

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

HOUSE BILL 1807

4  
5 By: Representative Young

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 11-10-106 TO  
10 CLASSIFY CERTAIN CRIMINAL PENALTIES UNDER THE ARKANSAS  
11 EMPLOYMENT SECURITY LAW; AND FOR OTHER PURPOSES."

## Subtitle

13 "TO CLASSIFY CERTAIN CRIMINAL PENALTIES  
14 UNDER THE ARKANSAS EMPLOYMENT SECURITY  
15 LAW"  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code Annotated § 11-10-106 is amended to read as  
21 follows:

22 "11-10-106. Penalties.

23 (a) False Statement or Representation.

24 (1) Whoever makes a false statement or representation knowing it  
25 to be false or knowingly fails to disclose a material fact to obtain or  
26 increase any benefit or other payment under this chapter or under the  
27 unemployment compensation law of any state or of the federal government,  
28 either for himself or for any other person, shall be ~~punished by a fine of not~~  
29 ~~less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00) or by~~  
30 ~~imprisonment for not longer than thirty (30) days, or by both fine and~~  
31 ~~imprisonment~~ guilty of a Class B misdemeanor.

32 (2) Each false statement or representation or failure to disclose  
33 a material fact shall constitute a separate offense.

34 (b) Employer's False Statement or Representation.

35 (1) Any employing unit or any officer or agent of any employing  
36 unit or any other person who makes a false statement or representation knowing

1 it to be false, who knowingly fails to disclose a material fact to prevent or  
 2 reduce the payment of benefits to any individual entitled thereto or to avoid  
 3 becoming or remaining subject hereto or to avoid or reduce any contribution or  
 4 other payment required from an employing unit under this chapter, or who  
 5 willfully fails or refuses to make any contributions or other payment or to  
 6 furnish any report required hereunder or to produce or permit the inspection  
 7 or copying of records as required hereunder shall be ~~punished by a fine of not~~  
 8 ~~less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200) or~~  
 9 ~~by imprisonment for not longer than sixty (60) days, or by both fine and~~  
 10 ~~imprisonment~~ guilty of a Class B misdemeanor.

11 (2) Each false statement or representation or failure to disclose  
 12 a material fact and each day of the failure or refusal shall constitute a  
 13 separate offense.

14 (c) Willful Violation.

15 (1) Any person who shall willfully violate any provision of this  
 16 chapter or any order, rule, or regulation thereunder, the violation of which  
 17 is made unlawful or the observance of which is required under the terms of  
 18 this chapter, and for which a penalty is neither prescribed herein nor  
 19 provided by any other applicable statute, shall be ~~punished by a fine of not~~  
 20 ~~less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200) or~~  
 21 ~~by imprisonment for not longer than sixty (60) days, or by both fine and~~  
 22 ~~imprisonment~~ guilty of a Class B misdemeanor.

23 (2) Each day the violation continues shall be deemed to be a  
 24 separate offense.

25 (d) Disclosure of Information.

26 If any employee or member of the Board of Review, the director, or any  
 27 employee of the director, in violation of the provisions of § 11-10-314, makes  
 28 any disclosure of information obtained from any employing unit or individual  
 29 in the administration of this chapter; if any person who has obtained any list  
 30 of applicants for work, or of claimants or recipients of benefits, under this  
 31 chapter shall use or permit the use of the list for any political purpose; or  
 32 if any person who has lawfully obtained information from the Arkansas  
 33 Employment Security Department which was obtained from any employing unit or  
 34 individual pursuant to the administration of this chapter makes an unlawful  
 35 use or disclosure of such information or uses or discloses such information in  
 36 a manner inconsistent with the purposes for which it was lawfully obtained,

1 then that person shall be ~~fined not less than twenty dollars (\$20.00) nor more~~  
 2 ~~than two hundred dollars (\$200) or imprisoned for not longer than ninety (90)~~  
 3 ~~days, or both~~ guilty of a Class B misdemeanor.

4 (e) Prosecution and Appeal.

5 (1) Prosecutions for the violation of any of the provisions of  
 6 this chapter may be begun by the filing of information in any court having  
 7 jurisdiction, without bond for costs, by the director, any field auditor, or  
 8 other duly authorized agent of the director.

9 (2) Appeals may be prosecuted from any verdicts or rulings  
 10 contrary to the state, without appeal bonds, by the filing of a petition for  
 11 appeal by any director, auditor, or agent.

12 (f) Retaliation by Employer or Agent of Employer.

13 (1) Any employing unit or any officer or agent of any employing  
 14 unit or any other person who retaliates in regard to the hiring or tenure of  
 15 work or any term or condition of work of any individual on account of his  
 16 participating in the preparation for or testifying in a proceeding under this  
 17 chapter shall be ~~punished by a fine of not less than twenty dollars (\$20.00)~~  
 18 ~~nor more than two hundred dollars (\$200.00) or by imprisonment for not longer~~  
 19 ~~than sixty (60) days, or both fine and imprisonment~~ guilty of a Class B  
 20 misdemeanor.

21 (2) Each act of retaliation shall constitute a separate offense.

22 (g) Penalty Imposed by Director.

23 (1) The director is authorized and empowered to impose a penalty  
 24 of ten percent (10%) of the face amount of the check, draft, or order, or ten  
 25 dollars (\$10.00), whichever is greater, against any employer or individual  
 26 that or who as maker, drawer, or endorser makes payment of any contributions,  
 27 or benefit overpayments, which are due under this chapter by means of a check,  
 28 draft, or order drawn on any bank, person, firm, or corporation if the check,  
 29 draft, or order is returned by the bank, person, firm, or corporation without  
 30 having been paid in full.

31 (2) This penalty is cumulative to any other penalties provided by  
 32 law."

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34 SECTION 2. All provisions of this act of a general and permanent nature  
 35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 36 Revision Commission shall incorporate the same in the Code.

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SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.