

HOUSE BILL NO. 5825

February 23, 2022, Introduced by Reps. Kuppa, Weiss, Brenda Carter, Sabo, Clemente, Haadsma, Coleman, Breen, Stone, Neeley, Brabec, Sowerby, Garza, Liberati, O'Neal, Pohutsky, Steckloff, Cavanagh, Rabhi, Cherry, Steenland, Tyrone Carter, Manoogian, Bolden, Rogers, Scott, Sneller, Thanedar, Ellison, Peterson, Aiyash, Koleszar, Young, Shannon, Hood, Tate, Hertel, Brixie, Morse, Jones and Whitsett and referred to the Committee on Commerce and Tourism.

A bill to prohibit certain employers from monitoring employee communications unless the employer establishes an employee monitoring policy and discloses that policy to employees; and to provide certain civil remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "employee communications
2 monitoring act".

3 Sec. 2. As used in this act:

4 (a) "Employee" means an individual who as a volunteer or for

1 compensation provides an employer with his or her labor.

2 (b) "Employer" means a person who employs an individual for
3 compensation or who supervises an individual providing labor as a
4 volunteer.

5 (c) "Monitor" means listening to, reading, or recording a
6 communication between an employee and a person who is not the
7 employer.

8 Sec. 3. An employer shall not monitor the communications of an
9 employee unless the employer establishes a communication monitoring
10 policy that is in writing, is disclosed to and acknowledged in
11 writing by each employee subject to monitoring, and does all of the
12 following:

13 (a) Specifies the methods of monitoring that the employer will
14 exercise.

15 (b) Specifies the communication media that are subject to
16 monitoring.

17 (c) Specifies the types of communications that are subject to
18 monitoring.

19 (d) Identifies the frequency at which monitoring will occur.

20 (e) Provides an employee whose communications are monitored
21 with advance written notice of the monitoring.

22 (f) Provides each employee subject to the policy with notice
23 of adoption of the policy and any changes to the policy. An
24 employer shall provide notice under this subdivision in writing to
25 each employee subject to the policy and shall obtain written
26 acknowledgment of the policy or changes from each of those
27 employees.

28 Sec. 4. (1) An employer shall comply with a communication
29 monitoring policy that the employer establishes under this act.

1 (2) An employer shall not request or accept a waiver from an
2 employee of any rights that the employee has under any applicable
3 state or federal law concerning monitoring.

4 Sec. 5. An employer who violates this act is liable to the
5 affected employee for actual damages or \$5,000.00, whichever is
6 greater, plus reasonable attorney fees.

7 Sec. 7. This act applies to a collective bargaining agreement
8 or employment agreement that is executed, extended, or renewed on
9 or after the effective date of this act.