

MICHIGAN

Employment Law Workbook Addendum

(Update on legislation enacted from Jan. 1–Dec. 31, 2013)

Topics

I. Discrimination

No new laws or regulations enacted in 2012 or 2013.

II. Pre-Employment Inquiry Guidelines

Under the Internet Privacy Protection Act, an employer may not request an employee or applicant to grant the employer access to, allow observation of, or disclose information that allows the employer to access or observe a personal internet account of the employee or applicant (enacted Dec. 28, 2012). The Act allows an employer to request such information where the electronic communications device is paid for by the employer or the account is provided by the employer by virtue of the employment relationship. The Act expressly allows an employer to access accounts when necessary to conduct an investigation for the purpose of complying with law and to require an employee to cooperate in an investigation of work related conduct under specific circumstances.

No new laws or regulations enacted 2013.

III. Family and Medical Leave

No new laws or regulations enacted in 2012 or 2013.

IV. Wage and Hour Laws

Under the Youth Employment Standards Act, child labor hour restrictions were amended for minors 16 years and over (HB 4732, MCL 409.111 effective Oct. 18, 2011).

No new laws or regulations enacted in 2012 or 2013.

V. Drug Testing

No new laws or regulations enacted in 2012 or 2013.

American Staffing Association

277 South Washington Street, Suite 200 ▪ Alexandria, VA 22314-3675

VI. Noncompete and Other Employment Agreements

No new laws or regulations enacted in 2012 or 2013.

VII. Workplace Safety

No new laws or regulations enacted in 2012 or 2013.

VIII. Workers' Compensation

Michigan enacted stricter standards to qualify for workers' compensation benefits. Specifically, the state now requires that an injury must be "medically distinguishable" from the employee's prior condition in order to be compensable and that an employee's perception of the actual events must be grounded in reality in order for a mental disability to be compensable. Additionally, the Act provides that a limitation of wage-earning would occur only if an employee was unable to perform all jobs paying the maximum hours in work suitable to the employee's qualifications and training. Also, in the definition of "wage-earning capacity," it now includes wages an employee earns or is capable of earning and provides that an employee has an affirmative duty to seek reasonably available work.

An employee is also now required to demonstrate certain conditions in order to establish an initial showing of disability and wage loss. Once that occurs, the employer then bears the burden of refuting the employee's initial showing of disability. The Act now allows an employee to be treated by his or her own physician after 28 days, rather than 10 days, from the start of medical care. Additionally, all pension and retirement benefits that an employee is entitled to receive will be included among the amounts that must be deducted from the weekly benefits (PA 267, 268, 269, 266, effective Dec. 19, 2011).

No new laws or regulations enacted in 2012 or 2013.

Miscellaneous

An individual shall not be required, as a condition of employment, to refrain, resign, become, or remain a member of a labor organization, or to pay dues, fees or charges to a labor organization or a charitable organization in lieu of such fees (Public Act Nos. 348 and 349, effective approximately March 28, 2013).