MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT
Act 154 of 1974

AN ACT to prescribe and regulate working conditions; to prescribe the duties of employers and employees as to places and conditions of employment; to create certain boards, commissions, committees, and divisions relative to occupational and construction health and safety; to prescribe their powers and duties and powers and duties of the department of labor and department of public health; to prescribe certain powers and duties of the directors of the departments of labor, public health, and agriculture; to impose an annual levy to provide revenue for the safety education and training division; to provide remedies and penalties; to repeal certain acts and parts of acts; and to repeal certain acts and parts of act on specific dates.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 1986, Act 147, Imd. Eff. July 2, 1986.

Compiler's note: In the last phrase of this title, “and parts of act on specific dates” evidently should read “and parts of acts on specific dates”.

The People of the State of Michigan enact:

408.1001 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan occupational safety and health act".

History: 1974, Act 154, Eff. Jan. 1, 1975.

Compiler's note: For transfer of powers and duties of the division of occupational health in the bureau of environmental and occupational health, with the exception of dry cleaning unit, from the department of public health to the director of the department of labor, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties relating to the promulgation of rules by the general industry safety standards commission, the construction safety standards commission, the occupational health standards commission, and the board of health and safety compliance and appeals from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For the transfer of the Michigan occupational safety and health administration from the department of licensing and regulatory affairs to the department of labor and economic opportunity and the powers and duties of the director of the department of licensing and regulatory affairs to the director of the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

408.1002 Scope of act; effect on statutory or common law.

Sec. 2. (1) This act shall apply to all places of employment in the state, except in domestic employment and in mines as defined in section 4.

(2) Nothing in this act shall be construed to supersede or in any manner affect any workers' compensation law, or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980.

408.1003 Meanings of words and phrases.

Sec. 3. The words and phrases defined in sections 4 to 6 have the meanings respectively ascribed to them for the purposes of this act.

History: 1974, Act 154, Eff. Jan. 1, 1975.

***** *408.1004 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 408.1004.amended* *****

408.1004 Definitions; A to M.

Sec. 4. (1) "Agricultural operations" means the work activity designated in major groups 01 and 02 of the standard industrial classification manual, United States bureau of the budget, 1972 edition. Agricultural operations include any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations including preparation for market delivery to storage or market or to carriers for transportation to market.

(2) "Authorized employee representative" or "representative of employee" means a person designated by a labor organization certified by the national labor relations board or employment relations commission as defined in section 2(c) of 1939 PA 176, MCL 423.2, as the bargaining representative for the affected employees. In the absence of certification, it shall be a person designated by the organization having a collective bargaining relationship with the employer and designated as having a collective bargaining relationship with the employer by the affected employees. If a labor organization has not been certified, or if

no organization has a collective bargaining relationship with the employer, "authorized employee representative" or "representative of employee" means a person designated by the affected employees to represent them for the purpose of proceedings under this act.

(3) "Board" means the board of health and safety compliance and appeals created in section 46.

(4) "Construction operations" means the work activity designated in major groups 15, 16, and 17 of the standard industrial classification manual, United States bureau of the budget, 1972 edition.

(5) "Director" means the director of the department of licensing and regulatory affairs.

(6) "Department attorney" means the attorney general or the authorized representative of the attorney general.

(7) "Domestic employment" means that employment involving an employee specifically employed by a householder to engage in work or an activity relating to the operation of a household and its surroundings, whether or not the employee resides in the household.

(8) "Mines", except as provided in subdivision (d), means all of the following:

(a) An area of land from which minerals are extracted in nonliquid form, or if in liquid form, are extracted with workers underground.

(b) Private ways and roads appurtenant to an area of land described in subdivision (a).

(c) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property, including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities.

(d) This subsection does not include industrial borrow pits, or sand, gravel, or crushed and dimension stone quarrying operations, or surface construction operations.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 2012, Act 416, Eff. Dec. 27, 2012.

***** *408.1004 THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE* *****

408.1004.amended Definitions; A to M.

Sec. 4. (1) "Agricultural operations" means the work activity designated in major groups 01 and 02 of the Standard Industrial Classification Manual, United States Bureau of the Budget, 1972 edition. Agricultural operations include any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations including preparation for market or delivery to storage or market or to carriers for transportation to market.

(2) "Asbestos" means a group of naturally occurring minerals that separate into fibers, including chrysotile, amosite, crocidolite, anthophyllite, tremolite, and actinolite.

(3) "Asbestos-related violation" means a violation of this act, an order issued under this act, or a rule or standard promulgated under this act that involves the demolition, renovation, encapsulation, removal, or handling of friable asbestos material or otherwise involves the exposure of an individual to friable asbestos material.

(4) "Authorized employee representative" or "representative of employee" means a person designated by a labor organization certified by the National Labor Relations Board or the employment relations commission created under section 3 of 1939 PA 176, MCL 423.3, as the bargaining representative for the affected employees. In the absence of certification, it shall be a person designated by the organization having a collective bargaining relationship with the employer and designated as having a collective bargaining relationship with the employer by the affected employees. If a labor organization has not been certified, or if no organization has a collective bargaining relationship with the employer, "authorized employee representative" or "representative of employee" means a person designated by the affected employees to represent them for the purpose of proceedings under this act.

(5) "Board" means the board of health and safety compliance and appeals created in section 46.

(6) "Construction operations" means the work activity designated in major groups 15, 16, and 17 of the Standard Industrial Classification Manual, United States Bureau of the Budget, 1972 edition.

(7) "Director" means the director of the department of labor and economic opportunity.

(8) "Department attorney" means the attorney general or the authorized representative of the attorney general.

(9) "Domestic employment" means that employment involving an employee specifically employed by a

householder to engage in work or an activity relating to the operation of a household and its surroundings, whether or not the employee resides in the household.

(10) "Friable asbestos material" means any material that contains more than 1% asbestos by weight and that can be, by hand pressure, crumbled, pulverized, or reduced to powder when dry.

(11) "Mines", except as provided in subsection (12), means all of the following:

(a) An area of land from which minerals are extracted in nonliquid form, or if in liquid form, are extracted with workers underground.

(b) Private ways and roads appurtenant to an area of land described in subdivision (a).

(c) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property, including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities.

(12) "Mines" does not include industrial borrow pits, or sand, gravel, or crushed and dimension stone quarrying operations, or surface construction operations.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 2012, Act 416, Eff. Dec. 27, 2012;—Am. 2024, Act 17, Eff. (sine die).

408.1005 Definitions; E to I.

Sec. 5. (1) "Employee" means a person permitted to work by an employer.

(2) "Employer" means an individual or organization, including this state or a political subdivision, that employs 1 or more persons. Except as otherwise specifically provided in the franchise agreement, as between a franchisee and franchisor, the franchisee is considered the sole employer of workers for whom the franchisee provides a benefit plan or pays wages.

(3) "Imminent danger" means a condition or practice in a place of employment such that a danger exists that could reasonably be expected to cause death or serious physical harm either immediately or before the imminence of the danger can be eliminated through the enforcement procedures otherwise provided. A container of an unknown and unlabeled chemical or a container of hazardous chemicals that is not labeled or for which a safety data sheet is not available as required by the standard incorporated by reference in section 14a shall be considered an imminent danger after meeting the provisions of section 31.

(4) "Inspection" means the examination or survey of a place of employment to detect the presence of an existing or potential occupational safety or health hazard or to determine compliance with this act or with rules or standards promulgated or orders issued under this act.

(5) "Investigation" means the detailed evaluation or study of working conditions, including equipment, processes, substances, air contaminants, or physical agents with respect to the actual or potential occurrence of occupational accidents, illnesses, or diseases.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012 ;—Am. 2016, Act 17, Eff. May 23, 2016.

408.1006 Definitions; P to W.

Sec. 6. (1) "Place of employment" means a factory, plant, establishment, construction site or other similar area, workplace, or environment where an employee is permitted to work.

(2) "Political subdivision" means a city, village, township, county, school district, intermediate school district, or state or local government authorized or supported agency, authority, or institution.

(3) "Rule" means a rule as defined in section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207. A rule may only be promulgated by the director except as otherwise specifically prescribed in this act.

(4) "Serious violation" means a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act or adopted by reference pursuant to this act for which a substantial probability exists that death or serious physical harm could result from the violation or from a practice, means, method, operation, or process that is in use, unless the employer did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

(5) "Standard" means a health or safety standard that specifies conditions, or the adoption or use of 1 or more practices, means, methods, operations, or processes necessary to provide safe and healthful employment in places of employment.

(6) "Trade secret" means a confidential process, formula, pattern, device, or compilation of information that is used in the employer's business and that gives the business an opportunity to obtain an advantage over

competitors who do not know or use it.

(7) "Wilful", for the purpose of criminal prosecutions, means the intent to do an act knowingly and purposely by an individual who, having a free will and choice, either intentionally disregards a requirement of this act, or a rule or standard promulgated pursuant to this act, or is knowingly and purposely indifferent to a requirement of this act, or a rule or standard promulgated pursuant to this act. An omission or failure to act is wilful if it is done knowingly and purposely. Wilful does not require a showing of moral turpitude, evil purpose, or criminal intent provided the individual is shown to have acted or to have failed to act knowingly and purposely.

