

# SENATE BILL NO. 6

January 08, 2025, Introduced by Senator HERTEL and referred to Committee on Labor.

A bill to amend 1978 PA 390, entitled

"An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts,"

by amending sections 1, 7, 11, 13, 13a, 14, 15, 18, and 19 (MCL 408.471, 408.477, 408.481, 408.483, 408.483a, 408.484, 408.485, 408.488, and 408.489), section 1 as amended by 2016 PA 18, section

7 as amended by 2023 PA 243, and section 13a as added by 1982 PA 524, and by adding sections 13c and 13d.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. As used in this act:

2       (a) "Department" means the department of ~~licensing and~~  
3 ~~regulatory affairs.~~ **labor and economic opportunity.**

4       (b) "Employ" means to engage or permit to work.

5       (c) "Employee" means an individual employed by an employer.  
6 **Employee does not include an independent contractor.**

7       (d) "Employer" means an individual, sole proprietorship,  
8 partnership, association, or corporation, public or private; this  
9 state or an agency of this state; a city, county, village,  
10 township, school district, or intermediate school district; an  
11 institution of higher education; or an individual acting directly  
12 or indirectly in the interest of an employer ~~who~~**that** employs 1 or  
13 more individuals. Except as specifically provided in the franchise  
14 agreement, as between a franchisee and franchisor, the franchisee  
15 is considered the sole employer of workers for whom the franchisee  
16 provides a benefit plan or pays wages.

17       (e) "Fringe benefits" means compensation due an employee  
18 pursuant to a written contract or written policy for ~~holiday, time~~  
19 **off for holidays**, time off for sickness or injury, time off for  
20 personal reasons or vacation, bonuses, authorized expenses incurred  
21 during the course of employment, and contributions made on behalf  
22 of an employee.

23       (f) "Independent contractor" means an individual who performs  
24 work for a payer for remuneration and to whom all of the following  
25 apply:

26       (i) The individual is free from control and direction of the

1 payer in connection with the performance of the work, both under a  
2 contract and in fact.

3 (ii) The individual performs work that is outside the usual  
4 course of the payer's business.

5 (iii) The individual is customarily engaged in an independently  
6 established trade, occupation, or business of the same work  
7 performed by the individual for the payer.

8 (g) "Payer" means a person that pays remuneration to an  
9 independent contractor for work the independent contractor performs  
10 for the payer.

11 (h) ~~(f)~~ "Wages" means all earnings of an employee whether  
12 determined on the basis of time, task, piece, commission, or other  
13 method of calculation for labor or services. ~~except those defined~~  
14 ~~as Wages does not include~~ fringe benefits. ~~under subdivision (e)~~  
15 ~~above.~~

16 Sec. 7. (1) Except for those deductions required or expressly  
17 permitted by law or by a collective bargaining agreement, an  
18 employer shall not deduct from the wages of an employee, directly  
19 or indirectly, any amount including an employee contribution to a  
20 separate segregated fund established by a corporation or labor  
21 organization under section 55 of the Michigan campaign finance act,  
22 1976 PA 388, MCL 169.255, without the full, free, and written  
23 consent of the employee, obtained without intimidation or fear of  
24 discharge for refusal to permit the deduction.

25 (2) Except as provided in this subsection and subsections (4)  
26 and (5), a deduction for the benefit of the employer requires  
27 written consent from the employee for each wage payment subject to  
28 the deduction, and the cumulative amount of the deductions must not  
29 reduce the gross wages paid to a rate less than the minimum rate as

prescribed in the improved workforce opportunity wage act, 2018 PA 337, MCL 408.931 to 408.945. A nonprofit organization shall obtain a written consent from an employee for deductions to that nonprofit organization that qualify as charitable contributions under federal law. However, this subsection does not require the nonprofit organization to obtain from an employee a separate written consent for each subsequent paycheck from which deductions that qualify as charitable contributions that benefit the employer are made. An employee at any time may rescind in writing ~~his or her the~~ **employee's** authorization to have charitable contributions deducted from ~~his or her the~~ **employee's** paycheck. As used in this subsection, "nonprofit organization" means an organization that is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 USC ~~501(c)(3)~~. **501.**

(3) Each deduction from the wages of an employee must be substantiated in the records of the employer and must be identified as pertaining to an individual employee. Prorating of deductions between 2 or more employees is not ~~permitted~~. **allowed.**

(4) Not later than 6 months after making an overpayment of wages or fringe benefits that are paid directly to an employee, an employer may deduct the overpayment from the employee's regularly scheduled wage payment without the written consent of the employee if all of the following conditions are met:

(a) The overpayment resulted from a mathematical miscalculation, typographical error, clerical error, or misprint in the processing of the employee's regularly scheduled wages or fringe benefits.

