

HOUSE BILL No. 5590

May 20, 2014, Introduced by Reps. Yanez, Switalski, Cavanagh, Hovey-Wright, Brown, Segal, Cochran, Haugh, Slavens, Geiss, Roberts, Dianda, Faris, Lane, Durhal and Darany and referred to the Committee on Judiciary.

A bill to prohibit an employer from sanctioning a home health care worker with certain training for possessing a self-defense spray device; to prescribe the powers and duties of certain state departments; and to create a cause of action.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "home health care worker safety act".

3 (2) As used in this act:

4 (a) "Department" means the department of human services.

5 (b) "Home health care employer" means a public or private
6 entity or individual that employs 1 or more home health care
7 workers. Home health care employer does not include an individual
8 who directly or indirectly employs a home health care worker to
9 provide services related to physical health or psychological health

1 in the individual's residence.

2 (c) "Home health care worker" means an individual who, as a
3 condition of his or her employment, performs services related to
4 physical health or psychological health in the residence of the
5 recipient of the services.

6 (d) "Safety training course" means a course of instruction
7 offered or certified by the department that includes training in
8 defusing threatening behavior, recognizing a potentially dangerous
9 situation, and using a self-defense spray device appropriately.

10 (e) "Self-defense spray device" means a device that is capable
11 of carrying and ejecting, releasing, or emitting either not more
12 than 35 grams of any combination of orthochlorobenzalmalonitrile
13 and inert ingredients or a solution containing not more than 10%
14 oleoresin capsicum. Except as provided in this subdivision, a self-
15 defense spray device does not eject, release, or emit any gas or
16 substance that will temporarily or permanently disable,
17 incapacitate, injure, or harm a person with whom the gas or
18 substance comes in contact.

19 Sec. 2. (1) If a home health care worker has completed a
20 safety training course, a home health care employer shall not
21 sanction the home health care worker or discriminate in terms and
22 conditions of employment because the home health care worker
23 possesses or intends to possess a self-defense spray device.

24 (2) Subsection (1) does not prohibit sanctioning a home health
25 care worker for refusing or failing to comply with a request from a
26 client of the home health care employer concerning possession of a
27 self-defense spray device at the client's residence.

1 Sec. 3. A home health care employer who violates this act is
2 liable to the employee for all of the following:

3 (a) Reinstatement to the employee's position without loss of
4 seniority.

5 (b) Two times the amount of lost back pay.

6 (c) Interest on the back pay.

7 (d) Compensation for any special damages.

8 (e) Any other relief necessary to make the employee whole.

9 Sec. 4. (1) A person desiring to offer a safety training
10 course under this act may apply for department approval on forms
11 supplied by the department. The department shall approve a training
12 course or a refresher training course that meets the following
13 requirements:

14 (a) Three hours of instruction in how to defuse threatening
15 behavior.

16 (b) Three hours of instruction in how to recognize a
17 potentially dangerous situation and how to use a self-defense spray
18 device.

19 (c) Training provided by instructors with expertise in the
20 subject matter that is documented by academic credentials or
21 practical experience.

22 (2) The department may charge a fee for course approval that
23 does not exceed the expense of examining and approving or
24 disapproving the application.