(8) "Working day" means any day other than a Saturday, Sunday, or state legal holiday.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1978, Act 455, Imd. Eff. Oct. 16, 1978;—Am. 2012, Act 416, Eff. Dec. 27, 2012.

408.1009 Legislative declaration.

Sec. 9. The safety, health, and general welfare of employees are primary public concerns. The legislature hereby declares that all employees shall be provided safe and healthful work environments free of recognized hazards.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1011 Duties of employer.

Sec. 11. An employer shall:

(a) Furnish to each employee, employment and a place of employment that is free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to the employee.

(b) Comply with this act and with the rules and standards promulgated and the orders issued pursuant to this act.

(c) Post notices and use other appropriate means to keep his or her employees informed of their protections and obligations under this act, including applicable rules and standards.

(d) Provide personal protective equipment at the employer's expense when it is specifically required to be provided at the employer's expense in a rule or a standard promulgated under this act. When promulgating a rule or a standard concerning personal protective equipment, the director shall use at least the following criteria in determining who should pay for the equipment:

(*i*) Whether the equipment is transferable between employees.

(*ii*) Whether the equipment is maintained by the employer.

(*iii*) Whether the equipment generally remains at the work site after the work activity has been completed.

(*iv*) The amount of personal use involved with the equipment.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1980, Act 51, Imd. Eff. Mar. 25, 1980;—Am. 1986, Act 80, Eff. May 25, 1986;—Am. 2012, Act 416, Eff. Dec. 27, 2012.

408.1012 Duties of employee.

Sec. 12. An employee shall:

(a) Comply with rules and standards promulgated, and with orders issued pursuant to this act.

(b) Not remove, displace, damage, destroy, or carry off a safeguard furnished or provided for use in a place of employment, or interfere in any way with the use thereof by any other person.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1013 Administration and enforcement; reports.

Sec. 13. (1) The department of labor shall administer and enforce the provisions of this act relative to occupational safety.

(2) The department of public health shall administer and enforce the provisions of this act relative to occupational health.

(3) The department of labor and department of public health shall report annually by January 31 in writing to the committees on labor and public health of the house of representatives and committees on labor and health, social services and retirement of the senate specifying the provisions of this act where the authority of the departments overlap, and all agreements and administrative procedures to coordinate joint enforcement of the act. Any changes in these agreements or administrative procedures must be reported in writing to the committees on labor and public health of the house of representatives and committees on labor and health, social services and retirement of the senate within 15 days of the changes.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 233, Imd. Eff. Nov. 30, 1977;—Am. 1978, Act 455, Imd. Eff. Oct. 16, 1978.

408.1014 Federal standards incorporated by reference; force and effect; conflicts; copies of standard; processing proposed rule substantially similar to federal standard; clear and convincing need for standard; compliance with administrative procedures act of 1969; inapplicability to MCL 408.1014r.

Sec. 14. (1) Except as otherwise provided in subsection (3), the occupational safety and health standards that have been adopted or promulgated by the United States Department of Labor under the occupational safety and health act of 1970, Public Law 91-596, 84 Stat 1590, and that are in effect on January 1, 1975 are incorporated by reference and have the same force and effect as a rule promulgated pursuant to this act. A standard that is incorporated by reference pursuant to this subsection remains in effect until either of the following conditions occurs:

(a) A standard is promulgated pursuant to this act that covers the same or a similar subject.

(b) The standard is rescinded by rule promulgated pursuant to this act.

(2) If a rule or standard that is continued pursuant to section 24(1) conflicts with or covers the same or similar subject as a standard incorporated by reference pursuant to subsection (1), the federal standard incorporated by reference governs and the state rule or standard continued pursuant to section 24(1) shall be rescinded.

(3) If a rule or standard that is continued in effect under this act pursuant to section 21(1) covers the same subject as a federal standard, subsection (1) does not apply.

(4) The department of licensing and regulatory affairs shall make copies of the standards incorporated by reference pursuant to subsection (1) available to the public at cost.

(5) Beginning April 1, 1992, not later than 10 working days after the date that the United States Department of Labor adopts or promulgates an occupational safety and health standard under the occupational safety and health act of 1970, Public Law 91-596, 84 Stat 1590, the director shall initiate the processing of an administrative rule that is substantially similar to the federal occupational safety and health standard. The proposed administrative rule shall be presented to the joint committee on administrative rules unless the director determines that the federal standard is clearly inconsistent with the criteria set forth in section 9, 16, 19, or 24.

(6) Beginning April 1, 1992, a proposed administrative rule that would address a matter not addressed by 1 or more federal standards shall not be processed and presented to the joint committee on administrative rules unless the director determines that there is a clear and convincing need for the standard to meet the criteria set forth, as appropriate, in sections 9, 16, 19, and 24. The director shall include a statement of the specific facts that establish the clear and convincing need when processing and presenting the administrative rule. The statement shall either explain the unique characteristics of industry in this state that necessitate the standard or demonstrate that the standard was requested by a broad consensus of union and nonunion employers and employees in the specific industry affected by the standard.

(7) The administrative rules described in subsections (5) and (6) shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(8) This section does not apply to section 14r.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 2012, Act 415, Eff. Dec. 27, 2012;—Am. 2020, Act 143, Imd. Eff. July 31, 2020.

Administrative rules: R 325.2401 et seq.; R 325.18301 et seq.; R 325.35001 et seq.; R 325.52501 et seq.; and R 325.70101 et seq. of the Michigan Administrative Code.

408.1014a Occupational safety and health hazard communication standard; incorporation by reference; applicability of standard; conflicting provisions; administration and enforcement of standards; duties of employers.

Sec. 14a. (1) The occupational safety and health hazard communication standard that has been adopted or promulgated by the United States department of labor and has been codified at 29 CFR 1910.1200 as of May 25, 2012 is incorporated by reference and has the same force and effect as a rule promulgated under this act. In addition to the standard incorporated by reference in this subsection, sections 14b to 14*l* apply to an employer subject to this act. The applicability of the standard incorporated by reference in this subsection and of sections 14b to 14*l* is subject to subsections (4), (5), (6), and (7).

(2) If a rule or standard that is continued pursuant to section 24(1) is in conflict with or covers the same or similar subject as a standard incorporated by reference pursuant to subsection (1), the federal standard so incorporated by reference governs and the state rule or standard continued pursuant to section 24(1) is rescinded.

(3) The department of licensing and regulatory affairs shall administer and enforce the provisions of the

standard incorporated by reference in subsection (1) in a manner that is consistent with the administration and enforcement of the standard by the federal occupational safety and health administration.

(4) Beginning November 25, 1985, employers who are chemical manufacturers in a classification provided by sector 31-33 — manufacturing, of the North American industry classification system, United States, 1997, published by the office of management and budget or in a standard industrial classification of 20 through 39 of the standard industrial classification code published by the federal department of management and budget, importers, and distributors shall label containers of hazardous chemicals leaving their workplaces, provide safety data sheets with initial shipments, and otherwise comply with any applicable provision of the standard incorporated by reference pursuant to subsection (1) and of sections 14b to 14*l*. A chemical manufacturer, importer, or distributor subject to this subsection shall provide a safety data sheet and an appropriately labeled container to each employer in this state, regardless of the employer's standard industrial classification in the standard industrial classification code, who purchases a hazardous chemical.

(5) Beginning May 25, 1986, an employer in a classification provided by sector 31-33 — manufacturing, of the North American industry classification system, United States, 1997, published by the office of management and budget or in a standard industrial classification of 20 through 39 of the standard industrial classification code published by the federal department of management and budget shall comply with the requirements of the standard incorporated by reference pursuant to subsection (1) and with sections 14b to 14*l* with respect to the use of hazardous chemicals in the workplace.

(6) Beginning February 25, 1987, an employer who is subject to this act but who is not otherwise specifically described in subsections (4) or (5) shall comply with the standard incorporated by reference pursuant to subsection (1) and with sections 14b to 14*l* with respect to the use of hazardous chemicals in the workplace. However, instead of complying with any conflicting provision of the standard incorporated by reference in subsection (1), an employer who is described in this subsection shall do both of the following:

(a) Provide information and training to employees who are exposed to hazardous chemicals in the normal course of employment or who are likely to be exposed to hazardous chemicals in the event of an emergency.

(b) In the case where a hazardous chemical is mixed or combined with any other chemical or hazardous chemical by the employer, maintain and provide a safety data sheet for each constituent hazardous chemical and maintain a material identification system that identifies to employees the appropriate safety data sheets.

(7) The standard incorporated by reference in subsection (1), this section, and sections 14b to 14*l* shall not be construed to require an employer in a classification provided by sector 31-33 — manufacturing, of the North American industry classification system, United States, 1997, published by the office of management and budget or in a standard industrial classification other than 20 through 39 of the standard industrial classification code published by the federal department of management and budget to evaluate chemicals, to develop labels for containers of hazardous chemicals, or to develop safety data sheets.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1014b Disclosure of specific chemical identity, percentage composition, or both.

Sec. 14b. In nonemergency situations, a chemical manufacturer, importer, or employer claiming a trade secret, upon request, shall disclose a specific chemical identity, percentage composition, or both, otherwise permitted to be withheld under the standard incorporated by reference in section 14a, in addition to a health professional as specified in 29 CFR 1910.1200(i)(3), to an occupational health nurse providing medical or other occupational health services to exposed employees, to an authorized employee representative of an exposed employee, and to an exposed employee, if the occupational health nurse, the representative, and the employee comply with the requirements described in 29 CFR 1910.1200(i)(3) and (4).

