

HOUSE BILL No. 5214

January 8, 2014, Introduced by Reps. McCann, Geiss, LaVoy, Irwin, Singh and Hovey-Wright and referred to the Committee on Commerce.

A bill to require employers to allow a day of rest for employees each week; to require employers to allow a meal break during certain work periods; to provide for exceptions and exemptions; to provide powers and duties of certain state officers and departments; to authorize rule promulgation; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "day of rest act".

3 (2) As used in this act, "employer" means a person,
4 partnership, joint stock company, or corporation that employs any
5 individual to work, labor, or exercise skill in connection with the
6 operation of any business, industry, vocation, or occupation.

1 Sec. 2. (1) Except as otherwise provided in this act, an
2 employer shall allow an employee at least 24 consecutive hours of
3 rest in every calendar week in addition to the regular period of
4 rest allowed at the close of each working day.

5 (2) Before the end of the first day of the employee's
6 workweek, an employer shall post in a conspicuous place on the
7 premises or otherwise inform each employee in writing of the
8 employee's designated day of rest. An employee shall not be
9 required to work on his or her designated day of rest.

10 (3) An employer shall keep a record of the name and address of
11 each employee and the hours worked by each employee on each day.
12 The record shall be open to inspection at all reasonable hours by
13 the director of the department of licensing and regulatory affairs
14 for purposes of enforcing this act.

15 (4) Subsections (1) to (3) do not apply to any of the
16 following:

17 (a) A part-time employee who works fewer than 20 total work
18 hours for the employer during a calendar week.

19 (b) An employee when needed because of a machinery or
20 equipment breakdown or other emergency requiring the immediate
21 services of experienced and competent labor to prevent injury to a
22 person, damage to property, or suspension of necessary operation.

23 (c) An employee employed in agriculture or coal mining.

24 (d) An employee engaged in the occupation of canning and
25 processing perishable agricultural products, if the employee is
26 employed on a seasonal basis for not more than 20 weeks during any
27 12-month period.

1 (e) An employee employed as a watchman or security guard.

2 (f) An employee who is employed in a bona fide executive,
3 administrative, or professional capacity or in the capacity of an
4 outside salesman, as described in section 13(a)(1) of the federal
5 fair labor standards act, 29 USC 213(a)(1), or as a supervisor as
6 defined in section 2(11) of the national labor relations act, 29
7 USC 152(11).

8 (g) An employee who is employed as a crew member of any
9 uninspected towing vessel, as defined by 46 USC 2101(40), operating
10 in any navigable waters in or along the boundaries of this state.

11 (h) An employee for whom hours of work are established through
12 the collective bargaining process.

13 Sec. 3. (1) Except as otherwise provided in this section, an
14 employer shall permit an employee who works or is scheduled to work
15 for 7-1/2 continuous hours or longer at least 20 minutes for a meal
16 period beginning no later than 5 hours after the start of the work
17 period.

18 (2) This section does not apply to any of the following:

19 (a) An employee for whom meal periods are established through
20 the collective bargaining process.

21 (b) An employee who in the course of his or her duty to
22 monitor an individual with a developmental disability or mental
23 illness is required to be on call during an entire 8-hour work
24 period. The employee shall, however, be allowed to eat a meal
25 during the 8-hour work period while continuing to monitor the
26 individual.

27 Sec. 4. (1) An employer or an employer's agent or

1 representative shall not retaliate against any person for
2 exercising rights under this act. In any civil proceeding brought
3 to enforce this act, if the plaintiff establishes that he or she
4 was employed by the defendant and exercised rights under this act
5 or alleged in good faith that the defendant was not complying with
6 this act, and the plaintiff was subsequently terminated, demoted,
7 or otherwise penalized by the defendant, a rebuttable presumption
8 arises that the defendant's action was taken in retaliation for the
9 exercise of rights established by this act. To rebut the
10 presumption, the defendant must establish that the sole reason for
11 the termination, demotion, or penalty was a legitimate business
12 reason.

13 (2) In addition to the remedies provided in sections 6 and 7,
14 a person claiming violation of this act may obtain legal or
15 equitable remedies, including, but not limited to, damages, back
16 pay, reinstatement, or injunctive relief. The court shall award an
17 individual terminated in violation of this section all of the
18 following:

19 (a) Treble his or her lost normal daily compensation and
20 fringe benefits with interest.

21 (b) Any consequential damages.

22 (c) Reasonable attorney fees and costs.

23 Sec. 5. The department of licensing and regulatory affairs
24 shall enforce and prosecute all violations of this act. The
25 department of licensing and regulatory affairs may promulgate
26 reasonable rules pursuant to the administrative procedures act of
27 1969, 1969 PA 306, MCL 24.201 to 24.328, to aid in administering

1 and enforcing this act. A violation of an administrative rule is
2 considered a violation of this act.

3 Sec. 6. An employer who violates this act is subject to an
4 administrative fine of not less than \$25.00 or more than \$100.00
5 for each offense.

6 Sec. 7. The director of the department of licensing and
7 regulatory affairs may grant a permit authorizing an exemption from
8 section 2(1). A permit shall not be granted to exempt the
9 employment of individuals for 7 days a week for more than 8 weeks
10 in any 1 year, unless the director of the department of licensing
11 and regulatory affairs finds that the necessity for the employment
12 on a designated day of rest cannot be remedied by increasing the
13 number of employees or by adjusting production schedules. The
14 director of the department of licensing and regulatory affairs
15 shall give due consideration to business necessity and economic
16 viability in granting the permit.