

HOUSE BILL NO. 4986

September 17, 2019, Introduced by Reps. Allor, Whitsett, Hornberger, Reilly, Yaroch, Eisen, Bellino, Miller, Markkanen and Garrett and referred to the Committee on Commerce and Tourism.

A bill to prohibit employers from discriminating against an individual because the individual has not received or declines to receive the influenza vaccination; to prohibit retaliation; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "informed consent in the workplace act of 2019".

3 Sec. 3. As used in this act:

4 (a) "Employer" means a person that allows 1 or more qualified
5 individuals to work for the employer, accepts applications for



1 employment, or is an agent of an employer. Employer includes this
2 state or a political subdivision of this state.

3 (b) "Person" means an individual, corporation, limited
4 liability company, partnership, firm, organization, association,
5 governmental entity, or other legal entity.

6 (c) "Qualified individual" means an individual who performs
7 services, with or without compensation, for an employer.

8 Sec. 5. (1) An employer shall not do any of the following:

9 (a) Discharge, fail or refuse to hire or recruit, or otherwise
10 discriminate against a qualified individual with respect to
11 employment, compensation, or a term, condition, or privilege of
12 employment, or threaten to do any of these things, because the
13 individual has not received or declines to receive, for any reason,
14 an influenza vaccination.

15 (b) Require a qualified individual who has not received or
16 declines to receive an influenza vaccination to do either of the
17 following:

18 (i) Wear a surgical face mask as a consequence of not receiving
19 or declining to receive an influenza vaccination.

20 (ii) Display on the qualified individual's person a mark that
21 distinguishes the qualified individual from qualified individuals
22 who have received or not declined to receive an influenza
23 vaccination.

24 (c) Disclose to the public that the qualified individual has
25 not received or declines to receive an influenza vaccination.

26 (d) Retaliate or discriminate against a person because the
27 person has done or is about to do any of the following:

28 (i) File a complaint under this act.

29 (ii) Testify, assist, or participate in an investigation,



1 proceeding, or action concerning a violation of this act.

2 (iii) Oppose a violation of this act.

3 (2) An employer that offers influenza vaccinations to its
4 qualified individuals must inform its qualified individuals, in
5 writing, of their rights under this act. A qualified individual may
6 decline an influenza vaccination offered by his or her employer by
7 providing his or her employer with a written statement. A qualified
8 individual is not required to state, in his or her written
9 statement or otherwise, the reason he or she declines to receive
10 the influenza vaccination. An employer shall not inquire about the
11 reason a qualified individual declines to receive an influenza
12 vaccination.

13 Sec. 9. An employer shall not require an applicant or
14 qualified individual to waive any right under this act. An
15 agreement by an applicant or qualified individual to waive any
16 right under this act is invalid and unenforceable.

17 Sec. 11. A person who is aggrieved by a violation of this act
18 may bring a civil suit in a court of competent jurisdiction to
19 obtain injunctive relief and damages. A court shall award costs and
20 reasonable attorney fees and may award treble damages to a person
21 who prevails as a plaintiff in a suit authorized under this act.

22 Sec. 13. This act applies to a collective bargaining agreement
23 entered into, renewed, or extended on or after the effective date
24 of this act.

25 Enacting section 1. This act takes effect 90 days after the
26 date it is enacted into law.