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1014c Identification of pipes and piping systems in workplace; establishment of pipe and stationary process container entry procedure; applicable provisions.

Sec. 14c. Pipes or piping systems in a workplace that contain a hazardous chemical shall be identified to an employee by a label or by a sign, placard, written operating instructions, process sheet, batch ticket, or a substance identification system that conveys the same information required to be displayed on a label by the standard incorporated by reference in section 14a. The employer shall provide at least 1 label, sign, placard, set of written operating instructions, process sheet, batch ticket, or a substance identification system selected by the employer and readily accessible to each employee at a location in the workplace designated by the employer. The employer shall establish a pipe and stationary process container entry procedure that will assure that the information required by 29 C.F.R. 1910.1200(f) is conveyed to an employee before entry. The requirements of this subsection shall apply in addition to the occupational safety and health hazard communication standard incorporated by reference in section 14a.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014d Trade secret claims; petition; review; confidentiality; determination; final order; revocation of order; hearing; exemption of records and information from disclosure under freedom of information act; providing director with specific chemical identity and percentage composition of hazardous chemical.

Sec. 14d. (1) Upon request of the director, an employer who claims a trade secret under the standard incorporated by reference by section 14a shall support the trade secret claim. Subject to subsection (2), the director shall consider the following factors in determining whether a specific chemical identity may be withheld as a trade secret:

(a) The extent to which the information is known outside the employer's business.

(b) The extent to which it is known by employees and others involved in the employer's business.

(c) The extent of measures taken by the employer to guard the secrecy of the information.

(d) The value of the information to the employer and the employer's competitors.

(e) The amount of effort and money expended by the employer in developing the information.

(f) The ease or difficulty with which the information could be properly acquired or duplicated by others.

(2) The determination made by the director under subsection (1) shall not uphold as a trade secret any chemical identity information that is readily discoverable through reverse engineering.

(3) This section shall not be construed to require the prior approval of trade secret claims by the director.

(4) An exposed employee, a health professional providing medical or other occupational health services to exposed employees, or an authorized employee representative of an exposed employee may petition the director to review a denial of a written request for disclosure of a specific chemical identity. This review shall be conducted as a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall be confidential. The director shall review the assertion of trade secrecy and make a determination in accordance with the principles provided in this section and the standard incorporated by reference in section 14a. In preparing the final order, the director shall consider and require any prudent measures necessary to protect the health of employees or the public in general while maintaining the confidentiality of any trade secrets.

(5) The director may revoke any order entered under subsection (4) upholding a trade secret claim after a hearing involving the parties of interest upon showing that a party has not complied with an order issued pursuant to subsection (4).

(6) Records and information obtained by any department, commission, or public agency related to a review by the director under subsection (4) and to information determined by the director to be a trade secret in that review is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) Notwithstanding that information has been claimed as a trade secret pursuant to 29 CFR 1910.1200(i) or has been upheld by the director as a trade secret under this section, a chemical manufacturer, importer, or employer shall provide the specific chemical identity and percentage composition of a hazardous chemical to the director when the director requests that information in the discharge of the director's duties under this act.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1014e Public service announcements.

Sec. 14e. In order to educate employers, employees, and the public about the hazards of exposure to hazardous chemicals and the requirements of the occupational safety and health hazard communication standard incorporated by reference in section 14a and the requirements of sections 14b to 14*l*, the department of licensing and regulatory affairs shall distribute periodically public service announcements to newspapers and television and radio stations throughout this state.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1014f Employer engaged in agricultural operations; certifying list of chemicals.

Sec. 14f. (1) An employer engaged in agricultural operations is not required to comply with the standard incorporated by reference in section 14a or sections 14b to 14*l* for a hazardous chemical that is regulated under the federal insecticide, fungicide, and rodenticide act, chapter 125, 86 Stat. 973, 7 USC 136 to 136i and 136j to 136y, or part 83 (pesticide control) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8301 to 324.8336, and any rules or regulations promulgated under those acts.

(2) The director of the department of agriculture and rural development at least annually shall certify to the department of licensing and regulatory affairs a list of chemicals regulated by the acts described in subsection (1).

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 1996, Act 70, Imd. Eff. Feb. 26, 1996;—Am. 2012, Act 447, Imd. Eff.

Dec. 27, 2012.

Administrative rules: R 285.633.1 et seq. and R 285.636.1 et seq. of the Michigan Administrative Code.

408.1014g Chemical in sealed package in transit by common carrier.

Sec. 14g. An employer is not required to comply with the standard incorporated by reference in section 14a or with sections 14b to 14*l* with respect to a chemical in a sealed package and in transit by a common carrier if the seal remains intact while in transit.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014h Employer engaged in construction operations.

Sec. 14h. An employer engaged in construction operations may satisfy the requirements of the standard incorporated in section 14a and sections 14b to 14*l* that a safety data sheet be maintained for each hazardous chemical in the workplace by maintaining safety data sheets in 1 or more central locations at a jobsite.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1014i Plan for executing responsibilities of organized fire department.

Sec. 14i. The chief of each organized fire department shall prepare and disseminate to each fire fighting employee of the organized fire department a plan for executing the department's responsibilities with respect to each site within the organized fire department's jurisdiction where hazardous chemicals are used or produced.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014j Signs throughout workplace; contents.

Sec. 14j. An employer subject to the standard incorporated by reference in section 14a and to sections 14b to 14*l* shall post signs throughout the workplace advising employees of all of the following:

(a) The location of the safety data sheets for the hazardous chemicals produced or used in the workplace and the name of the person from whom to obtain the sheets.

(b) That the employer is prohibited from discharging or discriminating against an employee who exercises the rights regarding information about hazardous chemicals in the workplace afforded by the standard incorporated by reference in section 14a and by sections 14b to 14*l*.

(c) That, as an alternative to requesting the employer for a safety data sheet for a hazardous chemical in the workplace, the employee may obtain a copy of the safety data sheet from the department of licensing and regulatory affairs. The sign shall include the address and telephone number of the division of the department of licensing and regulatory affairs that has the responsibility of responding to such requests.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1014k Safety data sheets for hazardous chemicals in workplace; organization; training employees; notice of new or revised sheets.

Sec. 14k. (1) An employer who is subject to the standard incorporated by reference in section 14a and to sections 14b to 14*l* shall organize the safety data sheets for the hazardous chemicals in the workplace in a systematic and consistent manner and shall train employees in locating particular safety data sheets.

(2) Not later than 5 working days after receipt of a new or a revised safety data sheet, the employer shall post for a period of 10 working days a notice of the existence of the new or revised sheet and directions for locating the new or revised sheet according to the method used by the employer for organizing safety data sheets.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1014*l* Failure to provide exposed employee with access to most current safety data sheet.

Sec. 14*l*. The failure of an employer who is subject to the standard incorporated by reference in section 14a and to this section and sections 14b to 14k to provide an exposed employee with access to the most current safety data sheet available to the employer shall not be considered by the department as a violation for which a de minimis notice of violation may be issued under section 33(5). The department may consider the violation to be a serious violation or a violation not of a serious nature for which a citation may be issued under section 35.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1014m Conflicting provisions unenforceable.

Sec. 14m. The standard incorporated by reference in section 14a and sections 14b to 14 *l* occupy the entire

field of regulation of occupational safety and health with respect to hazardous chemicals in the workplace. Except as specifically provided in this act, any provision of any ordinance, law, rule, regulation, policy, or practice of a city, township, village, county, governmental authority created by statute, or other political subdivision of the state that imposes any requirement on an employer or expands the rights of an employee with respect to the communication of the hazards of hazardous chemicals in the workplace shall be considered in conflict with this act and shall not be enforceable.

History: Add. 1986, Act 80, Imd. Eff. Apr. 7, 1986.

408.1014n Federal occupational safety and health field sanitation standard; incorporation by reference; effect; providing potable water, toilet facility, and hand washing facility for agricultural employees; administration and enforcement of incorporated standard; copies of standard.

Sec. 14n. (1) Except as provided in subsections (2) and (3), the occupational safety and health field sanitation standard that has been adopted or promulgated by the United States department of labor and has been codified at 29 C.F.R. 1928.110 as of April 1, 1991 is incorporated by reference and supersedes the occupational health field sanitation standard as prescribed in R 325.61751 to R 325.61757 of the Michigan administrative code, and has the same force and effect as a rule promulgated pursuant to this act.

(2) An agricultural employer shall provide, at no cost to the agricultural employee, potable water in locations that are readily accessible to all agricultural employees.

(3) An agricultural employer employing less than 11 agricultural employees shall ensure that an available toilet facility and hand-washing facility is either provided by the agricultural employer or available to the agricultural employee.

(4) The department of public health shall administer and enforce the standard incorporated by reference in subsection (1) in a manner that is consistent with the administration and enforcement of the standard by the federal occupational safety and health administration.

(5) The department of public health shall make copies of the standard described in subsection (1) and the requirements of subsections (2) and (3) available to the public at cost.

