

HOUSE BILL NO. 5625

March 20, 2024, Introduced by Reps. Scott, Pohutsky, Rheingans, Byrnes, Dievendorf, Paiz, Young, Steckloff, Brixie, Hood, Arbit, Tsernoglou, Conlin, Price, MacDonell, Glanville, McKinney, Breen, Wilson, Hope, Grant, Weiss, Wegela, Andrews, Coffia, McFall, Rogers, Skaggs, Brabec, Morgan, Farhat, Hill, Haadsma, Martus and Aiyash and referred to the Committee on Labor.

A bill to allow certain employers to obtain a fair paycheck workplace certificate; to provide for the powers and duties of certain state governmental officers and entities; to require the promulgation of rules; and to prohibit employers that do not possess a fair paycheck workplace certificate from claiming to possess a fair paycheck workplace certificate; and to prescribe civil sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "fair paycheck workplace

1 certificate act".

2 Sec. 3. As used in this act:

3 (a) "Compensation" means all money paid to an employee for
4 services performed by the employee, including commissions, bonuses,
5 and tips. Compensation does not include the value of any of the
6 following:

7 (i) A health, welfare, or retirement benefit.

8 (ii) Paid leave.

9 (iii) Separation or holiday pay.

10 (iv) Any other fringe benefit.

11 (b) "Department" means the department of labor and economic
12 opportunity.

13 (c) "Director" means the director of the department or the
14 director's designee.

15 (d) "Employee" means an individual who performs a service for
16 wages or other remuneration for an employer.

17 (e) "Employer" means a person that employs 1 or more
18 employees.

19 (f) "Fair paycheck workplace certificate" or "certificate"
20 means a certificate issued by the director under section 5.

21 (g) "Person" means an individual or a partnership,
22 corporation, limited liability company, association, governmental
23 entity, or other legal entity.

24 (h) "Protected attribute or characteristic " means the
25 religion, race, color, national origin, age, sex, sexual
26 orientation, gender identity or expression, height, weight,
27 familial status, marital status, or any other attribute or
28 characteristic of an individual that is protected under the Elliot-
29 Larsen civil rights act, 1976 PA 453, MCL 37.2101 to 37.2804.

1 Sec. 5. (1) To obtain a fair paycheck workplace certificate,
2 an employer must submit the application fee and a signed
3 application to the director in accordance with this section and the
4 rules promulgated under section 11. An employer shall include all
5 of the following information in its application:

6 (a) The name and address of the employer.

7 (b) The total number of employees employed by the employer.

8 (c) If known by the employer, the protected attributes or
9 characteristics of each of the employer's employees.

10 (d) Payroll records that show the gross amount of compensation
11 paid to each of the employer's employees during the calendar year
12 immediately preceding the year in which the employer submits its
13 application.

14 (e) Any other information that is necessary to determine
15 whether to issue a certificate, as determined by the director.

16 (2) The director shall issue a certificate to an employer if
17 all of the following conditions are met:

18 (a) The employer includes all of the information listed in
19 subsection (1) in its application.

20 (b) The director determines, based on the information included
21 in the employer's application, that less than a 5% difference
22 exists between the average gross compensation the employer paid to
23 employees with different protected attributes or characteristics.

24 (c) The employer pays the application fee.

25 (3) Not later than 15 days after the director receives an
26 employer's application and application fee, the director shall
27 issue a certificate to the employer or, if the director rejects the
28 employer's application, a statement that explains the reason for
29 the rejection.

1 (4) An initial certificate expires 6 months after the date it
2 is issued. An employer may renew a certificate by submitting the
3 application fee and a signed application to the director in
4 accordance with this section and the rules promulgated under
5 section 11. A certificate other than an initial certificate expires
6 1 year after the date it is issued.

7 (5) Information about an individual that an employer provides
8 to the director for the purpose of obtaining a certificate is
9 exempt from disclosure under the freedom of information act, 1976
10 PA 442, MCL 15.231 to 15.246.

11 Sec. 7. (1) An employer shall not claim to possess a fair
12 paycheck workplace certificate or otherwise indicate that the
13 employer possesses a fair paycheck workplace certificate unless the
14 employer possesses an unexpired fair paycheck workplace
15 certificate.

16 (2) An employer that violates this section is subject to a
17 civil fine of not more than \$1,000.00. The prosecutor of the county
18 in which the violation occurred or the attorney general may bring
19 an action to collect the fine. A fine collected must be deposited
20 in the general fund of this state.

21 Sec. 9. The director shall establish and maintain a database
22 of employers that have been issued a fair paycheck workplace
23 certificate under this act. The director shall include for each
24 employer the employer's name and address and whether the employer's
25 certificate is current or expired. The director shall post the
26 database on a website that is accessible by the public at no cost.

27 Sec. 11. (1) A determination made under this act or an appeal
28 of a determination made under this act must be made in accordance
29 with the administrative procedures act of 1969, 1969 PA 306, MCL

1 24.201 to 24.328.

2 (2) The director shall promulgate rules to implement this act
3 under the administrative procedures act of 1969, 1969 PA 306, MCL
4 24.201 to 24.328. The rules promulgated by the director must
5 include, at a minimum, both of the following:

6 (a) The manner in which an application must be submitted under
7 section 5.

8 (b) The application fee. The application fee must not be more
9 than the amount that is necessary to administer this act, as
10 determined by the director.