

TITLE 3: HUMAN RESOURCES
DIVISION 4: EMPLOYMENT AND REGISTRATION

§ 4964. Sanctions and Penalties.

After hearing pursuant to the Administrative Procedure Act, 1 CMC § 9191 et seq.:

(a) Violation of any subsection of 3 CMC §§ 4923 and 4931 by an employer shall be grounds for debarment of the employer; provided however confiscation of travel documents for the purpose of controlling the movements of a trafficking victim pursuant to the Anti-Trafficking Statute, chapter 5 of division 1 of title 6, is not a violation of this chapter.

(b) Violation of any subsection of 3 CMC §§ 4923 and 4931 by a foreign national worker shall be grounds for repatriation pursuant to 3 CMC § 4340(e).

(c) An employer who knowingly requires or permits a foreign national worker to pay initial application or renewal fees shall be subject to debarment.

(d) In order to prevent the solicitation of sponsorships under circumstances when a foreign national worker is present in the Commonwealth and seeking to stay, a foreign national worker who, while in the Commonwealth pays for an application fee or a renewal fee shall be subject to repatriation under 3 CMC § 4340(e).

(e) Violation of 3 CMC § 4931(k) by making any unapproved change to an approved employment contract shall be, in the discretion of the Secretary and in addition to other available sanctions, grounds for a declaration that the contract is void and for revocation of an identification card of a foreign national worker, and for debarment of an employer.

(f) Failure by a foreign national worker to comply with 3 CMC § 4934(a) by failing to attend an orientation session shall be grounds for cancellation of the identification card and repatriation of the foreign national worker pursuant to 3 CMC § 4340(e).

(g) Violation of 3 CMC § 4937 by failing to provide notice of a reduction in force shall be grounds for imposition of a fine in the employer of up to two-thousand dollars for each foreign national worker terminated in the reduction in force and debarment of the employer.

(h) Violation of 3 CMC § 4952 by failing to exit the Commonwealth as required by law shall be grounds for repatriation pursuant to 3 CMC § 4340(e) and the imposition of a fine on the foreign national worker of up to two-thousand dollars.

(i) Violation of any subsection of 3 CMC § 4963 by an employer shall be grounds for the denial of an application for an approved employment contract, voiding of an existing approved employment contract, debarment of an employer, and a fine of up to two-thousand dollars for each unlawful action.

(j) Violation of any subsection of 3 CMC § 4963 by a foreign national worker shall be grounds for repatriation pursuant to 3 CMC § 4340(e) and forfeiture of all claims by a foreign national worker for money damages and other relief with respect to employment in the Commonwealth.

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(k) Debarment of an employer shall apply to all business organizations for which that employer serves as an officer, board member, partner, or limited liability corporation member. Such business organizations shall be prohibited from hiring foreign national workers on the same terms as the employer against whom the debarment was issued. Debarment of an employer that is a business organization shall apply to all persons who serve that business organization as an officer, board member, partner, or limited liability corporation member.

(l) Failure after thirty days from assessment to pay repatriation expenses for a foreign national worker incurred by the Commonwealth shall be grounds for the Attorney General to order the Division of Revenue and Taxation to deduct the full amount of the repatriation or repatriation costs and the full amount of the award from the employer's NMTIT tax rebate. All such deductions for repatriation costs shall be returned to the Alien Repatriation Fund, 3 CMC § 4347.

(m) Failure by an employer to make prompt and reasonable efforts to repatriate a foreign national worker, thereby allowing the worker to become an illegal resident of the Commonwealth and subject to repatriation, shall be grounds for the Attorney General to order the Division of Revenue and Taxation to deduct the full amount of the anticipated repatriation or deportation costs from the employer's NMTIT tax rebate.

(n) Failure to comply with the payment terms of an administrative order, in addition to any penalties or damages imposed in the order, shall be subject to additional monetary sanctions of up to twenty-five dollars per day until the obligation is satisfied. Such additional penalties may be assessed as a sanction either by the Administrative Hearing Office, or by the Commonwealth Superior Court pursuant to a civil action filed by the Attorney General.

(o) Any fine pursuant to this section may be imposed by a hearing officer in an administrative order or by a court in an action filed by the Attorney General.

(p) This section shall not stay or bar any civil or criminal action or remedy in any court of competent jurisdiction.

Source: PL 15-108, § 4(4964); (e) and (f) amended by PL 17-1 § 5(Q) and (b), (d), (f), (h), (j), (l) and (m) amend by § 5(Q)(6)(b) (March 22, 2010),* modified.

Commission Comment: The Commission replaced section references with proper code sections, deleted figures that repeated written words and changed capitalization pursuant to 1 CMC § 3806(c), (e) and (f). *PL 17-1 (enacted on March 22, 2010) contained the following effective date provision:

Section 12. Effective date. This Act shall take effect upon its approval by the Governor or becoming law without such approval and shall be retroactive to November 28, 2009 except as otherwise specifically provided herein.

For more information regarding Public Law 17-1, see comment to 3 CMC § 4511.