SENNATE BILL 985

By: Senator Hershey
Introduced and read first time: February 19, 2022
Assigned to: Rules
Re-referred to: Finance, February 25, 2022
Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 7, 2022

CHAPTER _____

1 AN ACT concerning

Labor and Employment – Unemployment Insurance Violations – Duties of Secretary and Penalties

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

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

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

Article – Labor and Employment

8–305.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
Strikeout indicates matter stricken from the bill by amendment or deleted from the law by amendment.
(a) The Secretary may adopt any regulation that is necessary to carry out this title.

(B) The Secretary shall enter into a memorandum of understanding with any State agency as necessary to implement and enforce this title.

(C) To verify that an individual is eligible to receive benefits under this title, the Secretary shall conduct all mandatory program integrity activities identified by the U.S. Department of Labor Employment and Training Administration and Office of Inspector General.

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

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

(i) is unique to the Department;

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

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

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

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

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

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

(i) this title;

(ii) each annual report that the Secretary submits to the Governor; and
any other material that the Secretary considers relevant and suitable.

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

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

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

8–311.

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

(b) The annual report shall include:

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

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

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

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

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

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

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

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

(9) MONEY RECOUPED FROM IMPROPER OVERPAYMENTS; AND
(10) AN EXPLANATION FOR THE NONRECOVERY OF OVERPAYMENTS, INCLUDING THE APPLICATION OF ANY ALLOWABLE RECOVERY EXCEPTIONS.

8–1301.

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

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

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

(I) PHYSICAL ADDRESSES;

(II) MAILING ADDRESSES;

(III) INTERNET PROTOCOL ADDRESSES;

(IV) E–MAIL ADDRESSES;

(V) MULTIFACTOR AUTHENTICATION; OR

(VI) BANK ACCOUNTS.

8–1305.

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

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

(1) shall make full restitution of the benefit unlawfully received and pay a monetary penalty of 15% of the benefit unlawfully received, including interest at a rate of
1.5% a month on the total amount of restitution plus the monetary penalty from the date
the Secretary notifies the person of the amount to be recovered;

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

(i) the Secretary determines that:

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

(ii) the Secretary determines that:

1. in the Secretary’s sole discretion under § 8–809(f)(3) of this
title, the benefit unlawfully received and interest are uncollectible; and
2. the claimant has paid the 15% monetary penalty in full;
and

(3) shall be disqualified from receiving benefits:

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

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

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

(c) (1) An employing unit or officer or agent of an employing unit who violates
§ 8–1303 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine
NOT LESS THAN $600 AND not exceeding [$1,000] $2,300 or imprisonment not exceeding
1 year or both.
(2) A person who violates § 8–5A–08(b) or (d) of this title is guilty of a misdemeanor and on conviction is subject to a fine **NOT LESS THAN $600 AND not exceeding** [$1,000] **$2,300** or imprisonment not exceeding 1 year or both.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 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.