# IMPROVED WORKFORCE OPPORTUNITY WAGE ACT

## Act 337 of 2018

An initiation of legislation to enact the Improved Workforce Opportunity Wage Act which would fix minimum wages for employees within this state; prohibit wage discrimination; provide for a wage deviation board; provide for the administration and enforcement of the act; prescribe penalties for the violation of the act; and supersede certain acts and parts of acts including 2014 PA 138.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.

*The People of the State of Michigan enact:*

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### 408.931 Short title.

Sec. 1.

This act shall be known and may be cited as the "improved workforce opportunity wage act".

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

### 408.932 Definitions.

Sec. 2.

As used in this act:

(a) "Commissioner" or "director" means the director of the department of labor and economic opportunity.

(b) "Employ" means to engage, suffer, or permit to work.

(c) "Employee" means an individual not less than 16 years of age employed by an employer on the premises of the employer or at a fixed site designated by the employer, and includes a minor employed subject to section 15(1) of the youth employment standards act, 1978 PA 90, MCL 409.115.

(d) "Employer" means a person, firm, or corporation, including this state and political subdivisions, agencies, and instrumentalities of this state, and a person acting in the interest of the employer, that employs 2 or more employees at any 1 time within a calendar year. An employer is subject to this act during the remainder of that calendar year. Except as specifically provided in the franchise agreement, as between a franchisee and franchisor, the franchisee is considered the sole employer of workers for whom the franchisee provides a benefit plan or pays wages.

**History:** 2018, Act 337, Eff. Mar. 29, 2019 ;-- Am. 2025, Act 1, Imd. Eff. Feb. 21, 2025
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

**408.933 Applicability of act.**

Sec. 3.

An employer shall not pay any employee at a rate that is less than prescribed in this act.

**History:** 2018, Act 337, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 368, Eff. Mar. 29, 2019 ;-- 2018, Act 337, Eff. Feb. 21, 2025
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 368 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

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**408.934 Minimum hourly wage rate.**

Sec. 4.

(1) Subject to the exceptions specified in this act, the minimum hourly wage rate is:
(a) Beginning February 21, 2025, $12.48.
(b) Beginning January 1, 2026, $13.73.
(c) Beginning January 1, 2027, $15.00.
(2) Every October beginning in October, 2027, the state treasurer shall calculate an adjusted minimum wage rate. The adjustment must increase the minimum wage by the rate of inflation. The state treasurer shall calculate the increase by multiplying the otherwise applicable minimum wage by the 12-month percentage increase, if any, in the Consumer Price Index for the midwest region, CPI-U, or a successor index, as published by the Bureau of Labor Statistics of the United States Department of Labor, based on the most recent 12-month period for which data are available. The state treasurer shall publish the adjusted minimum wage rate by November 1 of the year in which it is calculated. The adjusted minimum wage rate is effective beginning January 1 of the immediately succeeding year.
(3) An increase in the minimum hourly wage rate as prescribed in subsection (2) does not take effect if the unemployment rate, as determined by the Bureau of Labor Statistics of the United States Department of Labor, for this state is 8.5% or greater for the year immediately preceding the year of the prescribed increase.

**History:** 2018, Act 337, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 368, Eff. Mar. 29, 2019 ;-- 2018, Act 337, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 1, Imd. Eff. Feb. 21, 2025
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 368 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

**408.934a Compensation for workweek in excess of 40 hours; exceptions; rules; unpaid minimum wages; appropriation; compensatory time in lieu of monetary overtime compensation.**

Sec. 4a.

(1) Except as otherwise provided in this act, an employee shall receive compensation at not less than 1-1/2 times

the regular rate at which the employee is employed for employment in a workweek in excess of 40 hours.

(2) This state or a political subdivision, agency, or instrumentality of this state does not violate subsection (1) with respect to the employment of an employee in fire protection activities or an employee in law enforcement activities, including security personnel in correctional institutions, if any of the following apply:

(a) In a work period of 28 consecutive days, the employee receives for tours of duty, which in the aggregate exceed 216 hours, compensation for those hours in excess of 216 at a rate not less than 1-1/2 times the regular rate at which the employee is employed. The employee's regular rate shall be not less than the statutory minimum hourly rate.

