

HOUSE BILL NO. 4632

May 21, 2019, Introduced by Reps. Kuppia, Pohutsky, Brixie, Witwer, Hope, Hoadley, Sneller, Koleszar, Kennedy, Sabo, Hertel, Garza, Ellison, Pagan, Stone, Brenda Carter, Sowerby, Cherry, Tyrone Carter, Cynthia Johnson, Manoogian, Warren, Haadsma, Wittenberg, Tate, Rabhi, Lasinski, Hood, Jones, Greig and Anthony and referred to the Committee on Commerce and Tourism.

A bill to amend 2018 PA 337, entitled
"Improved workforce opportunity wage act,"
by amending sections 9 and 13 (MCL 408.939 and 408.943).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) If an employer violates this act, the employee
2 affected by the violation, at any time within 3 years, may do any
3 of the following:

4 (a) Bring a civil action for the recovery of the difference



1 between the amount paid and the amount that, but for the violation,
2 would have been paid the employee under this act and an equal
3 additional amount as liquidated damages together with costs and
4 reasonable attorney fees as are allowed by the court.

5 (b) File a claim with the commissioner who shall investigate
6 the claim.

7 (2) If the commissioner determines there is reasonable cause
8 to believe that the employer has violated this act and the
9 commissioner is subsequently unable to obtain voluntary compliance
10 by the employer within a reasonable period of time, the
11 commissioner shall bring a civil action under subsection (1)(a).
12 The commissioner may investigate and ~~file~~**bring** a civil action
13 under subsection (1)(a) on behalf of all employees of that employer
14 who are similarly situated at the same work site and who have not
15 brought a civil action under subsection (1)(a). A contract or
16 agreement between the employer and the employee or any acceptance
17 of a lesser wage by the employee is not a bar to the action.

18 (3) In addition to bearing liability for civil remedies
19 described in this section, an employer who fails to pay the minimum
20 hourly wage in violation of this act, or who violates a provision
21 of section 4a governing an employee's compensatory time, is subject
22 to a civil fine of not more than \$1,000.00.

23 **(4) An employer who violates section 13 is subject to an**
24 **action to enforce rights and remedies under the Elliott-Larsen**
25 **civil rights act, 1976 PA 453, MCL 37.2101 to 37.2804, in addition**
26 **to any other liability for civil remedies and fines under this**
27 **section.**

28 Sec. 13. (1) An employer having employees subject to this act
29 shall not discriminate between employees ~~within an establishment on~~



1 the basis of **religion, race, color, national origin, age, sex,**
 2 **height, weight, or marital status** by paying wages to employees ~~in~~
 3 ~~the establishment~~ at a rate less than the rate at which the
 4 employer pays wages to ~~employees of the opposite~~ **an employee of**
 5 **another religion, race, color, national origin, age, sex, height,**
 6 **weight, or marital status** for ~~equal~~ work on jobs, the performance
 7 of which requires ~~equal~~ **equivalent** skill, effort, and
 8 responsibility and that is performed under ~~similar~~ **comparable**
 9 working conditions, except if the payment is made under 1 or more
 10 of the following:

11 (a) A seniority system.

12 (b) A merit system.

13 (c) A system that measures earnings by quantity or quality of
 14 production.

15 (d) A differential based on a ~~factor other than~~ **bona fide,**
 16 **job-related factor, such as job-related education, training,**
 17 **experience, or market conditions, and not on religion, race, color,**
 18 **national origin, age, sex, height, weight, or marital status.**

19 (2) An employer that is paying a wage differential in
 20 violation of this section shall not reduce the wage rate of an
 21 employee to comply with this section.

22 (3) For purposes of administration and enforcement, any amount
 23 owing to an employee that has been withheld in violation of this
 24 section is considered unpaid minimum wages under this act.

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