(b) The miscalculation, error, or misprint described in subdivision (a) was made by the employer, the employee, or a

1 representative of the employer or employee.

2 (c) The employer provides the employee with a written  
3 explanation of the deduction at least 1 pay period before the wage  
4 payment affected by the deduction is made.

5 (d) The deduction is not greater than 15% of the gross wages  
6 earned in the pay period in which the deduction is made.

7 (e) The deduction is made after the employer has made all  
8 deductions expressly permitted or required by law or a collective  
9 bargaining agreement, and after any employee-authorized deduction.

10 (f) The deduction does not reduce the regularly scheduled  
11 gross wages otherwise due the employee to a rate that is less than  
12 the greater of either of the following:

13 (i) The minimum rate as prescribed by subsection (2).

14 (ii) The minimum rate as prescribed by the fair labor standards  
15 act of 1938, 29 USC 201 to 219.

16 (5) If an employer pays any amount of the employee's debt  
17 under a default judgment entered under section 4012(9) or (10) of  
18 the revised judicature act of 1961, 1961 PA 236, MCL 600.4012, the  
19 employer may deduct that amount from the employee's regularly  
20 scheduled wage payment without the written consent of the employee  
21 if all of the following conditions are met:

22 (a) The employer provides the employee with a written  
23 explanation of the deduction at least 1 pay period **or 10 business**  
24 **days, whichever is greater,** before the wage payment affected by the  
25 deduction is made.

26 (b) The deduction is not greater than 15% of the gross wages  
27 earned in the pay period in which the deduction is made.

28 (c) The deduction is made after the employer has made all  
29 deductions expressly permitted or required by law or a collective

1 bargaining agreement, and after any employee-authorized deduction.

2 (d) The deduction does not reduce the regularly scheduled  
3 gross wages otherwise due the employee to a rate that is less than  
4 the greater of either of the following:

5 (i) The minimum rate as prescribed by subsection (2).

6 (ii) The minimum rate as prescribed by the fair labor standards  
7 act of 1938, 29 USC 201 to 219.

8 (6) An employee who believes ~~his or her~~ **the employee's**  
9 employer has violated subsection (4) or (5) may file a complaint  
10 with the department not later than 12 months after the date of the  
11 alleged violation.

12 (7) As used in this section, "employer" means an individual,  
13 sole proprietorship, partnership, association, or corporation,  
14 public or private, this state or an agency of this state, a city,  
15 county, village, township, school district, or intermediate school  
16 district, an institution of higher education, or an individual  
17 acting directly or indirectly in the interest of an employer ~~who~~  
18 **that** employs 1 or more individuals.

19 Sec. 11. (1) An employee who believes that ~~his or her~~ **the**  
20 **employee's** employer has violated this act may file a written  
21 complaint with the department ~~within~~ **not later than** 12 months after  
22 the alleged violation. A complaint filed under section 13(2) ~~shall~~  
23 **must** be filed ~~within~~ **not later than** 30 days after the alleged  
24 violation. ~~occurs. Bilingual~~ **The department shall provide bilingual**  
25 complaint forms ~~shall be provided by the department~~ in those areas  
26 where substantial numbers of ~~non-English speaking~~ **non-English-**  
27 **speaking** employees are employed.

28 (2) ~~Within~~ **Not later than** a reasonable **amount of** time after a  
29 complaint is filed, the department shall notify the employer, ~~and~~

1 investigate the claim, and ~~shall~~ attempt to informally resolve the  
2 dispute.

3 (3) If the department is unable to informally resolve the  
4 dispute, the department shall notify the employer and employee  
5 ~~within~~ **not later than** 90 days after the complaint is filed. The  
6 notification ~~shall~~ **must** include a determination of the merits of  
7 the complaint and ~~shall~~ cite the specific violation, if any, wages  
8 and fringe benefits due, and specific penalties assessed.