(b) For an employee to whom a work period of at least 7 but less than 28 days applies, in the employee's work period the employee receives for tours of duty, which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in the employee's work period as 216 bears to 28 days, compensation for those excess hours at a rate not less than 1-1/2 times the regular rate at which the employee is employed. The employee's regular rate shall be not less than the statutory minimum hourly rate.

(c) If an employee engaged in fire protection activities would receive overtime payments under this act solely as a result of that employee's trading of time with another employee pursuant to a voluntary trading time arrangement, overtime, if any, shall be paid to employees who participate in the trading of time as if the time trade had not occurred. As used in this subdivision, "trading time arrangement" means a practice under which employees of a fire department voluntarily substitute for one another to allow an employee to attend to personal matters, if the practice is neither for the convenience of the employer nor because of the employer's operations.

(3) This state or a political subdivision, agency, or instrumentality of this state engaged in the operation of a hospital or an establishment that is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or developmentally disabled who reside on the premises does not violate subsection (1) if both of the following conditions are met:

(a) Pursuant to a written agreement or written employment policy arrived at between the employer and the employee before performance of the work, a work period of 14 consecutive days is accepted instead of the workweek of 7 consecutive days for purposes of overtime computation.

(b) For the employee's employment in excess of 8 hours in a workday and in excess of 80 hours in the 14-day period, the employee receives compensation at a rate of 1-1/2 times the regular rate, which shall be not less than the statutory minimum hourly rate at which the employee is employed.

(4) Subsections (1), (2), and (3) do not apply to any of the following:

(a) An employee employed in a bona fide executive, administrative, or professional capacity, including an employee employed in the capacity of academic administrative personnel or teacher in an elementary or secondary school. However, an employee of a retail or service establishment is not excluded from the definition of employee employed in a bona fide executive or administrative capacity because of the number of hours in the employee's workweek that the employee devotes to activities not directly or closely related to the performance of executive or administrative activities, if less than 40% of the employee's hours in the workweek are devoted to those activities.

(b) An individual who holds a public elective office.

(c) A political appointee of a person holding public elective office or a political appointee of a public body, if the political appointee described in this subdivision is not covered by a civil service system.

(d) An employee employed by an establishment that is an amusement or recreational establishment, if the establishment does not operate for more than 7 months in a calendar year.

(e) An employee employed in agriculture, including farming in all its branches, which among other things includes: cultivating and tilling soil; dairying; producing, cultivating, growing, and harvesting agricultural or horticultural commodities; raising livestock, bees, fur-bearing animals, or poultry; and a practice, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market, delivery to storage, or delivery to market or to a carrier for transportation to market or processing or preserving perishable farm products.

(f) An employee who is not subject to the minimum hourly wage provisions of this act.

(5) The director of the department of licensing and regulatory affairs shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to define the terms used in subsection (4).

(6) For purposes of administration and enforcement, an amount owing to an employee that is withheld in violation of this section is unpaid minimum wages under this act.

(7) The legislature shall annually appropriate from the general fund to each political subdivision affected by subsection (2) an amount equal to the difference in direct labor costs before and after the effective date of this act

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arising from any change in existing law that results from the enactment of subsection (2) and incurred by the political subdivision.

(8) In lieu of monetary overtime compensation, an employee subject to this act may receive compensatory time off at a rate that is not less than 1-1/2 hours for each hour of employment for which overtime compensation is required under this act, subject to all of the following:

(a) The employer must allow employees a total of at least 10 days of leave per year without loss of pay and must provide the compensatory time to the employee under either of the following:

(i) Applicable provisions of a collective bargaining agreement, memorandum of understanding, or any other written agreement between the employer and representative of the employee.

(ii) If employees are not represented by a collective bargaining agent or other representative designated by the employee, a plan adopted by the employer and provided in writing to its employees that provides employees with a voluntary option to receive compensatory time off for overtime work when there is an express, voluntary written request to the employer by an individual employee for compensatory time off in lieu of overtime pay before the performance of any overtime assignment.