History: Add. 1991, Act 6, Imd. Eff. Apr. 11, 1991;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991.

408.1014r Use of firefighting foam concentrate (PFAS); rules.

Sec. 14r. (1) The director shall promulgate rules regarding a firefighter's use of firefighting foam concentrate. The rules may only include the following:

(a) The best practices regarding proper use, handling, and storage of firefighting foam concentrate.

(b) The best health practices including, but not limited to, all of the following:

(*i*) Containment and handling of PFAS-contaminated materials, including a firefighter's equipment, until they are disposed of pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(*ii*) Decontamination of a firefighter's body and equipment following the use of firefighting foam.

(c) A prohibition on the use of firefighting foam concentrate containing intentionally added PFAS by a firefighter for training purposes.

(d) A prohibition on the use of firefighting foam concentrate containing intentionally added PFAS by a firefighter for equipment calibration purposes after January 1, 2020, unless 1 or more of the following apply:

(*i*) The calibration is otherwise required by law.

(*ii*) The facility where the calibration will take place has implemented measures that comply with the rules promulgated under this section.

(2) As used in this section:

(a) "Firefighter" means either of the following:

(*i*) That term as defined in section 2 of the firefighters training council act, 1966 PA 291, MCL 29.362.

(*ii*) An individual employed by a person and who in that employment is knowledgeable, trained, and skilled in at least basic firefighting operations.

(b) "PFAS" means a perfluoroalkyl or polyfluoroalkyl substance.

History: Add. 2020, Act 143, Imd. Eff. July 31, 2020.

408.1015 Repealed. 2012, Act 416, Eff. Dec. 27, 2012.

Compiler's note: The repealed section pertained to creation, appointment, and procedures of general industry safety standards commission.

408.1016 Promulgation, expression, and adoption of standards by director.

Sec. 16. The director may promulgate standards in accordance with this act to prevent accidents in places of employment and to protect the life and safety of employees. If another state agency has rules promulgated before the effective date of this act that regulate a place of employment relative to the safety of the public, the rules of the other state agency apply only to the safety of the public. If practicable, the standards promulgated shall be expressed in terms of objective criteria and of the performance desired.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1978, Act 455, Imd. Eff. Oct. 16, 1978;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 2012, Act 416, Eff. Dec. 27, 2012.

Administrative rules: R 408.491 et seq.; R 408.1200; R 408.3901 et seq.; R 408.10001 et seq.; R 408.14511 et seq.; and R 408.45101 et seq. of the Michigan Administrative Code.

408.1017 Workplace ergonomics; promulgation of rules prohibited; federal rules or guidelines; "workplace ergonomics" defined.

Sec. 17. (1) A department, board, or commission authorized to promulgate rules under this act shall not promulgate a rule or establish a standard regarding workplace ergonomics. This subsection does not apply to the adoption by reference of a federal workplace ergonomics rule.

(2) A department, board, or commission authorized to promulgate rules under this act may provide guidance, best practices information, or assistance for the voluntary implementation or practice of a workplace ergonomics program. If there are federal occupational safety and health administration ergonomics guidelines, the guidance or other assistance shall not advocate workplace ergonomic programs that are more stringent than indicated in those guidelines.

(3) For purposes of this section, "workplace ergonomics" means a program or practice that addresses musculoskeletal disorders that are caused by repetitive motion or stress.

History: Add. 2011, Act 10, Imd. Eff. Mar. 24, 2011.

408.1018 Repealed. 2012, Act 448, Imd. Eff. Dec. 27, 2012.

Compiler's note: The repealed section pertained to creation, appointment, qualifications, and meetings of construction safety standards commission.

408.1019 Promulgation of standards by director.

Sec. 19. The director may promulgate construction safety standards in accordance with this act and based upon, but not limited to, generally accepted nationwide engineering standards and practices designed to prevent accidents and to protect the life and safety of employees engaged in construction operations. If practicable, the standards promulgated shall be expressed in terms of objective criteria and of the performance desired.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 2012, Act 448, Imd. Eff. Dec. 27, 2012.

Administrative rules: R 408.40101 et seq. and R 408.41401 et seq. of the Michigan Administrative Code.

408.1021 Continuation of safety standards; emergency safety standards; promulgation of approved standard.

Sec. 21. (1) Standards promulgated by the former general industry safety standards commission and standards promulgated by the former construction safety standards commission under this act that are in effect on the effective date of the amendatory act that repealed section 15 of this act are continued under section 31 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.231.

(2) The director shall promulgate an emergency safety standard in compliance with section 48 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.248, if the emergency safety standard is necessary to protect employees. If the director promulgates an emergency standard on a matter addressed by a federal standard, the director shall promulgate a standard that is substantially similar to the federal standard unless he or she determines and certifies that the federal standard is clearly inconsistent with the criteria set forth in section 9, 16, or 19, or a combination thereof.

(3) Except for a standard adopted by reference pursuant to section 14, a standard approved by the director pursuant to section 16 or 19 shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1975, Act 152, Imd. Eff. July 9, 1975;—Am. 1978, Act 455, Imd. Eff. Oct. 16, 1978;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 2012, Act 416, Eff. Dec. 27, 2012.

Administrative rules: R 408.10001 et seq.; R 408.40101 et seq.; and R 408.41401 et seq. of the Michigan Administrative Code.

408.1023 Repealed. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

Compiler's note: The repealed section pertained to creation, appointment, qualifications, and meetings of the occupational health

standards commission.

408.1024 Continuation of occupational health standards; promulgation; requirements for standard; emergency standard; contents of standard; availability and costs of medical examination or test; religious objection.

Sec. 24. (1) Standards governing occupational health promulgated by the director of public health that are in effect on the effective date of the amendatory act that repealed section 23 of this act are continued under section 31 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.231.

(2) The director shall promulgate an occupational health standard pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, except for standards adopted by reference pursuant to section 14.

(3) When promulgating occupational health standards, the director shall promulgate a standard that most adequately assures, to the extent feasible and on the basis of the best available evidence, that an employee will not suffer material impairment of health or functional capacity, even if the employee has regular exposure to a hazard dealt with by the standard for the period of his or her working life.

(4) The director shall promulgate an emergency standard pursuant to section 48 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.248, if the director finds that employees are exposed to substances or agents determined to be toxic or physically harmful and the emergency standard is necessary to protect employees from that danger. If the director promulgates an emergency standard on a matter addressed by a federal standard, the director shall promulgate a standard that is substantially similar to the federal standard unless he or she determines and certifies that the federal standard is clearly inconsistent with the criteria set forth in section 9 or 24.

(5) An occupational health standard shall prescribe appropriate forms of warning that are necessary to insure that employees are apprised of health hazards to which they are exposed, relevant symptoms, and the conditions and precautions for safe use or exposure, including appropriate emergency treatment. If appropriate, a standard shall prescribe suitable protective equipment, control, or technological procedures to be used and shall require an employer to monitor or measure employee exposure, to allow employees or their representatives to observe the monitoring and have access to the records of the monitoring, and to conduct the monitoring in a manner that is necessary for the protection of the employees' health. Former employees shall have access to the records indicating their exposure to toxic materials and harmful physical agents.

(6) If appropriate, the director shall prescribe by standard that medical examinations or tests are made available, at the employer's cost, to employees to determine if they are adversely affected by exposure to health hazards. If the examination is performed by a physician other than a physician who is retained for that purpose by the employer, the employer is responsible only for the reasonable costs of the examination, and only for costs related to the performance of the examination required by the standard. The results of the examinations or tests shall be furnished to the employer, the employee, and upon request of the employee, to the employee's personal physician. Upon request of the director, the employer shall furnish results of the examinations or tests to the director. However, this act does not authorize or require medical examinations, immunizations, or treatments for those who object to them on religious grounds, except if necessary for the protection of the health or safety of others.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

Compiler's note: For transfer of powers and duties of the occupational health standards commission in the bureau of environmental and occupational health from the department of public health to the director of the department of labor, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

Administrative rules: R 325.2401 et seq.; R 325.2491 et seq.; R 325.3451 et seq.; R 325.18301 et seq.; R 325.35001 et seq.; R 325.51501 et seq.; R 325.52501 et seq.; R 325.70101 et seq.; and R 408.12101 et seq. of the Michigan Administrative Code.

408.1027 Temporary order granting variance from standard; rule or order for variance from standard.

Sec. 27. (1) An employer may apply to the department of labor or the department of public health for a temporary order granting a variance from a standard or a provision thereof. A temporary order shall be granted only if the employer files an application which meets the requirements of subsection (2) and establishes that the employer is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date, that the employer is taking all available steps to safeguard his employees against the hazards covered by the standard, and that the employer has an effective program for complying with the standard as quickly as practicable. A temporary order issued under this subsection shall prescribe the

practices, means, methods, operations, and processes which the employer shall adopt and use while the order is in effect, and state in detail the employer's program for complying with the standard. A temporary order may be granted only after notice to employees and an opportunity for a hearing. However, the department of labor or the department of public health may issue an interim order to be effective until a decision is made on the basis of the hearing. A temporary order may not be in effect for longer than the period needed by the employer to achieve compliance with the standard or 1 year, whichever is lesser, except that the order may be renewed not more than twice so long as the requirements of this subsection are met and if an application for renewal is filed not less than 90 days before the expiration date of the order. An interim renewal of an order may not remain in effect for longer than 180 days.

