

HOUSE BILL NO. 5828

February 23, 2022, Introduced by Reps. Tyrone Carter, Weiss, Brenda Carter, Sabo, Clemente, Coleman, Haadsma, Hope, Breen, Stone, Neeley, Brabec, Sowerby, Garza, Liberati, O'Neal, Pohutsky, Steckloff, Cavanagh, Rabhi, Cherry, Steenland, Manoogian, Bolden, Kuppa, Rogers, Scott, Sneller, Thanedar, Ellison, Peterson, Aiyash, Koleszar, Young, Shannon, Hood, Tate, Hertel, Brixie, Jones, Morse and Whitsett and referred to the Committee on Commerce and Tourism.

A bill to prohibit employers from making employment decisions based on certain physical characteristics, appearance, or fitness; to prohibit retaliation; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "respect for physical
2 differences act".

3 Sec. 3. As used in this act:

4 (a) "Appearance" includes any of the following:

5 (i) An expression of an individual's gender, sexual

1 orientation, or gender identity.

2 (ii) A religious or ethnic hairstyle.

3 (iii) Facial hair.

4 (iv) Clothing style.

5 (b) "Employee" means an individual who receives compensation
6 for performing services for an employer under an express or implied
7 contract of hire.

8 (c) "Employer" means an individual or entity that permits 1 or
9 more individuals to work, or that accepts applications for
10 employment, or is an agent of an employer.

11 Sec. 5. (1) Subject to subsection (2), an employer shall not
12 discharge, fail or refuse to hire or recruit, or otherwise
13 discriminate against an individual with respect to employment,
14 compensation, or a term, condition, or privilege of employment
15 because of the individual's body type, degree of physical fitness,
16 appearance, or other physical characteristic.

17 (2) The prohibition in subsection (1) does not apply to a body
18 type, degree of physical fitness, appearance, or other physical
19 characteristic that is an established, bona fide occupational
20 requirement or that impairs an employment activity or
21 responsibility of a particular employee or a particular group of
22 employees. The employer bears the burden of establishing that the
23 body type, degree of physical fitness, appearance, or other
24 physical characteristic is reasonably necessary to the position,
25 group, or occupation.

26 Sec. 7. A person shall not retaliate or discriminate against
27 another person because the other person has done or was about to do
28 any of the following:

29 (a) File a complaint under this act.

1 (b) Testify, assist, or participate in an investigation,
2 proceeding, or action concerning a violation of this act.

3 (c) Oppose a violation of this act.

4 Sec. 9. An employer shall not require an applicant for
5 employment or employee to waive any right under this act. An
6 agreement by an applicant or employee to waive any right under this
7 act is invalid and unenforceable.

8 Sec. 11. (1) A person who is injured by a violation of this
9 act may bring a civil action to obtain injunctive relief or
10 damages, or both.

11 (2) The court shall award costs and reasonable attorney fees
12 to a person who prevails as a plaintiff in an action authorized
13 under subsection (1).

14 Sec. 13. This act applies to a collective bargaining agreement
15 or employment agreement entered into, renewed, or extended on or
16 after the effective date of this act.