

HOUSE BILL No. 6592

December 6, 2018, Introduced by Reps. Greig, Hammoud, Hertel, Lasinski, Clemente, Gay-Dagnogo, Geiss, Wittenberg and Camilleri and referred to the Committee on Commerce and Trade.

A bill to require employers to provide meal periods for certain employees; to prescribe powers and duties of certain state governmental officers and entities; to authorize the promulgation of rules; and to prescribe civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "employee meal period act".

3 Sec. 3. As used in this act:

4 (a) "Department" means the department of licensing and
5 regulatory affairs.

6 (b) "Duty-free meal period" means a period during which an
7 employee is completely relieved of his or her employee duties and
8 is permitted to pursue personal activities.

9 (c) "Employee" means an individual who is 18 years of age or

1 older and performing labor or services for the benefit of an
2 employer in which the employer may command when, where, and how
3 much labor or services must be performed.

4 (d) "Employer" means an individual, sole proprietorship,
5 partnership, association, limited liability company, private
6 corporation, or other nongovernmental entity that directly or
7 indirectly employs 1 or more individuals.

8 (e) "On-duty meal period" means a period during which an
9 employee may consume a meal while performing his or her employee
10 duties.

11 (f) "Work shift" means the hours an employee is normally
12 scheduled to work within a consecutive 24-hour period.

13 Sec. 5. (1) Except as provided in subsection (3) and subject
14 to subsection (4), an employer shall provide a duty-free meal
15 period of not less than 30 consecutive minutes each work shift to
16 an employee whose work shift exceeds 5 consecutive hours.

17 (2) An employer may, but is not required to, pay an employee
18 wages for a duty-free meal period taken by the employee.

19 (3) When the nature of the business activity or other
20 circumstances exist that render a duty-free meal period
21 impractical, an employer shall provide an on-duty meal period each
22 work shift to an employee whose work shift exceeds 5 consecutive
23 hours. An employer shall pay an employee wages for an on-duty meal
24 period and shall not deduct an on-duty meal period from the
25 employee's wages.

26 (4) This section does not apply to any of the following
27 employees:

1 (a) An employee whose collective bargaining agreement
2 establishes a meal period.

3 (b) An employee who provides emergency medical response
4 services.

5 (c) An employee who is a manager.

6 Sec. 7. (1) If an employer violates this act, the employee
7 affected by the violation, at any time within 2 years after the
8 violation or 3 years after the violation if the violation was
9 willful, may file a complaint with the department in a manner as
10 provided by the department. The department shall investigate
11 alleged violations of this act and the rules promulgated under this
12 act. If an investigation indicates that a violation may have
13 occurred, a hearing must be held. The department shall issue a
14 written determination including the department's findings after the
15 hearing.

16 (2) An interested party may appeal a decision made by the
17 department under this act as a contested case pursuant to the
18 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
19 24.328.

20 Sec. 9. (1) An employer or any other person shall not
21 interfere with, restrain, or deny the exercise of, or the attempt
22 to exercise, any right protected under this act.

23 (2) An employer shall not take retaliatory personnel action or
24 discriminate against an employee because the employee has exercised
25 a right protected under this act.

26 (3) The protections in this section apply to any person who
27 mistakenly but in good faith alleges a violation of this section.

1 Sec. 11. (1) An employer shall retain for 5 years at the
2 premises of the employer a true and accurate record documenting the
3 hours worked by an employee.

4 (2) To monitor compliance with the requirements of this act,
5 an employer shall allow the department access to the records
6 required under subsection (1), with appropriate notice and at a
7 mutually agreeable time.

8 Sec. 13. An employer shall post and keep posted, in a
9 conspicuous place on the premises of the employer where notices to
10 employees are customarily posted, a notice, to be prepared or
11 approved by the department, that includes excerpts from, or
12 summaries of, the pertinent provisions of this act. If the premises
13 of the employer or other conditions make the posting of this notice
14 impractical, an employer shall make the notice described in this
15 section available to an employee upon request.

16 Sec. 15. An employer or person that violates this act may be
17 ordered to pay a civil fine of not more than \$500.00. A violation
18 of this act may be prosecuted by the prosecutor of the county in
19 which the violation occurred, or by the attorney general.

20 Sec. 17. The department may promulgate rules to implement this
21 act pursuant to the administrative procedures act of 1969, 1969 PA
22 306, MCL 24.201 to 24.328.

23 Sec. 19. This act applies to a collective bargaining agreement
24 or employment agreement that is executed, extended, or renewed on
25 or after the effective date of this act.

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