

EARNED SICK TIME ACT (EXCERPT)
Act 338 of 2018

408.967 Violation of act; enforcement by director; civil remedies; civil fine.

Sec. 7.

(1) If an employer violates this act, the employee affected by the violation, at any time not later than 3 years after the violation, may file a claim with the department. The department shall investigate the claim.

(2) The director shall enforce the provisions of this act. In enforcing this act, the director shall do both of the following:

(a) Establish a system that uses multiple means of communication to receive complaints that are related to noncompliance with this act.

(b) Investigate complaints received by the department in a timely manner.

(3) Any person that alleges a violation of this act has the right to file a complaint with the department. The department shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation. However, if the person provides authorization to the department, the department may disclose the person's name and identifying information as necessary to enforce this act or for other appropriate purposes.

(4) Upon receiving a complaint alleging a violation of this act, the department shall investigate the complaint and attempt to resolve it through mediation between the complainant and the subject of the complaint, or other means. The department shall keep a complainant notified regarding the status of the complainant's complaint and any resultant investigation. If the department believes that a violation has occurred, it shall issue to the offending person or entity a notice of violation and the relief required of the offending person or entity. The department shall prescribe the form and wording of such notices of violation including any method of appealing the decision of the department.

(5) The department may impose penalties and grant an employee or former employee all appropriate relief, including but not limited to, payment of all earned sick time improperly withheld, any and all damages incurred by the complaint as the result of violation of this act, back pay, and reinstatement in the case of job loss.

(6) If the director determines that there is reasonable cause to believe that an employer violated this act and the department is subsequently unable to obtain voluntary compliance by the employer within a reasonable time, the department shall bring a civil action on behalf of the employee. The department may investigate and file a civil action on behalf of all employees of that employer who are similarly situated at the same worksite. Except as otherwise provided under section 12, a contract or agreement between the employer and the employee or any acceptance by the employee of a paid or unpaid leave policy that provides fewer rights or benefits than provided by this act is void and unenforceable.

(7) In addition to liability for civil remedies described in this section, an employer that takes retaliatory personnel action against an employee or former employee is subject to a civil fine of not more than \$1,000.00 for each violation.

(8) In addition to liability for civil remedies described in this section, an employer that fails to provide earned sick time to an employee in violation of this act is subject to a civil fine of not more than 8 times the employee's normal hourly wage.

(9) An employer that willfully violates a notice or posting requirement of section 8 is subject to a civil fine of not more than \$100.00 for each violation.

History: 2018, Act 338, Eff. Mar. 29, 2019 ;-- Am. 2018, Act 369, Eff. Mar. 29, 2019 ;-- 2018, Act 338, Eff. Feb. 21, 2025 ;-- Am. 2025, Act 2, Imd. Eff. Feb. 21, 2025

Compiler's Notes: Public Act 338 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 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 369 was unconstitutional and, therefore void and revived the original initiative as enacted by the Legislature on September 5, 2018, effective February 21, 2025.