

Act No. 207
Public Acts of 1995
Approved by the Governor
November 29, 1995
Filed with the Secretary of State
November 29, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. DeLange, Horton, Dalman, Llewellyn, Bullard, Perricone, Bush and Gernaat

ENROLLED HOUSE BILL No. 4152

AN ACT to amend section 7 of Act No. 390 of the Public Acts of 1978, entitled as amended "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," as amended by Act No. 124 of the Public Acts of 1993, being section 408.477 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 7 of Act No. 390 of the Public Acts of 1978, as amended by Act No. 124 of the Public Acts of 1993, being section 408.477 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 7. (1) With the exception of those deductions required or expressly permitted by law or by a collective bargaining agreement, an employer shall not deduct from the wages of an employee, directly or indirectly, any amount without the full, free, and written consent of the employee, obtained without intimidation or fear of discharge for refusal to permit the deduction.

(2) Except as provided in this subsection and subsection (4), a deduction for the benefit of the employer requires written consent from the employee for each wage payment subject to the deduction, and the cumulative amount of the deductions shall not reduce the gross wages paid to a rate less than minimum rate as defined in the minimum wage law of 1964, Act No. 154 of the Public Acts of 1964, being sections 408.381 to 408.398 of the Michigan Compiled Laws. A nonprofit organization shall obtain a written consent from an employee for deductions that qualify as charitable contributions under federal law to that nonprofit organization. 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 authorization to have charitable contributions deducted from his or her 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.

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

(4) Within 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 representative of the employer or employee.

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

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

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

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

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

(ii) The minimum rate as prescribed by the fair labor standards act of 1938, chapter 676, 52 Stat. 1060, 29 U.S.C. 201 to 216 and 217 to 219.

(5) An employee who believes his or her employer has violated subsection (4) may file a complaint with the department within 12 months after the date of the alleged violation.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.