(b) The employee has not earned compensatory time in excess of the applicable limit prescribed by subdivision (d).

(c) The employee is not required as a condition of employment to accept or request compensatory time. An employer shall not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce an employee for the purpose of interfering with the employee's rights under this section to request or not request compensatory time off in lieu of payment of overtime compensation for overtime hours, or requiring an employee to use compensatory time. In assigning overtime hours, an employer shall not discriminate among employees based upon an employee's choice to request or not request compensatory time off in lieu of overtime compensation. An employer who violates this subsection is subject to a civil fine of not more than $1,000.00.

(d) An employee may not accrue more than a total of 240 hours of compensatory time. An employer shall do both of the following:

(i) Maintain in an employee's pay record a statement of compensatory time earned by that employee in the pay period that the pay record identifies.

(ii) Provide an employee with a record of compensatory time earned by or paid to the employee in a statement of earnings for the period in which the compensatory time is earned or paid.

(e) Upon the request of an employee who has earned compensatory time, the employer shall, within 30 days following the request, provide monetary compensation for that compensatory time at a rate not less than the regular rate earned by the employee at the time the employee performed the overtime work.

(f) An employee who has earned compensatory time authorized under this subsection shall, upon the voluntary or involuntary termination of employment or upon expiration of this subsection, be paid unused compensatory time at a rate of compensation not less than the regular rate earned by the employee at the time the employee performed the overtime work. A terminated employee's receipt of or eligibility to receive monetary compensation for earned compensatory time shall not be used by either of the following:

(i) The employer to oppose an employee's application for unemployment compensation under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(ii) The state to deny unemployment compensation or diminish an employee's entitlement to unemployment compensation benefits under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(g) An employee shall be permitted to use any compensatory time accrued under this subsection for any reason unless use of the compensatory time for the period requested will unduly disrupt the operations of the employer.

(h) Unless prohibited by a collective bargaining agreement, an employer may terminate a compensatory time plan upon not less than 60 days' notice to employees.

(i) As used in this subsection:

(i) "Compensatory time" and "compensatory time off" mean hours during which an employee is not working and for which the employee is compensated in accordance with this subsection in lieu of monetary overtime compensation.

(ii) "Overtime assignment" means an assignment of hours for which overtime compensation is required under this act.

(iii) "Overtime compensation" means the compensation required under this section.

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**History:** 2018, Act 337, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 368, Eff. Mar. 29, 2019 ;-- 2018, Act 337, Eff. Feb. 21, 2025

**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 368 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

**408.934b Training hourly wage; employee less than 18 years of age; displacement prohibited; violation; civil fine.**

Sec. 4b.

(1) An employer may pay a new employee who is less than 20 years of age a training hourly wage of $4.25 for the first 90 days of that employee's employment. The hourly wage authorized under this subsection is in lieu of the minimum hourly wage otherwise prescribed by this act.

(2) Except as provided in subsection (1), the minimum hourly wage for an employee who is less than 18 years of age is 85% of the general minimum hourly wage established in section 4.

(3) An employer shall not displace an employee to hire an individual at the hourly wage authorized under this section. As used in this subsection, "displace" includes termination of employment or any reduction of hours, wages, or employment benefits.

(4) A person who violates subsection (3) is subject to a civil fine of not more than $1,000.00.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

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**408.934c Rates for apprentices, learners, and persons with physical or mental disabilities; establishment.**

Sec. 4c.

On petition of a party in interest or on his or her own initiative, the commissioner shall establish a suitable scale of rates for apprentices, learners, and persons with physical or mental disabilities who are clearly unable to meet normal production standards. The rates established under this section may be less than the regular minimum wage rate for workers who are experienced and who are not disabled.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

**408.934d Minimum hourly wage; establishment; conditions; percentages; gratuities; notice of plan to distribute service charges; records.**

Sec. 4d.

(1) The minimum hourly wage rate of an employee must be established as provided for under subsection (2) if all of the following conditions are met:

(a) The employee receives gratuities in the course of the employee's employment.

(b) The gratuities described in subdivision (a) equal or exceed the difference between the minimum hourly wage rate established under subsection (2) and the minimum hourly wage established under section 4.