(2) An application for a temporary order under this section shall contain:

(a) A specification of the standard or portion thereof from which the employer seeks a variance.

(b) A statement by the employer that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor.

(c) A statement of the steps the employer has taken and will take, with specific dates, to protect employees against the hazard covered by the standard.

(d) A statement of when the employer shall comply with the standard and what steps the employer has taken and will take, with dates specified, to comply with the standard.

(e) A certification that the employer has informed his employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application, and specifying where a copy may be examined at the place or places where notices to employees are normally posted and by other appropriate means. A description of how employees were informed shall be contained in the certification. The information to employees shall also inform the employees of their right to petition the department of labor or the department of public health for a hearing.

(3) The department of labor or the department of public health may grant a variance from a standard or a portion thereof when it determines that the variance is necessary to permit an employer to participate in an experiment approved by it designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

(4) An affected employer may apply to the appropriate department for a rule or an order for a variance from a standard. Affected employees or their representatives shall be given notice of each application and an opportunity to participate in a hearing. The appropriate department shall issue a rule or an order if it determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order issued shall prescribe the conditions the employer shall maintain and the practices, means, methods, operations, and processes which he shall adopt and utilize to the extent they differ from the standard in question. The rule or the order may be modified or revoked upon application by an employer, employees, their representatives, or by the appropriate department on its own motion under this subsection at any time after 6 months from its issuance.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1028 Violation of standard threatening physical harm; request for inspection; notice; determination; notification of condition presenting imminent danger; notification of violation of act or rule; inspection; confidentiality; procedures for informal review of decision; statement of final disposition; right to attend meetings.

Sec. 28. (1) An employee or employee representative, who believes that a violation of a standard exists that threatens physical harm to an employee, may request an inspection by giving written notice of the condition to the appropriate department. The notice shall set forth with reasonable detail the grounds for the request and shall be signed by the employee or employee representative giving the notice. Upon receipt of a complaint, and if the department determines there are reasonable grounds for the complaint, the department shall conduct an inspection. A copy of the request shall be provided the employer or the employer's agent not later than the time of the inspection. Upon the request of the person giving the notice, his or her name and the names of employees referred to in the notice shall not appear in the copy or on a record which is published, released, or made available. If the department determines that there are not reasonable grounds to believe that an inspection should be conducted, it shall notify, in writing, the complainant of its determination.

(2) If an employee or employee representative believes that a condition exists which may present an imminent danger to a person, the employee or employee representative may notify either the department of labor or the department of public health in the most expedient manner without regard to a written notice.

Upon notification of an alleged imminent danger, the department shall cause an immediate inspection to be made or take other action that it finds necessary to abate the danger.

(3) Before or during an inspection of a place of employment, an employee, or a representative of employees, may notify the department representative responsible for conducting the inspection, in writing, of a violation of this act or of a rule promulgated under this act, which the employee or employee representative believes exists in the place of employment. If the department determines, after an inspection or investigation conducted upon a written notification from an employee or employee representative of an alleged violation, that there are not reasonable grounds to believe that the alleged violation exists, it shall notify, in writing, the complainant and the employer of its determination. Upon request of the person giving the notice, that person's name and the names of employees referred to in the notice shall not appear in the copy or on a record which is published, released, or made available to the employer or any other person.

(4) The department of labor and the department of public health shall establish procedures for informal review of any decision resulting from a request or notice, under this section, to inspect for an alleged violation. The appropriate department shall furnish the employees or representative of employees requesting a review a written statement of the final disposition of the notice or complaint and reasons for the disposition.

(5) An employee or the representative of the employee shall be afforded an opportunity, with or without compensation, to attend all meetings between the department of labor or the department of public health and an employer relative to that department's decision concerning a citation, abatement period, or proposed penalty.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980.

408.1029 Inspection and investigations; right of entry; warrant; witnesses; evidence; right of accompaniment; advance notice; tests and samples; evaluation; confidentiality of trade secrets; conference; liability for damages; discrimination prohibited; “wages and fringe benefits” defined.

Sec. 29. (1) To implement this act, a department representative, upon presenting appropriate credentials, may enter without delay, and at reasonable times, a place of employment to physically inspect or investigate conditions of employment and all pertinent conditions, equipment, and materials in the place of employment, and to question privately the employer, owner, operator, agent, or an employee with respect to safety or health. The inspection or investigation shall be conducted without unreasonably disrupting the employer's operations.

(2) If permission to enter a place of employment is denied, the department may apply to the proper judicial officer for a warrant commanding the sheriff or a peace officer to aid the department in the conduct of an inspection or investigation to determine if there is a violation of this act or a rule promulgated under this act.

(3) In the conduct of inspections and investigations, the appropriate department may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the circuit courts. In case of a contumacy, failure, or a refusal of a person to obey an order, the circuit court within the jurisdiction of which the investigation is conducted, or where the person is found or resides or transacts business, or the circuit court for the county of Ingham, upon application of the appropriate department, may issue an order requiring the person to appear and produce evidence or give testimony relating to the matter under investigation or in question, and a failure to obey the order of the court may be punished as a contempt.

(4) A representative of the employer and a representative authorized by the employees shall be given the opportunity to accompany the department representative during the inspection or investigation of a place of employment to aid the inspection or investigation, subject to rules promulgated by the department. In case of controversy, the department representative, at the time he or she goes into an establishment, shall determine who may walk around as employer and employee representatives. If a representative authorized by the employee does not participate, the department representative shall consult with a reasonable number of employees concerning matters of safety or health in the place of employment. The right of accompaniment may be denied by the department representative to a person whose conduct interferes with a fair and orderly inspection or investigation.

(5) In conducting or preparing to conduct an inspection or investigation, advance notice of the inspection or investigation shall not be given except in the following situations:

(a) In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible.

(b) In circumstances where the inspection most effectively can be conducted after regular business hours or where special preparations are necessary for an inspection.

(c) If necessary to assure the presence of representatives of the employer and employees, or the appropriate personnel needed to aid in the inspection.

(d) In other circumstances where the department determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

(6) Advance notice in any of the situations described in subsection (5) shall not be given more than 24 hours before the inspection or investigation is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

(7) During the conduct of an inspection or an investigation, the department representative may conduct tests and gather samples of materials and substances as are necessary to aid in the evaluation of the place of employment. In implementing this subsection, the confidentiality of trade secrets shall be protected as prescribed in this act.

(8) Subject to rules promulgated by the departments, following the completion of an inspection or investigation, an opportunity for a conference shall be afforded the employer; the employee or employee representative; and the employer and the employee or employee representative if a joint conference is requested.

(9) In the performance of duties in the administration and enforcement of this act, a department representative or an employee of the appropriate department shall not be personally liable for damages sustained by an action on his or her part, except for wanton and wilful negligence.

(10) An employee or the authorized representative of an employee who participates in an inspection or investigation, as provided in subsection (4), or the conference provided in subsection (8), as provided in this section, or the rules promulgated under this section, shall not suffer a loss of wages or fringe benefits, or be discriminated against in any manner, for time spent participating in the inspection, investigation, or conference. An employee or the authorized representative of an employee who suffers a loss of wages or fringe benefits, or is discriminated against in any manner, for participation in an inspection, investigation, or conference, may file a discrimination complaint, and the department of labor may order appropriate relief, as provided in section 65. As used in this subsection and section 31(2), "wages and fringe benefits" means those terms as defined in section 1 of Act No. 390 of the Public Acts of 1978, being section 408.471 of the Michigan Compiled Laws.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980.

408.1030 Safety and health inspector at site of tunnel, shaft, caisson, or cofferdam; qualifications; powers and duties; cost of wages and fringe benefits; advising of and publishing regular and overtime rates; tunnel construction activity exceeding 60 hours per week; employer's responsibility not diminished.

Sec. 30. (1) The department of labor shall provide a full-time safety and health inspector at the site where a tunnel, shaft, caisson, or cofferdam is constructed or repaired under pressurized conditions. The inspector shall:

(a) Have training and experience in, and knowledge of, pressurized tunnel construction.

(b) Have training and experience in, and an understanding of, ventilation systems.

(c) Have training and experience in, and knowledge of, the safety and health standards relating to pressurized tunnel construction.

(d) Maintain a complete and detailed log of construction activity.

(e) Test, monitor, and record the air quality in all work areas and unoccupied areas of the completed work.

(f) Report immediately to the employer and affected employees the existence of an imminent danger or serious violation.

(g) Conduct investigations and enforce this act and rules promulgated and orders issued under this act.

(2) The contracting party for whom a tunnel is constructed or repaired under pressurized conditions shall pay the cost of the safety and health inspector's wages and fringe benefits. The cost shall be paid to the department of labor to the credit of the general fund of the state. The department of labor shall advise contracting parties upon request, and publish regularly the regular and overtime rates for the safety and health inspector required by this section.

(3) If the tunnel construction activity exceeds 60 hours per week, the department shall provide a full-time safety and health inspector for each 60 hours of tunnel construction activity or portion thereof.

(4) This section shall not diminish the employer's responsibility under this act.

History: Add. 1977, Act 293, Imd. Eff. Dec. 29, 1977;—Am. 1978, Act 115, Imd. Eff. Apr. 18, 1978.

