

# HOUSE BILL NO. 5138

June 24, 2021, Introduced by Reps. Sabo, Hope, Aiyash, Clemente, Breen, Stone, Young, Hood, Steckloff, Haadsma, Morse, Shannon, Hertel, Tyrone Carter, Rogers, Sowerby, Pohutsky, Brenda Carter, Cherry, Ellison, Cavanagh, Kuppa, Cynthia Johnson, Brixie, Coleman and Yancey and referred to the Committee on Workforce, Trades, and Talent.

A bill to require employers to provide meal periods for certain employees; to prescribe powers and duties of certain state governmental officers and entities; to authorize the promulgation of rules; and to prescribe civil sanctions.

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

1           Sec. 1. This act shall be known and may be cited as the  
2 "employee meal period act".

3           Sec. 3. As used in this act:

4           (a) "Department" means the department of labor and economic

1 opportunity.

2 (b) "Duty-free meal period" means a period during which an  
3 employee is completely relieved of his or her employee duties and  
4 is permitted to pursue personal activities.

5 (c) "Employee" means an individual who is 18 years of age or  
6 older and performing labor or services for the benefit of an  
7 employer in which the employer may command when, where, and how  
8 much labor or services must be performed.

9 (d) "Employer" means an individual, sole proprietorship,  
10 partnership, association, limited liability company, private  
11 corporation, or other nongovernmental entity that directly or  
12 indirectly employs 1 or more individuals.

13 (e) "On-duty meal period" means a period during which an  
14 employee may consume a meal while performing his or her employee  
15 duties.

16 (f) "Work shift" means the hours an employee is normally  
17 scheduled to work within a consecutive 24-hour period.

18 Sec. 5. (1) Except as provided in subsection (3) and subject  
19 to subsection (4), an employer shall provide a duty-free meal  
20 period of not less than 30 consecutive minutes each work shift to  
21 an employee whose work shift exceeds 5 consecutive hours.

22 (2) An employer may, but is not required to, pay an employee  
23 wages for a duty-free meal period taken by the employee.

24 (3) When the nature of the business activity or other  
25 circumstances exist that render a duty-free meal period  
26 impractical, an employer shall provide an on-duty meal period each  
27 work shift to an employee whose work shift exceeds 5 consecutive  
28 hours. An employer shall pay an employee wages for an on-duty meal  
29 period and shall not deduct an on-duty meal period from the

1 employee's wages.

2 (4) This section does not apply to any of the following  
3 employees:

4 (a) An employee whose collective bargaining agreement  
5 establishes a meal period.

6 (b) An employee who provides emergency medical response  
7 services.

8 (c) An employee who is a manager.

9 Sec. 7. (1) If an employer violates this act, the employee  
10 affected by the violation, at any time within 2 years after the  
11 violation or 3 years after the violation if the violation was  
12 willful, may file a complaint with the department in a manner as  
13 provided by the department. The department shall investigate  
14 alleged violations of this act and the rules promulgated under this  
15 act. If an investigation indicates that a violation may have  
16 occurred, the department must hold a hearing and issue a written  
17 determination including the department's findings.

18 (2) An interested party may appeal a decision made by the  
19 department under this act as a contested case pursuant to the  
20 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
21 24.328.

22 Sec. 9. (1) An employer or any other person shall not  
23 interfere with, restrain, or deny the exercise of, or the attempt  
24 to exercise, any right protected under this act.

25 (2) An employer shall not take retaliatory personnel action or  
26 discriminate against an employee because the employee has exercised  
27 a right protected under this act.

28 (3) The protections in this section apply to any person who  
29 mistakenly but in good faith alleges a violation of this section.

1           Sec. 11. (1) An employer shall retain for 5 years at the  
2 premises of the employer a true and accurate record documenting the  
3 hours worked by an employee.

4           (2) To monitor compliance with the requirements of this act,  
5 an employer shall allow the department access to the records  
6 required under subsection (1), with appropriate notice and at a  
7 mutually agreeable time.

8           Sec. 13. An employer shall post and keep posted, in a  
9 conspicuous place on the premises of the employer where notices to  
10 employees are customarily posted, a notice, to be prepared or  
11 approved by the department, that includes excerpts from, or  
12 summaries of, the pertinent provisions of this act. If the premises  
13 of the employer or other conditions make the posting of this notice  
14 impractical, an employer shall make the notice described in this  
15 section available to an employee upon request.

16           Sec. 15. An employer or person that violates this act may be  
17 ordered to pay a civil fine of not more than \$500.00. A violation  
18 of this act may be prosecuted by the prosecutor of the county in  
19 which the violation occurred, or by the attorney general.

20           Sec. 17. The department may promulgate rules to implement this  
21 act pursuant to the administrative procedures act of 1969, 1969 PA  
22 306, MCL 24.201 to 24.328.

23           Sec. 19. This act applies to a collective bargaining agreement  
24 or employment agreement that is executed, extended, amended, or  
25 renewed on or after the effective date of this act.

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