9 (4) The employer or employee may request a review of the  
10 department's determination ~~within~~ **not later than** 14 days after **the**  
11 **department issues** notification ~~is issued. of its determination.~~ If  
12 **the department does not receive** a request for a review by ~~either~~  
13 the employer or employee ~~is not received by the department within~~  
14 ~~14 days,~~ **that 14-day period**, in the absence of a showing of good  
15 cause for a late request, the department's determination is final.

16 (5) For the purpose of an investigation or proceeding under  
17 this act, the director of ~~labor~~ **the department** or ~~an authorized~~  
18 ~~representative of the director~~ **director's designee** may administer  
19 oaths and affirmations, subpoena witnesses ~~,~~ **and** compel their  
20 attendance, take evidence, and require the production of records or  
21 other documents ~~which~~ **that** the department considers relevant or  
22 material to the inquiry.

23 (6) The employee, **the** employer, and the department ~~shall~~ **must**  
24 be parties to a proceeding before a hearings officer brought  
25 ~~pursuant to~~ **under** this section.

26 (7) The director shall appoint hearings officers to make  
27 determinations in proceedings brought ~~pursuant to~~ **under** this  
28 section. All proceedings in a hearing ~~shall~~ **must** be conducted  
29 ~~pursuant to the procedures applicable to the trial of~~ **as** contested

1 cases under ~~Act No. 306 of the Public Acts of 1969, as amended,~~  
 2 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws. the~~  
 3 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**  
 4 **24.328.** The hearings officer shall affirm, modify, or rescind the  
 5 order of the department and may assess costs as provided in section  
 6 18(3).

7 (8) The hearings officer shall issue a determination, which  
 8 ~~constitutes~~ **is** a final disposition of the proceedings, to each  
 9 party ~~within~~ **not later than** 30 days after the conclusion of the  
 10 hearing. The determination of the hearings officer ~~shall become~~  
 11 **becomes** the final ~~agency~~ **department** order upon receipt by the  
 12 parties.

13 (9) A party to the proceeding may obtain judicial review ~~of~~  
 14 ~~the determination of the hearings officer pursuant to Act No. 306~~  
 15 ~~of the Public Acts of 1969, as amended.~~ **officer's determination in**  
 16 **accordance with the administrative procedures act of 1969, 1969 PA**  
 17 **306, MCL 24.201 to 24.328.** Venue for an appeal under this act ~~shall~~  
 18 **is proper** only ~~be~~ in the circuit where the employee is a resident,  
 19 ~~where the employment occurred, or where the employer has a~~  
 20 principal place of business.

21 (10) **If requested by an employee who files a complaint against**  
 22 **an employer under this section, the department shall, to the extent**  
 23 **allowed by law, not disclose to the employer the identity of the**  
 24 **employee.**

25 Sec. 13. (1) An employer shall not discharge, ~~an employee~~  
 26 **retaliate against,** or **otherwise** discriminate against an employee  
 27 because the employee filed a complaint, instituted or caused to be  
 28 instituted a proceeding under or regulated by this act, **or**  
 29 testified or is about to testify in a proceeding ~~or~~ because of



1 the exercise by the employee on behalf of an employee or others of  
2 a right afforded by this act.

3 (2) An employee who believes that ~~he or she~~ **the employee** is  
4 discharged, ~~or~~ **retaliated against, or** otherwise discriminated  
5 against by an employer in violation of this section may file a  
6 complaint with the department alleging the **discharge, retaliation,**  
7 **or** discrimination ~~within~~ **not later than** 30 days after the  
8 violation. ~~occurs.~~ Upon receipt of the complaint, the department  
9 shall cause an investigation to be made. If, upon **completing** the  
10 investigation, the department determines that this section was  
11 violated, the department shall order the rehiring or reinstatement  
12 of an employee to ~~his or her~~ **the employee's** former position with  
13 back pay.

14 (3) An employer may seek review of the department's  
15 determination by following the procedure provided in section 11(4)  
16 to (9).

17 Sec. 13a. ~~(1)~~ An employer shall not do any of the following:

18 (a) Require as a condition of employment nondisclosure by an  
19 employee of ~~his or her~~ **the employee's** wages.