408.1031 Determination of imminent danger; notice; order; tagging equipment or process; removal of tag; on site review; recommendation; discrimination prohibited;

noncompliance with order; petition to restrain condition or practice; action against department; response to imminent danger complaint; opportunity to identify, label, or provide safety data sheet for container.

Sec. 31. (1) When and as soon as a department representative determines that an imminent danger exists in a place of employment, the department representative shall inform the employer and the affected employees of a determination of the imminent danger. The department representative immediately shall recommend to the director that an order be issued to require that steps be taken as may be necessary to avoid, correct, or remove the imminent danger. After receiving authorization for the issuance of an order from the director, the department representative shall apply a tag to the equipment or process that is the source of the imminent danger identifying that an imminent danger exists. The tag shall be removed only by the department representative. At request of the employer, an area supervisor shall, within 24 hours after a request, make an on site review of any tagging and recommend continuance or removal. The order shall prohibit the employment or presence of an individual in locations or under conditions where imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove the imminent danger in a safe and orderly manner. In tagging the equipment or process that is the source of imminent danger and in issuing the order, consideration shall be given to any necessity to maintain the capacity of a continuous process operation and to the reestablishment of normal operations without a complete cessation of operations.

(2) An employer shall not permit an employee, other than an employee whose presence is necessary to avoid, correct, or remove the imminent danger, to operate equipment or engage in a process that has been tagged by the department and that is the subject of an order issued by the department identifying that an imminent danger exists. An employee who suffers a loss of wages or fringe benefits or is in any manner discriminated against for refusing to operate equipment or engage in a process that has been tagged by the department and that is the subject of an order issued by the department, as provided in this section, may file a discrimination complaint, and the department of licensing and regulatory affairs may order appropriate relief as provided in section 65. This section does not prohibit an employer from assigning an employee to an operation not affected by the imminent danger situation, subject to any collective bargaining agreement.

(3) Upon failure of the employer to promptly comply with a department order, as described in subsection (1), the department shall petition the circuit court having jurisdiction to restrain a condition or practice in a place of employment that the department has determined to cause the imminent danger.

(4) If the department arbitrarily or capriciously fails to seek relief under this section, an employee who may be injured by reason of the failure, or the representative of those employees, may bring action against the department in the circuit court having jurisdiction for a writ of mandamus to compel the department to seek an order and for further relief, as may be appropriate.

(5) The department of licensing and regulatory affairs shall respond within 24 hours after receipt of an imminent danger complaint concerning an unknown and unlabeled container of chemicals or an imminent danger complaint concerning a container of hazardous chemicals that is not labeled or for which a safety data sheet is not available as required by the standard incorporated by reference in section 14a and by sections 14b to 14*l*.

(6) Before a department representative seeks authorization to issue an order pursuant to the procedures prescribed in subsection (1), an employer shall be given a reasonable opportunity to identify, label, or provide the safety data sheet for the container that is the subject of the imminent danger determination.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1033 Citation for violation; issuance; contents; presentation; mailing; posting; notification of compliance; failure to correct violation; notice in place of citation; rules; vacating citation.

Sec. 33. (1) If, as the result of an inspection or investigation, the department representative believes that an employer has violated this act, an order issued pursuant to this act, or a rule or standard promulgated pursuant to this act, he or she shall issue a citation immediately or within 90 days after the completion of the physical inspection or investigation. The citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this act, or an order issued or a rule or standard promulgated pursuant to this act, alleged to have been violated. The citation shall state a reasonable time by which the violation is to be abated. The citation shall state on its face that it is an allegation of a violation. The date shall be set with due regard to the seriousness of the hazard and the difficulty of abating it. The citation and the proposed penalty, if any, may be presented to and shall, in each case, be sent by registered mail to the employer, and a copy shall be filed at the time of issuance with the appropriate department.

(2) The employer shall post a copy of the citation at or near the place of the violation, and the citation copy

shall remain posted at that site until compliance is achieved or for 3 working days, whichever is later.

(3) The employer upon whom a citation is served shall notify the appropriate department of compliance with this act, an order issued pursuant to this act, or a rule or standard promulgated pursuant to this act.

(4) If an employer fails to correct a violation for which a citation was issued within the period permitted for its correction, the department shall notify the employer by registered mail of that failure and of the penalty proposed to be assessed under section 35 for the failure.

(5) If it is determined upon inspection or investigation that a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated pursuant to this act exists, but that the conditions that constitute the violation have no direct or immediate relationship to the safety or health of workers, the department may issue a notice in place of a citation. A notice issued under this subsection shall be referred to as a "de minimis notice of violation". The employer shall post a copy of the de minimis notice of violation at or near the place of violation for 3 working days. The department shall promulgate all necessary rules for administering the de minimis notice of violation.

(6) A citation for an alleged violation of this act, an order issued pursuant to this act, or a rule or standard promulgated pursuant to this act shall be vacated if it is shown that the employer has provided the equipment or training, educated employees regarding use of the equipment or implementation of the training, and taken reasonable steps including, where appropriate, disciplinary action to assure that employees utilize the equipment and comply with the training as referenced in this section.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1996, Act 87, Imd. Eff. Feb. 27, 1996.

****** 408.1035 THIS SECTION IS REPEALED IF SECTION 14, AS AMENDED BY ACT 105 OF 1991, IS HELD TO BE UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION AND THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL ******

****** 408.1035 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 408.1035.amended ******

408.1035 Violations; civil and criminal penalties; effective date of increases in civil penalties made pursuant to 1991 amendatory act.

Sec. 35. (1) An employer who receives a citation for a serious violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act shall be assessed a civil penalty of not more than $7,000.00 for each violation.

(2) An employer who fails to correct a violation for which a citation was issued within the period permitted for its correction may be assessed a civil penalty of not more than $7,000.00 for each day during which the failure or violation continues. A period permitted for corrections does not begin to run until the date of the final order of the board if a review proceeding before a board is initiated by the employer in good faith and not solely for delay or avoidance of a penalty.

(3) An employer who receives a citation for a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, which violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than $7,000.00 for each violation.

(4) An employer who willfully or repeatedly violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act may be assessed a civil penalty of not more than $70,000.00 for each violation, but not less than $5,000.00 for each willful violation.

(5) An employer who willfully violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act which causes the death of an employee is guilty of a felony and shall be fined not more than $10,000.00, or imprisoned for not more than 1 year, or both. If the conviction is the second under this act, the person shall be fined not more than $20,000.00, or imprisoned for not more than 3 years, or both.

(6) An employer who violates a posting requirement prescribed under this act shall be assessed a civil penalty of not more than $7,000.00 for each violation.

(7) A person who knowingly makes a false statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this act, or who fails to maintain or transmit a record or report as required under section 61, is guilty of a misdemeanor and shall be fined not more than $10,000.00, or imprisoned for not more than 6 months, or both.

(8) A person who gives advance notice of an investigation or an inspection to be conducted under this act without authority from the appropriate director or the designee of the director is guilty of a misdemeanor and shall be fined not more than $1,000.00, or imprisoned for not more than 6 months, or both.

(9) The department of labor or the department of public health, if the employer is a public employer, instead of applying a civil penalty otherwise applicable to an employer under this section, may request that

the attorney general seek a writ of mandamus in the appropriate circuit court to compel compliance with a citation, including the terms of abatement.

(10) A person shall not assault a department representative or other person charged with enforcement of this act in the performance of that person's legal duty to enforce this act. A person who violates this subsection is guilty of a misdemeanor. A prosecuting attorney having jurisdiction of this matter and the attorney general knowing of a violation of this section may prosecute the violator.

(11) The increases in the civil penalties of subsections (1), (2), (3), (4), and (6) made pursuant to the 1991 amendatory act that added this subsection shall take effect April 1, 1992.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991.

Compiler's note: Sections 4 and 5 of Act 105 of 1991 read as follows:

"Section 4. If any provision of section 14 of this amendatory act is held to be unconstitutional by a court of competent jurisdiction and the allowable time for filing an appeal has expired or the appellant has exhausted all of his or her avenues of appeal, section 35 of Act No. 154 of the Public Acts of 1974, being section 408.1035 of the Michigan Compiled Laws, is repealed.

"Section 5. Section 35a of this amendatory act shall not take effect unless the condition described in enacting section 4 is met and section 35 of Act No. 154 of the Public Acts of 1974, being section 408.1035 of the Michigan Compiled Laws, is repealed."

****** 408.1035 THIS SECTION IS REPEALED IF SECTION 14, AS AMENDED BY ACT 105 OF 1991, IS HELD TO BE UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION AND THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL ******

****** 408.1035 THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE ******

408.1035.amended Violations; civil and criminal penalties.

Sec. 35. (1) If an employer receives a citation for a serious violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, the board shall assess the employer a civil penalty of not more than $7,000.00 for each violation.

(2) If an employer fails to correct a violation for which a citation was issued within the period permitted for its correction, the board may assess the employer a civil penalty of not more than $7,000.00 for each day during which the failure or violation continues. A period permitted for corrections does not begin to run until the date of the final order of the board if a review proceeding before the board is initiated by the employer in good faith and not solely for delay or avoidance of a penalty.

