

Legislative Analysis



SUNSET AND REPEAL CERTAIN COVID-19 PROVISIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5244 (proposed substitute H-3)
Sponsor: Rep. Andrew Fink

Analysis available at
<http://www.legislature.mi.gov>

House Bill 6128 (proposed substitute H-1)
Sponsor: Rep. Yousef Rabhi

House Bill 6215 (proposed substitute H-2)
Sponsor: Rep. Graham Filler

Committee: Government Operations
Complete to 6-14-22

SUMMARY:

House Bills 5244, 6128, and 6215 would amend different acts to limit the effectiveness of the following COVID-19–related provisions beginning January 1, 2022, and to repeal those provisions effective January 1, 2023:

- 2020 PA 238, which provides requirements for employees who are diagnosed with COVID-19, who display the principal symptoms of the disease, or who have had close contact with someone else who tests positive. (HB 5244)
- Sections 85 and 85a of the Michigan Occupation Safety and Health Act (MIOSHA), which establish conditions for immunity from civil liability for an employer whose employee is exposed to COVID-19. (HB 6128)
- The COVID-19 Response and Reopening Liability Assurance Act, which establishes standards for immunity from liability for certain tort claims alleging COVID-19 exposure. (HB 6215)

House Bill 5244 would amend 2020 PA 238 to provide that the act does not apply to a claim or cause of action that accrues after July 1, 2022. In addition, the bill would repeal the act effective July 1, 2023.

Generally speaking, the act prohibits an employee who has tested positive for COVID-19 or who displays its principal symptoms from reporting to work until certain conditions are met (e.g., a negative test, a clearing of symptoms, the end of the isolation period) and prohibits, with exceptions for specified critical workers, an employee who has had close contact with someone else who tests positive for COVID-19 from reporting to work until the quarantine period has ended. The act also prohibits employer actions against an employee who complies with those prohibitions, opposes a violation of the act, or reports a COVID-19 health violation. An employer’s compliance with relevant guidance and orders is a defense in an action concerning an alleged violation of the act.

MCL 419.410

House Bill 6128 would amend MIOSHA to provide that section 85 of the act does not apply to an exposure to COVID-19 that occurs after July 1, 2022. In addition, the bill would repeal sections 85 and 85a of the act effective July 1, 2023.

Under section 85, notwithstanding any other provision of MIOSHA, an employer is not liable for damages under the act for an employee's exposure to COVID-19 if the employer was operating in compliance with all applicable federal, state, and local statutes, rules, and regulations, executive orders, and agency orders related to COVID-19 at the time of the exposure. An isolated, de minimis deviation from strict compliance with those statutes, rules, regulations, executive orders, and agency orders unrelated to the employee's exposure to COVID-19 does not deny an employer this immunity. ("De minimis" means so minor or trivial as to be not worth considering.) Section 85a contains definitions of terms used in section 85.

MCL 408.1085

House Bill 6215 would amend the COVID-19 Response and Reopening Liability Assurance Act to provide that the act does not apply to a claim or cause of action that accrues after July 1, 2022. In addition, the bill would repeal the act effective July 1, 2023.

Under the act, an individual or entity is immune from tort liability for a claim related to actual or potential exposure to COVID-19 or to conduct intended to reduce transmission of COVID-19 if the individual or entity operates in compliance with all applicable federal, state, and local statutes, rules, regulations, executive orders, and agency orders related to COVID-19 at the time of the conduct or risk that allegedly caused harm. An isolated, de minimis deviation from strict compliance with those statutes, rules, regulations, executive orders, and agency orders unrelated to the plaintiff's injuries does not deny a person this immunity.

MCL 691.1460

None of the bills would take effect unless all three of them were enacted.

FISCAL IMPACT:

House Bill 5244 could have an indeterminate fiscal impact on local court funding units. To the extent that local courts experience a reduction in the number of court cases, and a reduction in related administrative costs, a savings in costs for local court funding units could result.

House Bill 6128 would have an indeterminate fiscal impact on the Department of Labor and Economic Opportunity, and a more detailed fiscal analysis is forthcoming.

A fiscal analysis of HB 6215 is in progress.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.