

HOUSE BILL NO. 4987

September 17, 2019, Introduced by Reps. Whitsett, Allor, Hornberger, Inman, Garza, Reilly, Yaroch, Eisen, Bellino, Miller and Markkanen and referred to the Committee on Commerce and Tourism.

A bill to prohibit employers from discriminating against an individual because the individual has not received or declines to receive the tetanus, diphtheria, and pertussis vaccination; to prohibit retaliation; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "informed consent in the workplace act".

3 Sec. 3. As used in this act:

4 (a) "Employer" means a person that allows 1 or more qualified
5 individuals to work for the employer, accepts applications for



1 employment, or is an agent of an employer. Employer includes this
2 state or a political subdivision of this state.

3 (b) "Person" means an individual, corporation, limited
4 liability company, partnership, firm, organization, association,
5 governmental entity, or other legal entity.

6 (c) "Qualified individual" means an individual who performs
7 services, with or without compensation, for an employer.

8 (d) "Tdap" means tetanus, diphtheria, and pertussis.

9 Sec. 5. (1) An employer shall not do any of the following:

10 (a) Discharge, fail or refuse to hire or recruit, or otherwise
11 discriminate against a qualified individual with respect to
12 employment, compensation, or a term, condition, or privilege of
13 employment, or threaten to do any of these things, because the
14 individual has not received or declines to receive, for any reason,
15 a Tdap vaccination.

16 (b) Require a qualified individual who has not received or
17 declines to receive a Tdap vaccination to do either of the
18 following:

19 (i) Wear a surgical face mask as a consequence of not receiving
20 or declining to receive a Tdap vaccination.

21 (ii) Display on the qualified individual's person a mark that
22 distinguishes the qualified individual from qualified individuals
23 who have received or not declined to receive a Tdap vaccination.

24 (c) Disclose to the public that the qualified individual has
25 not received or declines to receive a Tdap vaccination.

26 (d) Retaliate or discriminate against a person because the
27 person has done or is about to do any of the following:

28 (i) File a complaint under this act.

29 (ii) Testify, assist, or participate in an investigation,



1 proceeding, or action concerning a violation of this act.

2 (iii) Oppose a violation of this act.

3 (2) An employer that offers Tdap vaccinations to its qualified
4 individuals must inform its qualified individuals, in writing, of
5 their rights under this act. A qualified individual may decline a
6 Tdap vaccination offered by his or her employer by providing his or
7 her employer with a written statement. A qualified individual is
8 not required to state, in his or her written statement or
9 otherwise, the reason he or she declines to receive the Tdap
10 vaccination. An employer shall not inquire about the reason a
11 qualified individual declines to receive a Tdap vaccination.

12 Sec. 9. An employer shall not require an applicant or
13 qualified individual to waive any right under this act. An
14 agreement by an applicant or qualified individual to waive any
15 right under this act is invalid and unenforceable.

16 Sec. 11. A person who is aggrieved by a violation of this act
17 may bring a civil suit in a court of competent jurisdiction to
18 obtain injunctive relief and damages. A court shall award costs and
19 reasonable attorney fees and may award treble damages to a person
20 who prevails as a plaintiff in a suit authorized under this act.

21 Sec. 13. This act applies to a collective bargaining agreement
22 entered into, renewed, or extended on or after the effective date
23 of this act.

24 Enacting section 1. This act takes effect 90 days after the
25 date it is enacted into law.

