (2) A person who violates § 8–5A–08(b) or (d) of this title is guilty of a
25 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
26 imprisonment not exceeding 1 year or both.

27 (3) A person who violates § 8–1304 of this subtitle is guilty of a
28 misdemeanor for each day the violation continues and on conviction is subject to a fine
29 not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

30 (4) An employee of the Secretary or Board of Appeals who violates §
31 8–625 of this title is guilty of a misdemeanor and on conviction is subject to a fine not
32 exceeding \$1,000 or imprisonment not exceeding 1 year or both.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
34 benefit determinations establishing overpayments issued on or after October 1, 2013.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2013.