



# HOUSE BILL No. 5063

September 28, 1993, Introduced by Reps. Rivers, Wallace, Schroer, Saunders, Dobronski, Gubow, Baade, Joe Young, Jr., Pitoniak, Freeman, Murphy, Bennane and Agee and referred to the Committee on Labor.

A bill to amend section 65 of Act No. 154 of the Public Acts of 1974, entitled as amended

"Michigan occupational safety and health act,"

being section 408.1065 of the Michigan Compiled Laws.

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

1 Section 1. Section 65 of Act No. 154 of the Public Acts of  
2 1974, being section 408.1065 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 65. (1) A person shall not discharge an employee or  
5 in any manner discriminate against an employee because ~~the~~  
6 ~~employee~~ HE OR SHE filed a complaint ~~or~~ UNDER THIS ACT, insti-  
7 tuted or caused to be instituted a proceeding under or regulated  
8 by this act, ~~or~~ has testified or is about to testify in ~~such~~  
9 a proceeding UNDER OR REGULATED BY THIS ACT, or because ~~of the~~  
10 ~~exercise by the employee~~ HE OR SHE EXERCISED on behalf of

1 himself, ~~or~~ herself, or ~~others of~~ ANY OTHER PERSON a right  
2 afforded by this act.

3 (2) An employee who believes that he or she was discharged  
4 or otherwise discriminated against by a person in violation of  
5 this section may file a complaint with the department of labor  
6 alleging the discrimination within ~~30 days~~ 3 YEARS after the  
7 violation occurs. Upon receipt of the complaint, the department  
8 of labor shall cause an investigation to be made as it considers  
9 appropriate. If, upon the investigation, the department deter-  
10 mines that this section was violated, the department shall order  
11 all appropriate relief, including rehiring or reinstatement of an  
12 employee to his or her former position with back pay.

13 (3) The director of labor, within 90 days after the receipt  
14 of a complaint filed under this section, shall notify the com-  
15 plainant of the determination under subsection (2).

16 (4) The employer or employee may request a review of the  
17 department's determination within 15 working days after notifica-  
18 tion is issued. If a request for a review by either the employer  
19 or employee is not received by the department within 15 working  
20 days, in the absence of a showing of good cause for a late  
21 request, the department's determination is final. The employee,  
22 employer, and the department shall be parties to a proceeding  
23 before a hearings officer brought pursuant to this section.

24 (5) The director shall appoint hearings officers to make  
25 determinations in proceedings brought pursuant to this section.  
26 All proceedings in a hearing shall be conducted pursuant to the  
27 procedures applicable to the trial of contested cases under

1 CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No.  
2 306 of the Public Acts of 1969, as amended, BEING SECTIONS 24.271  
3 TO 24.287 OF THE MICHIGAN COMPILED LAWS. The hearings officer  
4 shall affirm, modify, or rescind the order of the department and  
5 may order an employer who violates this section to pay attorney  
6 costs, hearing costs, and transcript costs. The hearings officer  
7 shall issue a determination which constitutes a final disposition  
8 of the proceedings to each party within 30 working days after the  
9 conclusion of the hearing. The determination of the hearings  
10 officer ~~shall become~~ BECOMES the final agency order upon  
11 receipt by the parties.

12 (6) A party to the proceeding may obtain judicial review  
13 within 60 days after receipt of the determination of the hearings  
14 officer pursuant to CHAPTER 6 OF Act No. 306 of the Public Acts  
15 of 1969, as amended, BEING SECTIONS 24.301 TO 24.306 OF THE  
16 MICHIGAN COMPILED LAWS. Venue for an appeal under this act shall  
17 be only in ~~the~~ A circuit ~~where~~ IN WHICH the employee is a  
18 resident, ~~where~~ the employment occurred, or ~~where~~ the  
19 employer has a principal place of business.

20 (7) In absence of an appeal by an employer who has not com-  
21 plied with the determination of the hearings officer, the direc-  
22 tor of labor shall initiate, in the county ~~where~~ IN WHICH the  
23 violation occurred, in the county of Ingham, or in the county  
24 ~~where~~ IN WHICH the employer has its principal office, the civil  
25 action necessary to enforce an order of the department which has  
26 become a final agency order as prescribed in this act.

1           (8) For the purpose of an investigation or proceeding under  
2 this section, the director of labor or an authorized  
3 representative of the director may administer oaths and affirma-  
4 tions, subpoena witnesses, compel their attendance, take evi-  
5 dence, and require the production of records or other documents  
6 ~~which~~ THAT the department considers relevant or material to the  
7 inquiry.