20 (b) Require an employee to sign a waiver or other document  
21 which purports to deny an employee the right to disclose ~~his or her~~  
22 **the employee's** wages.

23 (c) Discharge, formally discipline, or otherwise discriminate  
24 against for job advancement an employee who discloses ~~his or her~~  
25 **the employee's** wages.

26 (d) **Not later than 30 days after an employee's request, fail**  
27 **to provide the employee with wage information for similarly**  
28 **situated employees covering a period of not more than 3 years**  
29 **before the date of the request. The employer may redact the names**

1 of similarly situated employees, but shall provide information  
2 about the sex and seniority of similarly situated employees for  
3 whom wage information is provided. As used in this subdivision:

4 (i) "Similarly situated employees" means employees who are  
5 within the same job classification as the employee requesting the  
6 information or whose duties are comparable in skill, effort,  
7 responsibility, working conditions, and training to those of the  
8 requesting employee.

9 (ii) "Wage information" includes salary and hourly wage  
10 information as well as information about bonus pay, overtime pay,  
11 and other forms of compensation provided by the employer.

12 Sec. 13c. (1) A person shall not classify, report, or treat an  
13 employee as an independent contractor. A person that is alleged to  
14 have violated this section has the burden of proving, by a  
15 preponderance of the evidence, that the person did not classify,  
16 report, or treat the employee as an independent contractor.

17 (2) A person that, with the intent to defraud, violates this  
18 section is guilty of a misdemeanor punishable by a fine of not more  
19 than \$1,000.00, or imprisonment for not more than 1 year, or both.

20 Sec. 13d. (1) The wages and fringe benefits fund is created in  
21 the state treasury.

22 (2) The state treasurer shall deposit money and other assets  
23 received from any source into the fund. The state treasurer shall  
24 direct the investment of the money in the fund and credit interest  
25 and earnings from the investments to the fund.

26 (3) Money in the fund at the close of the fiscal year must  
27 remain in the fund and not lapse to the general fund.

28 (4) The department is the administrator of the fund for  
29 auditing purposes.

1           (5) The department shall expend money from the fund, upon  
2 appropriation, only to enforce this act.

3           Sec. 14. (1) ~~An~~ Except as provided in subsection (2), an  
4 employer ~~who~~ that violates this act ~~, including failure to pay the~~  
5 ~~wages and fringe benefits due an employee as provided in this act,~~  
6 is guilty of a misdemeanor.

7           (2) An employer that violates section 13a a second or  
8 subsequent time is guilty of a felony punishable by imprisonment  
9 for not more than 2 years, a fine of not more than \$10,000.00, or  
10 both, for each violation.

11          Sec. 15. An employer ~~who~~ that, with the intent to defraud,  
12 ~~fails to make payment of~~ does not pay the wages and fringe benefits  
13 due an employee as provided in this act ~~, is guilty of a~~  
14 ~~misdemeanor, crime punishable by a fine of not more than \$1,000.00,~~  
15 ~~or imprisonment for not more than 1 year, or both.~~ as follows:

16          (a) Except as otherwise provided in this subdivision, if the  
17 wages and fringe benefits have a value of less than \$200.00, the  
18 employer is guilty of a misdemeanor punishable by imprisonment for  
19 not more than 93 days, a fine of not more than \$500.00 or 3 times  
20 the value of the wages and fringe benefits, whichever is greater,  
21 or both imprisonment and a fine. If the employer has 1 or more  
22 prior convictions under this section, the employer is guilty of a  
23 misdemeanor punishable by imprisonment for not more than 1 year, a  
24 fine of not more than \$2,000.00 or 3 times the value of the wages  
25 and fringe benefits, whichever is greater, or both imprisonment and  
26 a fine.

27          (b) Except as otherwise provided in this subdivision, if the  
28 wages and fringe benefits have a value of \$200.00 or more but less  
29 than \$1,000.00, the employer is guilty of a misdemeanor punishable

1 by imprisonment for not more than 1 year, a fine of not more than  
2 \$2,000.00 or 3 times the value of the wages and fringe benefits,  
3 whichever is greater, or both imprisonment and a fine. If the  
4 employer has 1 or more prior convictions under this section, the  
5 employer is guilty of a felony punishable by imprisonment for not  
6 more than 5 years, a fine of not more than \$10,000.00 or 3 times  
7 the value of the wages and fringe benefits, whichever is greater,  
8 or both imprisonment and a fine.

