

SENATE BILL 2315

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 7 and Title 62, Chapter 43, relative to employment security law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-7-403(b)(2)(G), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(G) ENFORCEMENT. Any person or employing unit that knowingly violates or attempts to violate the provisions of this section, or knowingly advises another person or employing unit to violate the provisions of this section shall be subject to the following penalties and punishments:

(i) The reserve ratios and premium rates of both the predecessor and successor employers shall be recalculated and made effective immediately upon the date of the transfer of the trade or business, and both employers shall immediately owe the department the difference between the premiums determined by the applicable premium rate and premiums actually paid, plus any interest due as provided in § 50-7-404(a).

(ii) Both the predecessor and successor employers shall pay, in addition to their applicable premium rate, a penalty rate of two percent (2%) of the taxable payroll for each quarter, beginning on the date of the infraction and continuing throughout the three (3) premium rate years following the first January 1 after the date on which the department made the determination of the infraction. Revenue from such penalty rate shall be deposited into the unemployment compensation special administrative fund, established under § 50-7-503, and shall not be

included in the determination of an employer's reserve ratio as provided in subdivision (b)(1)(A).

(iii) Any person found in violation of this section, against whom the penalties as set forth in subdivision (b)(2)(G)(i) and (ii) are not enforceable, is subject to a civil penalty of not more than fifty thousand dollars (\$50,000). In making such assessment, the administrator shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the person or employing unit charged, the gravity of the violation, the good faith of the person or employing unit, and the person or employing unit's history of previous violations. Any such penalty shall be deposited in the unemployment compensation special administrative fund, established under § 50-7-503; and

(iv) In addition to the penalties imposed by subdivisions (b)(2)(G)(i), (ii) and (iii), any violation of this subdivision (b)(2) may be prosecuted as a Class A misdemeanor under title 40, chapter 35.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.