

# SENATE BILL 985

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CF HB 1454

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By: **Senator Hershey**

Introduced and read first time: February 19, 2022

Assigned to: Rules

Re-referred to: Finance, February 25, 2022

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Labor and Employment – Unemployment Insurance ~~Violations~~ – Duties of**  
3 **Secretary and Penalties**

4 FOR the purpose of requiring the Secretary of Labor to enter into certain memorandums of  
5 understanding to implement and enforce the Maryland Unemployment Insurance  
6 Law and to conduct certain integrity activities for a certain purpose; altering the  
7 criminal penalties for a conviction for certain unemployment insurance-related  
8 offenses; and generally relating to ~~penalties for violations of~~ the Maryland  
9 Unemployment Insurance Law.

10 BY repealing and reenacting, with amendments,  
11 Article – Labor and Employment  
12 Section 8–305, 8–311, 8–1301, and 8–1305  
13 Annotated Code of Maryland  
14 (2016 Replacement Volume and 2021 Supplement)

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

17 **Article – Labor and Employment**

18 8–305.

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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 (a) The Secretary may adopt any regulation that is necessary to carry out this  
2 title.

3 (B) THE SECRETARY SHALL ENTER INTO A MEMORANDUM OF  
4 UNDERSTANDING WITH ANY STATE AGENCY AS NECESSARY TO IMPLEMENT AND  
5 ENFORCE THIS TITLE.

6 (C) TO VERIFY THAT AN INDIVIDUAL IS ELIGIBLE TO RECEIVE BENEFITS  
7 UNDER THIS TITLE, THE SECRETARY SHALL CONDUCT ALL MANDATORY PROGRAM  
8 INTEGRITY ACTIVITIES IDENTIFIED BY THE U.S. DEPARTMENT OF LABOR  
9 EMPLOYMENT AND TRAINING ADMINISTRATION AND OFFICE OF INSPECTOR  
10 GENERAL.

11 [(b)] (D) (1) In accordance with the provisions of the State Personnel and  
12 Pensions Article, the Secretary may employ the staff necessary to carry out this title.

13 (2) In accordance with the State budget, the Secretary may set the  
14 compensation of an employee under this subsection in a position that:

15 (i) is unique to the Department;

16 (ii) requires specific skills or experience to perform the duties of the  
17 position; and

18 (iii) does not require the employee to perform functions that are  
19 comparable to functions performed in other units of the Executive Branch of State  
20 government.

21 (3) The Secretary of Budget and Management, in consultation with the  
22 Secretary, shall determine the positions for which the Secretary may set compensation  
23 under paragraph (2) of this subsection.

24 (4) Subject to other applicable provisions of this title, the Secretary may  
25 appoint employees and set their powers and duties as necessary to carry out this title.

26 [(c)] (E) The Secretary shall determine whether an employee who handles  
27 money for the Department under this title should be covered under a bond.

28 [(d)] (F) (1) The Secretary shall print:

29 (i) this title;

30 (ii) each annual report that the Secretary submits to the Governor;

31 and

1                   (iii) any other material that the Secretary considers relevant and  
2 suitable.

3                   (2) On request by any person, the Secretary shall give the person a copy of:

4                   (i) any material that the Secretary prints under this subsection; and

5                   (ii) the current regulations adopted to carry out this title.

6 8-311.

7                   (a) On or before January 1 of each year, the Secretary shall submit to the  
8 Governor an annual report on the administration and operation of this title during the  
9 previous fiscal year.

10                  (b) The annual report shall include:

11                   (1) a balance sheet for the Unemployment Insurance Fund;

12                   (2) a table that shows the amount of any benefit that was ineffectively  
13 charged or not charged to the experience rating record of an employer;

14                   (3) the reason for not charging the amount of any benefit to the experience  
15 rating record of an employer;

16                   (4) by category of disqualification, the amount of any benefit that was paid  
17 after a disqualification under Subtitle 10 of this title; [and]

18                   (5) any recommendation for an amendment to this title that the Secretary  
19 considers proper;

20                   (6) **THE GENERAL PROGRAM INTEGRITY PROCESSES USED BY THE**  
21 **DEPARTMENT, INCLUDING TOOLS, RESOURCES, AND DATABASES, TO THE EXTENT**  
22 **THAT SHARING THE INFORMATION DOES NOT JEOPARDIZE PROGRAM INTEGRITY**  
23 **MEASURES;**

24                   (7) **A DESCRIPTION OF EFFORTS MADE TO IDENTIFY, PREVENT, AND**  
25 **RECOVER IMPROPER OVERPAYMENTS OF BENEFITS, FRAUDULENT PAYMENTS, AND**  
26 **MEASURES BEING TAKEN TO IMPROVE THE EFFORTS;**

27                   (8) **THE TYPE AND AMOUNT OF IMPROPER PAYMENTS DETECTED**  
28 **RETROACTIVELY;**

29                   (9) **MONEY RECOUPED FROM IMPROPER OVERPAYMENTS; AND**

1           **(10) AN EXPLANATION FOR THE NONRECOVERY OF OVERPAYMENTS,**  
2 **INCLUDING THE APPLICATION OF ANY ALLOWABLE RECOVERY EXCEPTIONS.**

3 8–1301.

