



SENATE BILL No. 904

October 20, 1993, Introduced by Senators DILLINGHAM, WELBORN, HONIGMAN, CHERRY, O'BRIEN and KELLY and referred to the Committee on Labor

A bill to prohibit discrimination in employment of individuals relative to their use or nonuse of certain legal consumable products outside the workplace and to prescribe penalties and remedies

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Sec 1 As used in this act

2 (a) "Consumable product" means a product that may be
3 absorbed or ingested by normal bodily functions

4 (b) "Employee" means a person who performs a service for
5 wages or other remuneration under a contract of hire, written or
6 oral, express or implied

7 (c) "Employer" means a person who has 5 or more employees
8 Employer includes an agent of an employer and the state or a
9 political subdivision of the state

1 (d) "Workplace" means an area owned or operated by an
2 employer or serving as a place of work for employees

3 Sec 2 An employer shall not require as a condition of
4 employment that an employee or prospective employee refrain from
5 or engage in the use of a legal consumable product outside his or
6 her workplace, or otherwise discriminate against an employee with
7 respect to his or her compensation or other terms or conditions
8 of employment for refraining from or engaging in the use of a
9 legal consumable product outside his or her workplace

10 Sec 3 This act does not prohibit any of the following

11 (a) An employer from offering, imposing, or having in effect
12 a health, disability, or life insurance policy or certificate,
13 health maintenance organization contract or health care corpora-
14 tion certificate that charges the users of certain legal consum-
15 able products more or otherwise makes distinctions among employ-
16 ees regarding the type of coverage or the cost of coverage based
17 upon the employees' use of certain legal consumable products

18 (b) An employer from adopting a bona fide occupational qual-
19 ification under this act However, if challenged the employer
20 has the responsibility of establishing that the qualification is
21 reasonably necessary to the normal operation of the business

22 (c) An employer from taking an action based on the belief
23 that his or her actions were permissible under an established
24 illegal substance abuse or alcohol program which may have gener-
25 ated a policy or specific language in a professional contract or
26 collective bargaining agreement

1 Sec 4 (1) A person alleging a violation of this act may
2 bring a civil action for appropriate injunctive relief or actual
3 damages, or both Each violation constitutes a separate
4 offense As used in this subsection, "actual damages" includes,
5 but is not limited to, court costs and reasonable attorney and
6 witness fees

7 (2) An action commenced under this act may be brought in the
8 circuit court for the county in which the alleged violation
9 occurred or for the county in which the employer against whom the
10 civil complaint is filed resides or has his or her principal
11 place of business