(3) If an employer receives a citation for a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, the board may assess the employer a civil penalty of not more than $7,000.00 for each violation that is specifically determined not to be of a serious nature.

(4) If an employer willfully or repeatedly violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, the board may assess the employer a civil penalty of not more than $70,000.00 for each violation, but not less than $5,000.00 for each willful violation. As used in this subsection:

(a) "Case closing date", with respect to an asbestos-related violation, means the first date that all of the following conditions are met:

(*i*) The citation for the violation is a final order.

(*ii*) Satisfactory abatement documentation for the violation is received by the board.

(*iii*) All civil penalties related to the violation are timely paid, or the department of labor and economic opportunity complies with section 36(6).

(b) "Repeatedly violates", with respect to an asbestos-related violation, means commits an asbestos related violation not later than 5 years after the case closing date of an asbestos-related violation.

(5) If an employer willfully violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act and the violation causes the death of an employee, the employer is guilty of a felony punishable by imprisonment for not more than 1 year, a fine of not more than $10,000.00, or both. A second and any subsequent violation under this subsection is punishable by imprisonment for not more than 3 years, a fine of $20,000.00, or both.

(6) If an employer violates a posting requirement prescribed under this act, the board shall assess the employer a civil penalty of not more than $7,000.00 for each violation.

(7) If a person knowingly makes a false statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this act, or fails to maintain or transmit a record or report as required under section 61, the person is guilty of a misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than $10,000.00, or both.

(8) If a person gives advance notice of an investigation or an inspection to be conducted under this act without authority from the appropriate director or the designee of the director, the person is guilty of a misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than $1,000.00, or both.

(9) For a public employer, the department of labor and economic opportunity, instead of applying a civil penalty otherwise applicable to an employer under this section, may request that the attorney general seek a writ of mandamus in the appropriate circuit court to compel compliance with a citation, including the terms of abatement.

(10) A person shall not assault a department representative or other person charged with enforcement of this act in the performance of that person's legal duty to enforce this act. A person who violates this subsection is guilty of a misdemeanor. A prosecuting attorney having jurisdiction of the matter or the attorney general may prosecute the violator.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 2024, Act 17, Eff. (sine die).

Compiler's note: Sections 4 and 5 of Act 105 of 1991 read as follows:

"Section 4. If any provision of section 14 of this amendatory act is held to be unconstitutional by a court of competent jurisdiction and the allowable time for filing an appeal has expired or the appellant has exhausted all of his or her avenues of appeal, section 35 of Act No. 154 of the Public Acts of 1974, being section 408.1035 of the Michigan Compiled Laws, is repealed.

"Section 5. Section 35a of this amendatory act shall not take effect unless the condition described in enacting section 4 is met and section 35 of Act No. 154 of the Public Acts of 1974, being section 408.1035 of the Michigan Compiled Laws, is repealed."

****** 408.1035a.added THIS ADDED SECTION TAKES EFFECT WHEN ANY PROVISION OF SECTION 14 IS HELD TO BE UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION, THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL, AND SECTION 35 IS REPEALED ******

408.1035a.added Violations; civil and criminal penalties.

Sec 35a. (1) An employer who receives a citation for a serious violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act shall be assessed a civil penalty of not more than $1,000.00 for each violation.

(2) An employer who fails to correct a violation for which a citation was issued within the period permitted for its correction may be assessed a civil penalty of not more than $1,000.00 for each day during which the failure or violation continues. A period permitted for corrections does not begin to run until the date of the final order of the board if a review proceeding before a board is initiated by the employer in good faith and not solely for delay or avoidance of a penalty.

(3) An employer who receives a citation for a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, which violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than $1,000.00 for each violation.

(4) An employer who willfully or repeatedly violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act may be assessed a civil penalty of not more than $10,000.00 for each violation.

(5) An employer who willfully violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act which causes the death of an employee is guilty of a felony and shall be fined not more than $10,000.00, or imprisoned for not more than 1 year, or both. If the conviction is the second under this act, the person shall be fined not more than $20,000.00, or imprisoned for not more than 3 years, or both.

(6) An employer who violates a posting requirement prescribed under this act shall be assessed a civil penalty of not more than $1,000.00 for each violation.

(7) A person who knowingly makes a false statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this act, or who fails to maintain or transmit a record or report as required under section 61, is guilty of a misdemeanor and shall be fined not more than $10,000.00, or imprisoned for not more than 6 months, or both.

(8) A person who gives advance notice of an investigation or an inspection to be conducted under this act without authority from the appropriate director or the designee of the director is guilty of a misdemeanor and shall be fined not more than $1,000.00, or imprisoned for not more than 6 months, or both.

(9) The department of labor or the department of public health, if the employer is a public employer, instead of applying a civil penalty otherwise applicable to an employer under this section, may request that the attorney general seek a writ of mandamus in the appropriate circuit court to compel compliance with a citation, including the terms of abatement.

(10) A person shall not assault a department representative or other person charged with enforcement of

this act in the performance of that person's legal duty to enforce this act. A person who violates this subsection is guilty of a misdemeanor. A prosecuting attorney having jurisdiction of this matter and the attorney general knowing of a violation of this section may prosecute the violator.

History: Add. 1991, Act 105, Eff. (pending).

Compiler's note: Sections 4 and 5 of Act 105 of 1991 read as follows:

"Section 4. If any provision of section 14 of this amendatory act is held to be unconstitutional by a court of competent jurisdiction and the allowable time for filing an appeal has expired or the appellant has exhausted all of his or her avenues of appeal, section 35 of Act No. 154 of the Public Acts of 1974, being section 408.1035 of the Michigan Compiled Laws, is repealed.

"Section 5. Section 35a of this amendatory act shall not take effect unless the condition described in enacting section 4 is met and section 35 of Act No. 154 of the Public Acts of 1974, being section 408.1035 of the Michigan Compiled Laws, is repealed."

****** 408.1036 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE: See 408.1036.amended ******

408.1036 Civil penalties; assessment; schedule; payment; recovering unpaid penalty.

Sec. 36. (1) The board shall assess civil penalties, considering the size of the business, the seriousness of the violation, the good faith efforts of the employer, and the history of previous citations, and may establish a schedule of civil penalties.

(2) Beginning April 1, 1992, the department of labor and the department of public health shall administer and enforce the assessment of civil penalties in a manner that is consistent with the administration and enforcement of civil penalties by the federal occupational safety and health administration.

(3) A civil penalty owed under this act shall be paid to the department of labor or the department of public health, whichever is appropriate, within 15 working days after the date the penalty becomes a final order of the board, not subject to further agency or judicial review. Beginning April 1, 1992, a civil penalty shall be credited to the state general fund.

(4) If a civil penalty remains unpaid beyond the period of time specified in subsection (3), the department of labor or the department of public health, whichever is appropriate, shall issue a letter to the employer demanding payment within 20 days after the date of the letter.

(5) If the penalty remains unpaid following the period specified in subsection (4), the appropriate department shall transmit information on the amount of the penalty and the name and address of the employer owing the penalty to the department of treasury.

(6) The department of treasury shall institute proceedings to collect the amount assessed as a civil penalty. The department of treasury shall offset the amount of the penalty against money owed by the state to the employer. The department of treasury shall request that the attorney general recover the amount of the penalty remaining unpaid, after offsets, by instituting a civil action in the circuit court for the county in which the violation occurred or in the circuit court for the county in which the employer owing the penalty has its principal place of business.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1986, Act 24, Imd. Eff. Mar. 10, 1986;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991.

****** 408.1036 THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE ******

408.1036.amended Civil penalties; assessment; asbestos-related violations; payment; recovering unpaid penalty.

Sec. 36. (1) The board shall assess civil penalties, considering the size of the business, the seriousness of the violation, the good-faith efforts of the employer, and the history of previous citations, and may establish a schedule of civil penalties. Subject to subsection (2), for a civil penalty that was assessed as the result of an asbestos-related violation, the board shall not reduce the civil penalty by more than a total of 95% or by more than the corresponding percentage for each of the following:

(a) In considering the size of the business, 70%.

(b) In considering the good-faith efforts of the employer, 25%.

(c) In considering the history of previous citations, 10%.

(2) The board may issue an order for a reduction of a civil penalty if the order is consistent with a dismissal or reclassification of an asbestos-related violation included in a hearing officer's report submitted to the board following an administrative hearing held under section 42 or 44. For an asbestos-related violation that has been reclassified by a hearing officer, the board shall not reduce the civil penalty that corresponds to the reclassified violation by more than is prescribed under subsection (1).

(3) The department of labor and economic opportunity shall administer and enforce the assessment of civil

penalties in a manner that is consistent with the administration and enforcement of civil penalties by the federal Occupational Safety and Health Administration.

(4) A civil penalty owed under this act must be paid to the department of labor and economic opportunity not later than 15 working days after the date the penalty becomes a final order of the board, not subject to further agency or judicial review. A civil penalty must be credited to the state general fund.

(5) If a civil penalty remains unpaid beyond the period of time specified in subsection (4), the department of labor and economic opportunity shall issue a letter to the employer demanding payment not later than 20 days after the date of the letter.

(6) If the penalty remains unpaid following the period specified in subsection (5), the department of labor and economic opportunity shall transmit information on the amount of the penalty and the name and address of the employer owing the penalty to the department of treasury.

