

SENATE BILL No. 328

April 25, 2017, Introduced by Senators JOHNSON, WARREN, KNEZEK, HERTEL, ANANICH, HOPGOOD, GREGORY, YOUNG and BIEDA and referred to the Committee on Government Operations.

A bill to amend 1978 PA 390, entitled

"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,"

by amending section 7 (MCL 408.477), as amended by 2015 PA 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SENATE BILL No. 328

1 Sec. 7. (1) Except for those deductions required or expressly
2 permitted by law or by a collective bargaining agreement, an
3 employer shall not deduct from the wages of an employee, directly
4 or indirectly, any amount including an employee contribution to a
5 separate segregated fund established by a corporation or labor
6 organization under section 55 of the Michigan campaign finance act,
7 1976 PA 388, MCL 169.255, without the full, free, and written

1 consent of the employee, obtained without intimidation or fear of
2 discharge for refusal to permit the deduction. However, an employer
3 that is a public body, as defined in section 11 of the Michigan
4 campaign finance act, 1976 PA 388, MCL 169.211, shall not deduct,
5 directly or indirectly, any amount from an employee's wages for a
6 contribution to a separate segregated fund established under
7 section 55 of the Michigan campaign finance act, 1976 PA 388, MCL
8 169.255, or a contribution or any payment to any committee
9 established under the federal election campaign act of 1971, ~~Public~~
10 ~~Law 92-225, 2 USC 431 to 455.~~ **52 USC 30101 TO 30126.**

11 (2) Except as provided in this subsection and subsections (4)
12 and (5), a deduction for the benefit of the employer requires
13 written consent from the employee for each wage payment subject to
14 the deduction, and the cumulative amount of the deductions ~~shall~~
15 **MUST** not reduce the gross wages paid to a rate less than the
16 minimum rate as prescribed in the workforce opportunity wage act,
17 2014 PA 138, MCL 408.411 to 408.424. A nonprofit organization shall
18 obtain a written consent from an employee for deductions to that
19 nonprofit organization that qualify as charitable contributions
20 under federal law. However, this subsection does not require the
21 nonprofit organization to obtain from an employee a separate
22 written consent for each subsequent paycheck from which deductions
23 that qualify as charitable contributions that benefit the employer
24 are made. An employee at any time may rescind in writing his or her
25 authorization to have charitable contributions deducted from his or
26 her paycheck. As used in this subsection, "nonprofit organization"
27 means an organization that is exempt from taxation under section

1 501(c)(3) of the internal revenue code **OF 1986**, 26 USC 501(c)(3).

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

6 (4) Within 6 months after making an overpayment of wages or
7 fringe benefits that are paid directly to an employee, an employer
8 may deduct the overpayment from the employee's regularly scheduled
9 wage payment without the written consent of the employee if all of
10 the following conditions are met:

11 (a) The overpayment resulted from a mathematical
12 miscalculation, typographical error, clerical error, or misprint in
13 the processing of the employee's regularly scheduled wages or
14 fringe benefits.

15 (b) The miscalculation, error, or misprint described in
16 subdivision (a) was made by the employer, the employee, or a
17 representative of the employer or employee.

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

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

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

26 (f) The deduction does not reduce the regularly scheduled
27 gross wages otherwise due the employee to a rate that is less than

1 the greater of either of the following:

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

3 (ii) The minimum rate as prescribed by the fair labor
4 standards act of 1938, 29 USC 201 to 219.

5 (5) If an employer pays any amount of the employee's debt
6 under a default judgment entered under section 4012(9) or (10) of
7 the revised judicature act of 1961, 1961 PA 236, MCL 600.4012, the
8 employer may deduct that amount from the employee's regularly
9 scheduled wage payment without the written consent of the employee
10 if all of the following conditions are met:

11 (a) The employer provides the employee with a written
12 explanation of the deduction at least 1 pay period **OR 10 BUSINESS**
13 **DAYS, WHICHEVER IS GREATER,** before the wage payment affected by the
14 deduction is made.

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

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

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

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

24 (ii) The minimum rate as prescribed by the fair labor
25 standards act of 1938, 29 USC 201 to 219.

26 (6) An employee who believes his or her employer has violated
27 subsection (4) or (5) may file a complaint with the department

1 within 12 months after the date of the alleged violation.

2 (7) As used in this section, "employer" means an individual,
3 sole proprietorship, partnership, association, or corporation,
4 public or private, this state or an agency of this state, a city,
5 county, village, township, school district, or intermediate school
6 district, an institution of higher education, or an individual
7 acting directly or indirectly in the interest of an employer who
8 employs 1 or more individuals.

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