9 (c) Except as otherwise provided in this subdivision, if the  
10 wages and fringe benefits have a value of \$1,000.00 or more but  
11 less than \$20,000.00, the employer is guilty of a felony punishable  
12 by imprisonment for not more than 5 years, a fine of not more than  
13 \$10,000.00 or 3 times the value of the wages and fringe benefits,  
14 whichever is greater, or both imprisonment and a fine. If the  
15 employer has 2 or more prior convictions under this section, the  
16 employer is guilty of a felony punishable by imprisonment for not  
17 more than 10 years, a fine of not more than \$15,000.00 or 3 times  
18 the value of the wages and fringe benefits, whichever is greater,  
19 or both imprisonment and a fine.

20 (d) If the wages and fringe benefits have a value of  
21 \$20,000.00 or more but less than \$50,000.00, the employer is guilty  
22 of a felony punishable by imprisonment for not more than 10 years,  
23 a fine of not more than 3 times the value of the wages and fringe  
24 benefits, or both imprisonment and a fine.

25 (e) If the wages and fringe benefits have a value of  
26 \$50,000.00 or more but less than \$100,000.00, the employer is  
27 guilty of a felony punishable by imprisonment for not more than 15  
28 years, a fine of not more than 3 times the value of the wages and  
29 fringe benefits, or both imprisonment and a fine.

(f) If the wages and fringe benefits have a value of \$100,000.00 or more, the employer is guilty of a felony punishable by imprisonment for not more than 20 years, a fine of not more than 3 times the value of the wages and fringe benefits, or both imprisonment and a fine.

Sec. 18. (1) The department shall order an employer ~~who~~**that** violates section 2, 3, 4, 5, 6, 7, ~~or~~**8, or 13c** to pay the following:

(a) Wages due ~~to~~**the** employee.

(b) Fringe benefits due ~~to~~**or on the** behalf of the employee in accordance with ~~the terms set forth in the~~ written contract or written policy.

(c) A penalty at the rate of ~~10%~~**100%** annually on the wages and fringe benefits due **the employee**, beginning at the time the employer is notified that a complaint has been filed and ending when payment is made.

(2) The department may order an employer ~~who~~**that** violates section 2, 3, 4, 5, 6, 7, ~~or~~**8, or 13c** to pay to the employee exemplary damages of not more than ~~twice~~**3 times** the amount of the wages and fringe benefits ~~which~~**that** were due **the employee**, if the violation is flagrant or repeated.

(3) The department may order an employer ~~who~~**that** violates section 2, 3, 4, 5, 6, 7, ~~or~~**8, or 13c** to pay attorney costs, hearing costs, and transcript costs.

(4) The department may assess a civil ~~penalty~~**fine** of not more than ~~\$1,000.00~~**\$10,000.00** against an employer ~~who~~**that** violates this act. ~~, which~~**The civil penalty shall** ~~fine must~~ be credited to the general fund of this state.

(5) All of the following apply to an employer's violation of

1 section 13c:

2 (a) If the department collects a penalty or damages from an  
3 employer for violating section 13c, the department shall, unless  
4 otherwise prohibited by law, pay to the affected employee 50% of  
5 the money collected.

6 (b) The department shall order an employer that violates  
7 section 13c to pay a penalty in an amount equal to the estimated  
8 federal taxes and Medicare payments, if any, that would have been  
9 due the employee if the employer had not violated section 13c.  
10 Subject to subdivision (a) and unless otherwise prohibited by law,  
11 money collected under this subdivision must be deposited into the  
12 wages and fringe benefits fund created in section 13d.

13 (c) The department shall notify the department of treasury and  
14 the unemployment insurance agency of the violation.

15 Sec. 19. The director of ~~labor~~**the department** shall, and the  
16 **attorney general may**, initiate, in the county where the violation  
17 occurred, in ~~the county of~~**Ingham County**, or in the county where  
18 the employer has its principal office, the civil action necessary  
19 to enforce an order of the department ~~which~~**that** has become a final  
20 agency order as prescribed in this act.

21 Enacting section 1. This amendatory act takes effect 90 days  
22 after the date it is enacted into law.