(c) The gratuities are proven gratuities as indicated by the employee's declaration for purposes of the federal insurance contribution act, 26 USC 3101 to 3128.

(d) Except as otherwise provided in this subdivision, the entirety of the gratuities are retained by the employee

who receives them. This subdivision does not prohibit an employee from voluntarily sharing the employee's gratuities with another employee if the other employee is directly or indirectly part of the chain of service and the other employee's duties are not primarily managerial or supervisory.

(e) The employee's employer informed the employee of the provisions of this section, in writing, at or before the time of hire, and the employee gave written consent.

(2) The minimum hourly wage rate of an employee described in subsection (1) is as follows:

(a) Beginning February 21, 2025, 38% of the minimum hourly wage rate established under section 4.

(b) Beginning January 1, 2026, 40% of the minimum hourly wage rate established under section 4.

(c) Beginning January 1, 2027, 42% of the minimum hourly wage rate established under section 4.

(d) Beginning January 1, 2028, 44% of the minimum hourly wage rate established under section 4.

(e) Beginning January 1, 2029, 46% of the minimum hourly wage rate established under section 4.

(f) Beginning January 1, 2030, 48% of the minimum hourly wage rate established under section 4.

(g) Beginning January 1, 2031, 50% of the minimum hourly wage rate established under section 4.

(3) As used in this section, "gratuities" means tips or voluntary monetary contributions received by an employee from a guest, patron, or customer for services rendered to that guest, patron, or customer and that the employee reports to the employer for purposes of the federal insurance contributions act, 26 USC 3101 to 3128.

(4) Except as otherwise provided under subsection (1)(d), gratuities remain the property of the employee who receives them, regardless of whether the employee's employer pays the employee the minimum hourly wage rate established under subsection (2) or the minimum hourly wage rate established under section 4. Gratuities and service charges paid to an employee are in addition to, and do not count toward, wages due the employee.

(5) Employers shall provide employees and consumers written notice of the employer's plan to distribute service charges.

(6) An employer shall keep records that show compliance with this section for not less than 3 years after the date of an employee's last pay period.

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**History:** 2018, Act 337, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 368, Eff. Mar. 29, 2019 ;-- 2018, Act 337, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 1, Imd. Eff. Feb. 21, 2025

**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 368 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

**408.935 Wage deviation board; appointment, qualifications, and terms of members; chairperson; commissioner as secretary; quorum; vote on recommendation or report; conducting business at public meeting; notice of meeting; availability of writings to public; compensation and expenses; obtaining data from employer; report to commissioner; reconsideration of rate.**

Sec. 5.

(1) The governor shall appoint, with the advice and consent of the senate, a wage deviation board composed of 3 representatives of the employers, 3 representatives of the employees, and 3 persons representing the public. One of the 3 persons representing the public shall be designated as chairperson. Members shall serve for terms of 3 years, except that of the members first appointed, 1 from each group shall be appointed for 1 year, 1 for 2 years, and 1 for 3 years. The commissioner shall be secretary of the wage deviation board.

(2) A majority of the members of the board constitute a quorum, and the recommendation or report of the board requires a vote of not less than a majority of its members. The business which the wage deviation board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by that act.

(3) A writing prepared, owned, used, in the possession of, or retained by the wage deviation board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) The per diem compensation of the board and the schedule for reimbursement of expenses shall be established

annually by the legislature.

(5) The wage deviation board may request data of any employer, subject to the provisions of this act, as to the wages paid and hours worked by the employer's employees and may hold hearings as necessary in the process of obtaining this information.

(6) The wage deviation board shall submit its report to the commissioner, who shall file it in his or her office as a public record together with the regulations established by the board.

(7) At any time after a deviated wage rate has been in effect for 6 months or more, the wage deviation board may reconsider the rate.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

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### 408.936 Rules.

Sec. 6.

The commissioner may promulgate rules necessary for administration of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

### 408.937 Statement of hours, wages, and deductions; inspection; posting of regulations and orders.

Sec. 7.

