

HOUSE BILL NO. 5644

April 23, 2024, Introduced by Reps. Churches, Koleszar, Conlin, Martus, MacDonell, Wegela, Brixie, Arbit, Andrews, Tsernoglou, Scott, O'Neal, Grant, Hood, Haadsma, Snyder, McFall, Liberati, Skaggs, Paiz, McKinney, Dievendorf, Edwards, Byrnes, Miller, Weiss, Neeley, Young, Hope, Steckloff, Price, Hill, Coffia, Brabec and Glanville and referred to the Committee on Labor.

A bill to amend 1974 PA 154, entitled "Michigan occupational safety and health act," by amending sections 14 and 19 (MCL 408.1014 and 408.1019), section 14 as amended by 2020 PA 143 and section 19 as amended by 2012 PA 448.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14. (1) Except as otherwise provided in subsection (3),
2 the occupational safety and health standards that have been adopted
3 or promulgated by the United States Department of Labor under the

1 occupational safety and health act of 1970, Public Law 91-596, 84
2 Stat 1590, and that are in effect on January 1, 1975 are
3 incorporated by reference and have the same force and effect as a
4 rule promulgated pursuant to this act. A standard that is
5 incorporated by reference pursuant to this subsection remains in
6 effect until either of the following conditions occurs:

7 (a) A standard is promulgated pursuant to this act that covers
8 the same or a similar subject.

9 (b) The standard is rescinded by rule promulgated pursuant to
10 this act.

11 (2) If a rule or standard that is continued pursuant to
12 section 24(1) conflicts with or covers the same or similar subject
13 as a standard incorporated by reference pursuant to subsection (1),
14 the federal standard incorporated by reference governs and the
15 state rule or standard continued pursuant to section 24(1) shall be
16 rescinded.

17 (3) If a rule or standard that is continued in effect under
18 this act pursuant to section 21(1) covers the same subject as a
19 federal standard, subsection (1) does not apply.

20 (4) The department of licensing and regulatory affairs shall
21 make copies of the standards incorporated by reference pursuant to
22 subsection (1) available to the public at cost.

23 (5) Beginning April 1, 1992, not later than 10 working days
24 after the date that the United States Department of Labor adopts or
25 promulgates an occupational safety and health standard under the
26 occupational safety and health act of 1970, Public Law 91-596, 84
27 Stat 1590, the director shall initiate the processing of an
28 administrative rule that is substantially similar to the federal
29 occupational safety and health standard. The proposed

1 administrative rule shall be presented to the joint committee on
 2 administrative rules unless the director determines that the
 3 federal standard is clearly inconsistent with the criteria set
 4 forth in section 9, 16, 19, or 24.

5 (6) Beginning April 1, 1992, a proposed administrative rule
 6 that would address a matter not addressed by 1 or more federal
 7 standards ~~shall~~**must** not be processed and presented to the joint
 8 committee on administrative rules unless the director determines
 9 that there is a clear and convincing need for the standard to meet
 10 the criteria set forth, as appropriate, in sections 9, 16, 19, and
 11 24. The director shall include a statement of the specific facts
 12 that establish the clear and convincing need when processing and
 13 presenting the administrative rule. The statement ~~shall~~**must** either
 14 explain the unique characteristics of industry in this state that
 15 necessitate the standard or demonstrate that the standard was
 16 requested by a broad consensus of union and nonunion employers and
 17 employees in the specific industry affected by the standard.

18 (7) The **director shall promulgate** administrative rules
 19 ~~described in subsections (5) and (6) shall be promulgated pursuant~~
 20 to **implement this section under** the administrative procedures act
 21 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

22 (8) ~~This section~~**Subsection (6)** does not apply to ~~section~~
 23 **rules promulgated under either of the following:**

24 (a) **Section 14r.**

25 (b) **Section 19(2).**

26 Sec. 19. (1) The director may promulgate construction safety
 27 standards in accordance with this act and based ~~upon,~~**on**, but not
 28 limited to, generally accepted nationwide engineering standards and
 29 practices designed to prevent accidents and to protect the life and

1 safety of employees engaged in construction operations. If
2 practicable, the standards promulgated ~~shall~~**must** be expressed in
3 terms of objective criteria and of the performance desired.

4 (2) The director shall promulgate rules specific to employees
5 engaged in construction operations who menstruate or express milk,
6 or both.

7 (3) The rules promulgated under subsection (2) must require an
8 employer that is engaged in construction operations to provide
9 reasonable accommodations for its employees who menstruate,
10 including, but not limited to, all of the following requirements:

11 (a) A bathroom stall designated only for employees who
12 menstruate that is accessible on a job site. The bathroom stall
13 must have an internal latch. If there is more than 1 individual
14 bathroom stall within a room, the room must be able to be locked
15 from the inside.

16 (b) Adequate space and time for the employee to use the
17 bathroom that accounts for multiple layers of clothing.

18 (c) Menstrual hygiene products that are available at no cost
19 to the employees and are located in all gender-neutral bathrooms
20 and bathrooms described under subdivision (a), or are provided in a
21 kit to each employee who needs a menstrual hygiene product.

22 (4) The rules promulgated under subsection (2) must require an
23 employer that is engaged in construction operations to provide
24 reasonable accommodations for its employees who express milk,
25 including, but not limited to, all of the following requirements:

26 (a) A location, other than a bathroom, that is easily
27 accessible to the employee and sanitary for the employee to express
28 milk. The location must meet all of the following:

29 (i) Be private.

1 (ii) Be able to be locked from the inside.

2 (iii) Be free from intrusion.

3 (b) A hygienic refrigerator located on a job site and
4 accessible to the employees that meets the temperature guidelines
5 established by the Centers for Disease Control and Prevention's
6 human milk storage guidelines so the employee may store the milk
7 that the employee expresses.

8 (c) A water source that the employee may use to clean and wash
9 the employee's hands and milk expression equipment. The water
10 source must be in a private location that is easily accessible to
11 the employee and near the location described in subdivision (a).

12 (5) If there is a job site with multiple employers engaged in
13 construction operations, each employer must ensure that the
14 reasonable accommodations described in subsections (3) and (4) are
15 provided to the employer's employees.