

SENATE BILL No. 1248

May 4, 2006, Introduced by Senators PRUSI, BRATER, OLSHOVE, CHERRY, SWITALSKI, WHITMER, LELAND, JACOBS, SCHAUER, BARCIA and EMERSON and referred to the Committee on Commerce and Labor.

A bill to prohibit employers from discriminating against employees based upon dietary and personal habits that are unrelated to employment; to prohibit retaliation; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "employee dietary and smoking rights protection act".

3 Sec. 3. As used in this act:

4 (a) "Employee" means an individual who receives compensation
5 for performing services for an employer under an express or implied
6 contract of hire.

7 (b) "Employer" means an individual or entity that permits 1 or
8 more individuals to work, or that accepts applications for
9 employment, or is an agent of an employer.

10 Sec. 5. (1) Except as provided in this section, an employer

1 shall not fail or refuse to hire or recruit, discharge, or
2 otherwise discriminate against an individual with respect to
3 employment, compensation, or a term, condition, or privilege of
4 employment because the individual consumes certain foods or drinks
5 or because the individual smokes.

6 (2) The prohibition in subsection (1) does not apply to any of
7 the following:

8 (a) Consuming foods or drinks or smoking that directly impairs
9 an established bona fide occupational requirement or an employment
10 activity or responsibility of the employee.

11 (b) Consuming foods or drinks or smoking on or in property
12 that the employer owns or leases, if the eating, drinking, or
13 smoking violates an established company policy.

14 (c) Consuming foods or drinks or smoking that is prohibited or
15 regulated under state or federal law, regulation, or rule if the
16 employee's action is not in accord with the law, regulation, or
17 rule.

18 Sec. 7. A person shall not retaliate or discriminate against a
19 person because the person has done or was about to do any of the
20 following:

21 (a) File a complaint under this act.

22 (b) Testify, assist, or participate in an investigation,
23 proceeding, or action concerning a violation of this act.

24 (c) Oppose a violation of this act.

25 Sec. 9. An employer shall not require an applicant or employee
26 to waive any right under this act. An agreement by an applicant or
27 employee to waive any right under this act is invalid and

1 unenforceable.

2 Sec. 11. (1) A person who is injured by a violation of this
3 act may bring a civil suit in a court of competent jurisdiction to
4 obtain injunctive relief and damages.

5 (2) The court shall award costs and reasonable attorney fees
6 to a person who prevails as a plaintiff in a suit authorized under
7 subsection (1).