An employer who is subject to this act or any regulation or order issued under this act shall furnish each employee with a statement of the hours worked by the employee and of the wages paid to the employee, listing deductions made each pay period. The employer shall furnish the commissioner, upon demand, a sworn statement of the wage information. These records shall be open to inspection by the commissioner, his or her deputy, or any authorized agent of the department at any reasonable time. An employer subject to this act or any regulation or order issued under this act shall keep a copy of this act and regulations and orders promulgated under this act posted in a conspicuous place in the workplace that is accessible to employees. The commissioner shall furnish copies of this act and the regulations and orders to employers without charge.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

### 408.938 Administration and enforcement of act; investigating and ascertaining wages; revealing facts or information.

Sec 8.

The commissioner shall administer and enforce this act and, at the request of the wage deviation board, may investigate and ascertain the wages of employees of an employer subject to this act. The commissioner and the commissioner's employees shall not reveal facts or information obtained in the course of official duties, except as when required by law, to report upon or take official action or testify in proceedings regarding the affairs of an employer subject to this act.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

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**408.939 Violation of act by employer; civil action; fine.**

Sec. 9.

(1) If an employer violates this act, the employee affected by the violation, at any time within 3 years, may do any of the following:

(a) Bring a civil action for the recovery of the difference between the amount paid and the amount that, but for the violation, would have been paid the employee under this act and an equal additional amount as liquidated damages together with costs and reasonable attorney fees as are allowed by the court.

(b) File a claim with the director who shall investigate the claim.

(2) If the director determines there is reasonable cause to believe that the employer has violated this act and the director is subsequently unable to obtain voluntary compliance by the employer within a reasonable period of time, the director shall bring a civil action under subsection (1)(a). The director may investigate and file a civil action under subsection (1)(a) on behalf of all employees of that employer who are similarly situated at the same work site and who have not brought a civil action under subsection (1)(a). A contract or agreement between the employer and the employee or any acceptance of a lesser wage by the employee is not a bar to the action.

(3) Except as otherwise provided in subsection (4), in addition to bearing liability for civil remedies described in this section, an employer who fails to pay the minimum hourly wage in violation of this act, or that violates a provision of section 4a governing an employee's compensatory time, is subject to a civil fine of not more than $1,000.00.

(4) An employer that fails to pay the minimum hourly wage to an employee as described in section 4d(1) is subject to a civil fine of not more than $2,500.00.

**History:** 2018, Act 337, Eff. Mar. 29, 2019 ;-- Am. 2025, Act 1, Imd. Eff. Feb. 21, 2025
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

**408.940 Applicability of act; payment in accordance with minimum wage and overtime compensation requirements.**

Sec. 10.

(1) This act does not apply to an employer that is subject to the minimum wage provisions of the fair labor standards act of 1938, 29 USC 201 to 219, unless the application of those federal minimum wage provisions to the employer would result in a lower minimum hourly wage than provided under this act. If an employer is subject to

this act only by application of this subsection, this act does not apply to the employer's employee who is exempt from the minimum wage requirements of the fair labor standards act of 1938, 29 USC 201 to 219.

(2) Notwithstanding subsection (1), an employee must be paid in accordance with the minimum wage and overtime compensation requirements of sections 4 and 4a if the employee meets either of the following conditions:

(a) The employee is employed in domestic service employment to provide companionship services as that term is defined in 29 CFR 552.6 for individuals who, because of age or infirmity, are unable to care for themselves and is not a live-in domestic service employee as described in 29 CFR 552.102.

(b) The employee is employed to provide childcare, but is not a live-in domestic service employee as described in 29 CFR 552.102. However, the requirements of sections 4 and 4a do not apply if the employee meets all the following conditions:

(i) Is younger than the age of 18.

(ii) Provides services on a casual basis as that term is defined in 29 CFR 552.5.

(iii) Provides services that do not regularly exceed 20 hours per week, in the aggregate.

(3) This act does not apply to individuals employed in summer camps for not more than 4 months or to employees who are covered under section 14 of the fair labor standards act of 1938, 29 USC 214.

