

HOUSE BILL No. 4512

April 25, 2017, Introduced by Reps. Brinks, Schor, Faris, Geiss, Hertel, Chang, Sneller, Clemente, Chirkun, Guerra, LaGrand, Durhal, Elder, Lasinski, Yanez, Greig, Green, Love, Greimel, Moss, Hammoud, Pagan, Sowerby, Cochran, Sabo, Hoadley, Gay-Dagnogo, Peterson and Jones and referred to the Committee on Commerce and Trade.

A bill to amend 2014 PA 138, entitled
"Workforce opportunity wage act,"
by amending sections 9 and 13 (MCL 408.419 and 408.423).

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

9 (b) File a claim with the commissioner who shall investigate
10 the claim.

11 (2) If the commissioner determines there is reasonable cause

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

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

16 **(4) AN EMPLOYER WHO VIOLATES SECTION 13 IS SUBJECT TO AN**
17 **ACTION TO ENFORCE RIGHTS AND REMEDIES UNDER THE ELLIOTT-LARSEN**
18 **CIVIL RIGHTS ACT, 1976 PA 453, MCL 37.2101 TO 37.2804, IN ADDITION**
19 **TO ANY OTHER LIABILITY FOR CIVIL REMEDIES AND FINES UNDER THIS**
20 **SECTION.**

21 Sec. 13. (1) An employer having employees subject to this act
22 shall not discriminate between employees ~~within an establishment on~~
23 the basis of **RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE, sex,**
24 **HEIGHT, WEIGHT, OR MARITAL STATUS** by paying wages to employees ~~in~~
25 ~~the establishment~~ at a rate less than the rate at which the
26 employer pays ~~wages to employees of the opposite sex for equal~~**AN**
27 **EMPLOYEE OF ANOTHER RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE,**

1 **SEX, HEIGHT, WEIGHT, OR MARITAL STATUS FOR** work on jobs, the
2 performance of which requires ~~equal~~-**EQUIVALENT** skill, effort, and
3 responsibility and that is performed under ~~similar~~-**COMPARABLE**
4 working conditions, except if the payment is made under 1 or more
5 of the following:

6 (a) A seniority system.

7 (b) A merit system.

8 (c) A system that measures earnings by quantity or quality of
9 production.

10 (d) A differential based on a ~~factor other than sex~~-**BONA FIDE,**
11 **JOB-RELATED FACTOR, SUCH AS JOB-RELATED EDUCATION, TRAINING,**
12 **EXPERIENCE, OR MARKET CONDITIONS, AND NOT ON RELIGION, RACE, COLOR,**
13 **NATIONAL ORIGIN, AGE, SEX, HEIGHT, WEIGHT, OR MARITAL STATUS.**

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

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

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