4           **(A) A person, for that person or another, may not knowingly make a false**  
5 **statement or false representation or knowingly fail to disclose a material fact to receive or**  
6 **increase a benefit or other payment under this title or an unemployment insurance law of**  
7 **another state, the federal government, or a foreign government.**

8           **(B) (1) THE SECRETARY SHALL PERFORM A FULL REVIEW OF**  
9 **SUSPICIOUS OR POTENTIALLY IMPROPER CLAIMS.**

10           **(2) IN DETERMINING IF A CLAIM IS SUSPICIOUS OR POTENTIALLY**  
11 **IMPROPER, THE SECRETARY SHALL CONSIDER THE FACTORS USED BY THE**  
12 **INTEGRITY DATA HUB OR ANY OTHER PUBLIC OR PRIVATE INTERSTATE DATABASE**  
13 **DESIGNED TO SUPPORT THE INTEGRITY OF STATE UNEMPLOYMENT INSURANCE**  
14 **PROGRAMS AND ANY ADDITIONAL FACTORS AS APPROPRIATE, INCLUDING**  
15 **COMMONALITIES IN:**

16                   **(I) PHYSICAL ADDRESSES;**

17                   **(II) MAILING ADDRESSES;**

18                   **(III) INTERNET PROTOCOL ADDRESSES;**

19                   **(IV) E–MAIL ADDRESSES;**

20                   **(V) MULTIFACTOR AUTHENTICATION; OR**

21                   **(VI) BANK ACCOUNTS.**

22 8–1305.

23           (a) Unless another penalty is provided by statute, a person who willfully violates  
24 a provision of this title or a regulation adopted under this title is guilty of a misdemeanor  
25 and on conviction is subject to a fine **NOT LESS THAN \$600 AND** not exceeding **[\$1,000]**  
26 **\$2,300** or imprisonment not exceeding **[90 days]** ~~**3 YEARS**~~ **1 YEAR** or both.

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

29                   (1) shall make full restitution of the benefit unlawfully received and pay a  
30 monetary penalty of 15% of the benefit unlawfully received, including interest at a rate of

1 1.5% a month on the total amount of restitution plus the monetary penalty from the date  
2 the Secretary notifies the person of the amount to be recovered;

3 (2) shall be disqualified from receiving benefits for any week of  
4 unemployment, including the week in which a determination is made that the individual  
5 filed a claim involving a false statement, false representation, or failure to disclose a  
6 material fact, until:

7 (i) the Secretary determines that:

8 1. the benefit unlawfully received has been repaid in full; and

9 2. the monetary penalty of 15% and interest at a rate of 1.5%  
10 a month on the total amount of benefit unlawfully received plus the monetary penalty have  
11 been paid in full; or

12 (ii) the Secretary determines that:

13 1. in the Secretary's sole discretion under § 8–809(f)(3) of this  
14 title, the benefit unlawfully received and interest are uncollectible; and

15 2. the claimant has paid the 15% monetary penalty in full;  
16 and

17 (3) shall be disqualified from receiving benefits:

18 (i) if there were no other previous determinations made that the  
19 individual violated § 8–1301 of this subtitle during the immediately preceding 4 benefit  
20 years, for 1 year from the date on which a determination is made that the individual filed  
21 a claim involving a false statement, false representation, or failure to disclose a material  
22 fact;

23 (ii) if there were previous determinations made that the individual  
24 violated § 8–1301 of this subtitle in only 1 of the immediately preceding 4 benefit years, for  
25 2 years from the date on which a determination is made that the individual filed a claim  
26 involving a false statement, false representation, or failure to disclose a material fact; and

27 (iii) if there were previous determinations made that the individual  
28 violated § 8–1301 of this subtitle in more than 1 of the immediately preceding 4 benefit  
29 years, for 3 years from the date on which a determination is made that the individual filed  
30 a claim involving a false statement, false representation, or failure to disclose a material  
31 fact.

32 (c) (1) An employing unit or officer or agent of an employing unit who violates  
33 § 8–1303 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine  
34 **NOT LESS THAN \$600 AND** not exceeding [~~\$1,000~~] **\$2,300** or imprisonment not exceeding  
35 1 year or both.

1           (2) A person who violates § 8-5A-08(b) or (d) of this title is guilty of a  
2 misdemeanor and on conviction is subject to a fine **NOT LESS THAN \$600 AND** not  
3 exceeding **[\$1,000] \$2,300** or imprisonment not exceeding 1 year or both.

4           (3) A person who violates § 8-1304 of this subtitle is guilty of a  
5 misdemeanor for each day the violation continues and on conviction is subject to a fine **NOT**  
6 **LESS THAN \$600 AND** not exceeding **[\$1,000] \$2,300** or imprisonment not exceeding 1  
7 year or both.

8           (4) An employee of the Secretary or Board of Appeals who violates § 8-625  
9 of this title is guilty of a misdemeanor and on conviction is subject to a fine **NOT LESS THAN**  
10 **\$600 AND** not exceeding **[\$1,000] \$2,300** or imprisonment not exceeding 1 year or both.

11           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2022.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.