(4) This act does not apply to agricultural fruit growers, pickle growers and tomato growers, or other agricultural employers who traditionally contract for harvesting on a piecework basis, as to those employees used for harvesting, until the board has acquired sufficient data to determine an adequate basis to establish a scale of piecework and determines a scale equivalent to the prevailing minimum wage for that employment. The piece rate scale must be equivalent to the minimum hourly wage in that, if the payment by unit of production is applied to a worker of average ability and diligence in harvesting a particular commodity, the worker receives an amount not less than the hourly minimum wage.

(5) Notwithstanding any other provision of this act, subsection (1)(a) and (b) and subsection (2) do not deprive an employee or any class of employees of any right that existed on September 30, 2006 to receive overtime compensation or to be paid the minimum wage.

CAUTION! This document is from an archive and may contain outdated information.

**History:** 2018, Act 337, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 368, Eff. Mar. 29, 2019 ;-- 2018, Act 337, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 1, Imd. Eff. Feb. 21, 2025

**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 368 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

### 408.941 Discrimination against employee serving on or testifying to wage deviation board; violation.

Sec. 11.

An employer that discharges or in any other manner discriminates against an employee because the employee has served or is about to serve on the wage deviation board or has testified or is about to testify before the board, or because the employer believes that the employee may serve on the board or may testify before the board or in any investigation under this act, and any person who violates any provision of this act or of any regulation or order issued under this act, is guilty of a misdemeanor.

**History:** 2018, Act 337, Eff. Mar. 29, 2019

**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

### 408.942 Discharge of employees within 10 weeks of employment; violation.

Sec. 12.

Any employer that consistently discharges employees within 10 weeks of their employment and replaces the discharged employees without work stoppage is presumed to have discharged them to evade payment of the wage rates established in this act and is guilty of a misdemeanor.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

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### 408.943 Discrimination based on sex.

Sec. 13.

(1) An employer having employees subject to this act shall not discriminate between employees within an establishment on the basis of sex by paying wages to employees in the establishment at a rate less than the rate at which the employer pays wages to employees of the opposite sex for equal work on jobs, the performance of which requires equal skill, effort, and responsibility and that is performed under similar working conditions, except if the payment is made under 1 or more of the following:

(a) A seniority system.

(b) A merit system.

(c) A system that measures earnings by quantity or quality of production.

(d) A differential based on a factor other than sex.

(2) An employer that is paying a wage differential in violation of this section shall not reduce the wage rate of an employee to comply with this section.

(3) For purposes of administration and enforcement, any amount owing to an employee that has been withheld in violation of this section is considered unpaid minimum wages under this act.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

### 408.944 Operation of massage establishment; violation.

Sec. 14.

An employer operating a massage establishment as defined in section 2 of former 1974 PA 251 that violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

**History:** 2018, Act 337, Eff. Mar. 29, 2019
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

**408.945 Inconsistent acts or parts of act; limitation; reference to workforce opportunity wage act.**

Sec. 15.

(1) Except as provided in subsection (2), this act shall supersede any acts or parts of acts inconsistent with or in conflict with this act, but only to the extent of such inconsistency or conflict.

(2) This act does not repeal, abrogate, amend, limit, modify, supersede, or otherwise affect Act No. 166 of the Public Acts of 1965, as amended, being sections 408.551 to 408.558 of the Michigan Compiled Laws, or any other prevailing wage law.

(3) Any reference in any law to 2014 Public Act 138, the Workforce Opportunity Wage Act, or to the state minimum wage law shall be considered a reference to this act.

**History:** 2018, Act 337, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 368, Eff. Mar. 29, 2019 ;-- 2018, Act 337, Eff. Feb. 21, 2025
**Compiler's Notes:** Public Act 337 was proposed by initiative petition pursuant to Const. 1963, art 2, section 9. On September 5, 2018, the initiative petition was approved by an affirmative vote of the majority of the members of the Senate and an affirmative vote of the majority of the members of the House of Representatives, and filed with the Secretary of State on September 5, 2018.For the transfer of powers and duties of the department of licensing and regulatory affairs and the powers and duties of the director of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.See Mothering Justice v Attorney General, case no. 165325, July 31, 2024. The Michigan Supreme Court held that 2018 PA 368 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.

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