

HOUSE BILL NO. 5034

October 03, 2019, Introduced by Reps. Robinson, Hammoud, Cherry, Haadsma, Hope, Wittenberg, Sowerby, Shannon, Byrd, Kennedy, Tate, Coleman, Elder, Guerra, Garza, Lasinski, Ellison, Tyrone Carter, Rabhi, Chirkun, Manoogian, Sneller, Warren, LaGrand, Hood, Kuppa and Jones and referred to the Committee on Commerce and Tourism.

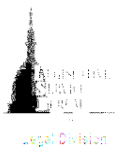
A bill to require employers to provide meal periods for certain employees; to prescribe powers and duties of certain state governmental officers and entities; to authorize the promulgation of rules; and to prescribe civil sanctions.

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



1 regulatory affairs.

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

5 (c) "Employee" means an individual who is 18 years of age or
6 older and performing labor or services for the benefit of an
7 employer in which the employer may command when, where, and how
8 much labor or services must be performed.

9 (d) "Employer" means an individual, sole proprietorship,
10 partnership, association, limited liability company, private
11 corporation, or other nongovernmental entity that directly or
12 indirectly employs 1 or more individuals.

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

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

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

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

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



1 employee's wages.

2 (4) This section does not apply to any of the following
3 employees:

4 (a) An employee whose collective bargaining agreement
5 establishes a meal period.

6 (b) An employee who provides emergency medical response
7 services.

8 (c) An employee who is a manager.

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

19 (2) An interested party may appeal a decision made by the
20 department under this act as a contested case pursuant to the
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328.

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

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

29 (3) The protections in this section apply to any person who



1 mistakenly but in good faith alleges a violation of this section.

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

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

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

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

21 Sec. 17. The department may promulgate rules to implement this
22 act pursuant to the administrative procedures act of 1969, 1969 PA
23 306, MCL 24.201 to 24.328.

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

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

