

# HOUSE BILL No. 5391

March 5, 2014, Introduced by Reps. McCready, Cotter and Haveman and referred to the Committee on Commerce.

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 2012 PA 30.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

13 (2) Except as provided in this subsection and ~~subsection~~  
14 **SUBSECTIONS (4) AND (5)**, a deduction for the benefit of the  
15 employer requires written consent from the employee for each wage  
16 payment subject to the deduction, and the cumulative amount of the  
17 deductions shall not reduce the gross wages paid to a rate less  
18 than **THE** minimum rate as ~~defined~~-**PRESCRIBED** in the minimum wage law  
19 of 1964, 1964 PA 154, MCL 408.381 to 408.398. A nonprofit  
20 organization shall obtain a written consent from an employee for  
21 deductions to that nonprofit organization that qualify as  
22 charitable contributions under federal law. However, this  
23 subsection does not require the nonprofit organization to obtain  
24 from an employee a separate written consent for each subsequent  
25 paycheck from which deductions that qualify as charitable  
26 contributions that benefit the employer are made. An employee at  
27 any time may rescind in writing his or her authorization to have

1 charitable contributions deducted from his or her paycheck. As used  
2 in this subsection, "nonprofit organization" means an organization  
3 that is exempt from taxation under section 501(c)(3) of the  
4 internal revenue code, 26 USC 501(c)(3).

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

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

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

18 (b) The miscalculation, error, or misprint described in  
19 subdivision (a) was made by the employer, the employee, or a  
20 representative of the employer or employee.

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

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

26 (e) The deduction is made after the employer has made all  
27 deductions expressly permitted or required by law or a collective

1 bargaining agreement, and after any employee-authorized deduction.

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

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

6 (ii) The minimum rate as prescribed by the fair labor standards  
7 act of 1938, ~~chapter 676, 52 Stat. 1060, 29 USC 201 to 216 and 217~~  
8 ~~to~~ 219.

9 (5) IF AN EMPLOYER IS ORDERED TO PAY ANY PART OF THE  
10 EMPLOYEE'S DEBT UNDER SECTION 4012(4) OF THE REVISED JUDICATURE ACT  
11 OF 1961, 1961 PA 236, MCL 600.4012, THE EMPLOYER MAY DEDUCT THAT  
12 AMOUNT FROM THE EMPLOYEE'S REGULARLY SCHEDULED WAGE PAYMENT WITHOUT  
13 THE WRITTEN CONSENT OF THE EMPLOYEE IF ALL OF THE FOLLOWING  
14 CONDITIONS ARE MET:

15 (A) THE EMPLOYER PROVIDES THE EMPLOYEE WITH A WRITTEN  
16 EXPLANATION OF THE DEDUCTION AT LEAST 1 PAY PERIOD BEFORE THE WAGE  
17 PAYMENT AFFECTED BY THE DEDUCTION IS MADE.

18 (B) THE DEDUCTION IS NOT GREATER THAN 15% OF THE GROSS WAGES  
19 EARNED IN THE PAY PERIOD IN WHICH THE DEDUCTION IS MADE.

20 (C) THE DEDUCTION IS MADE AFTER THE EMPLOYER HAS MADE ALL  
21 DEDUCTIONS EXPRESSLY PERMITTED OR REQUIRED BY LAW OR A COLLECTIVE  
22 BARGAINING AGREEMENT, AND AFTER ANY EMPLOYEE-AUTHORIZED DEDUCTION.

23 (D) THE DEDUCTION DOES NOT REDUCE THE REGULARLY SCHEDULED  
24 GROSS WAGES OTHERWISE DUE THE EMPLOYEE TO A RATE THAT IS LESS THAN  
25 THE GREATER OF EITHER OF THE FOLLOWING:

26 (i) THE MINIMUM RATE AS PRESCRIBED BY SUBSECTION (2).

27 (ii) THE MINIMUM RATE AS PRESCRIBED BY THE FAIR LABOR STANDARDS

1 ACT OF 1938, 29 USC 201 TO 219.

2 (6) ~~(5)~~—An employee who believes his or her employer has  
3 violated subsection (4) OR (5) may file a complaint with the  
4 department within 12 months after the date of the alleged  
5 violation.

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

13 Enacting section 1. This amendatory act does not take effect  
14 unless Senate Bill No.\_\_\_\_ or House Bill No. 5390 (request no.  
15 03892'13) of the 97th Legislature is enacted into law.