(7) The department of treasury shall institute proceedings to collect the amount assessed as a civil penalty. The department of treasury shall offset the amount of the penalty against money owed by the state to the employer. The department of treasury shall request that the attorney general recover the amount of the penalty remaining unpaid, after offsets, by instituting a civil action in the circuit court for the county in which the violation occurred or in the circuit court for the county in which the employer owing the penalty has its principal place of business.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1986, Act 24, Imd. Eff. Mar. 10, 1986;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 2024, Act 17, Eff. (sine die).

408.1037 Evidence and investigation of criminal violation.

Sec. 37. The department shall turn over evidence of a criminal violation of this act to the department attorney and shall assist in the investigation of a criminal violation.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978.

408.1041 Granting additional time for compliance, modification, or dismissal of citation and penalty; petition; procedure; effect of failure to petition; action by department; notice; finality of decision; appeal to board.

Sec. 41. Within 15 working days after receipt of a citation and proposed penalty, if any, an employer may petition the appropriate department for a grant of additional time for compliance, modification, or dismissal of the citation and a proposed penalty. Within 15 working days after the employer has received a citation, an employee or employee representative may petition the department of labor or the department of public health, whichever is appropriate, alleging the period of time fixed in the citation for the abatement of the violation is unreasonable. When a petition is submitted to the department by the employer, the employer shall transmit a copy immediately to the affected employees or the employee representative. When a petition is submitted to the department by an employee or employee representative, the department shall submit a copy of the petition immediately to the employer after deleting the name of the employee or employee representative, if so requested by the employee or employee representative. If the employer, employee, or employee representative does not petition the department within the 15 working days after receipt of the citation and proposed penalty, if any, the citation or proposed penalty shall be considered a final order of the board. Upon receipt of a petition, the department of public health or the department of labor, whichever is appropriate, may modify the time schedule for compliance, modify the citation, dismiss the citation, or dismiss or modify any proposed penalty. The appropriate department shall notify the employer of its decision within 15 working days after receipt of the petition. If the department meets with the employer regarding the employer's petition, the department shall notify the employee or employee representative that a meeting will be held and allow the attendance of the employee or employee representative. The employer shall promptly post the notice of the department's decision together with the appropriate citation. The decision of the department of labor or the department of public health shall become final 15 working days after receipt of the decision. Within 15 working days after receipt of the department of labor's or the department of public health's decision, an employer may appeal the decision to the board. Within 15 working days after the employer has received the decision of the director of labor or the director of public health, whichever is appropriate, an employee or employee representative may appeal the decision to the board with respect to the violation abatement period, classification of citation, or proposed penalty.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980.

408.1042 Hearing; order; rules of procedure; report of hearing officer.

Sec. 42. Upon receipt of a notice from an employer, employee, or an employee representative that the employer wishes to appeal the department's decision relative to a citation, abatement period, or proposed

penalty or fine, or that an employee or an employee representative wishes to appeal the department's decision relative to a proposed abatement, classification of citation, or penalty, the department shall notify the board, and the board shall afford an opportunity for a hearing. If an employee or employee representative appeals the department's decision with respect to the violation abatement period, the appeal shall not stay the abatement period. The board shall cause an inquiry into the fact and issue an order based upon findings of fact, affirming, modifying, or rescinding the citation or proposed penalty or fine, or directing other appropriate relief. The order is final 20 days after receipt by affected parties. The rules of procedure prescribed by a board shall provide for a hearing officer to make a determination upon a proceeding before the board and shall provide affected employees or their employee representative an opportunity to participate as parties to the hearing under this section. A hearing officer shall make a report to the board of a determination which constitutes a final disposition of a proceeding. Copies of the report shall be served on all parties. The report of the hearing officer shall become the final order of the board within 30 days after filing with the board and parties, unless a member of the board directs that the report be reviewed and acted upon by the board.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980.

408.1043 Hearing; conduct of proceedings.

Sec. 43. Proceedings in a hearing shall be conducted in accordance with the procedures applicable to the trial of contested cases under Act No. 306 of the Public Acts of 1969, as amended.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1044 Review of report of hearing officer; powers of board; order affirming or modifying abatement requirements; judicial review of order or standard.

Sec. 44. (1) In reviewing a report of a hearing officer, the board by a vote of not less than a majority of its members may:

(a) Dismiss the citation.

(b) Modify the citation.

(c) Modify the abatement time of the citation.

(d) Issue a final order sustaining the citation, the abatement time, or the assessed penalty.

(e) Vacate or modify assessed penalties.

(2) Upon a showing by an employer that a good faith effort has been made to comply with the abatement requirements of a citation that has become a final order of the board as provided in this act, and that the abatement has not been completed because of circumstances beyond the reasonable control of the employer, the board, after a hearing, if requested by the employer, affected employees, or the department, shall issue an order affirming or modifying the abatement requirements in the citation.

(3) A person or department adversely affected or aggrieved by an order of the board issued under this act or a standard promulgated by a commission pursuant to this act may obtain judicial review of the order or standard pursuant to Act No. 306 of the Public Acts of 1969, as amended.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1045 Cease operation order; enforcement proceedings.

Sec. 45. If an employer fails to comply with a final order of the board, the department may issue an order directing the employer to cease operating or render inoperable, in accordance with the order of the department, so much of his operation as is necessary to eliminate the hazard which is the subject of the order. When a cease operation order is not appropriate or not obeyed, the department shall refer the matter to the department attorney who shall promptly institute proceedings in the circuit court for the county in which the violation exists to enforce the department's orders.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978.

408.1046 Board of health and safety compliance and appeals; creation; appointment, qualifications, and terms of members; chairman; vacancy; scope of authority; meetings; quorum; prerequisite to official action; compensation and expenses; hearing; evidence; fees; rules; construction and application of identical state and federal standards.

Sec. 46. (1) A board of health and safety compliance and appeals is created within the department of labor. The board of health and safety compliance and appeals consists of 7 members appointed by the governor by and with the advice and consent of the senate for terms of 4 years or until their successors are appointed and qualified. Of the members first appointed 2 shall be appointed for 1 year, 2 shall be appointed for 2 years, 2 shall be appointed for 3 years, and 1 shall be appointed for 4 years. The first chairman of the board of health and safety compliance and appeals shall have a 4-year term. Vacancies shall be filled in the same manner as

the original appointments except that a vacancy occurring during a term of office shall be filled by appointment for the unexpired term. Of those appointed to the board of health and safety compliance and appeals:

(a) Three shall represent labor and shall, individually or jointly, represent each of the following areas in which they shall be actively engaged: (*i*) general industry; (*ii*) construction; and (*iii*) health.

(b) Three shall represent management and shall, individually or jointly, represent each of the following areas in which they shall be actively engaged: (*i*) general industry; (*ii*) construction; and (*iii*) health.

(c) One shall represent the general public and serve as chairman.

(2) The board's authority shall apply to all safety and health citations, orders, and appeals.

(3) The board shall meet as necessary to discharge its duties under this act and shall hold regular quarterly meetings in Lansing. Interim meetings may be called at any time by the chairman, the director of labor, the director of public health, or by 4 members thereof. A majority of the members of the board constitutes a quorum and official action can be taken only on the affirmative vote of a majority of the members. The per diem compensation of the board and the schedule for reimbursement of expenses shall be established annually by the legislature.

(4) The board may order testimony to be taken at a hearing or by deposition in proceedings pending before it at any stage of the proceedings. A person may be compelled to appear and depose, and to produce books, papers, or documents in a proceeding under consideration by the board. Witnesses ordered to appear in any proceeding pending before the board or whose depositions are taken under this subsection, and the person taking the depositions shall be entitled to the same fees as paid for like services in circuit court.

(5) The board shall promulgate rules of procedure for the conduct of hearings or in response to appeals which rules shall provide for a hearing officer to make a determination upon a proceeding before the board.

(6) In construing or applying any state occupational safety or health standard which is identical to a federal occupational safety and health standard promulgated pursuant to 29 U.S.C. section 651 et seq., the board shall construe and apply the state standard in a manner which is consistent with any federal construction or application by the occupational safety and health review commission created pursuant to 29 U.S.C. section 661.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1975, Act 105, Imd. Eff. June 6, 1975.

Compiler's note: For the transfer of the board of health safety and compliance and appeals from the department of licensing and regulatory affairs to the department of labor and economic opportunity by type I transfer, see E.R.O. No. 2019-3, compiled at MCL 125.1998.

Administrative rules: R 408.21401 et seq. of the Michigan Administrative Code.

408.1048 Conducting business at public meeting; notice.

Sec. 48. The business which a board, commission, or committee created pursuant to this act may perform shall be conducted at a public meeting of the board, commission, or committee held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of a meeting of a board, commission, or committee created pursuant to this act shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: Add. 1978, Act 181, Imd. Eff. June 4, 1978.

408.1052 Department attorney as representative of departments, board, and commissions in litigation; board not considered party in judicial review proceeding.

Sec. 52. (1) The department attorney shall represent the department of labor, the department of public health, and the board and commissions established under this act in any litigation under this act.

(2) The board shall not be considered to be a party in a judicial review proceeding brought pursuant to this act.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978.

408.1054 Safety education and training division; creation; functions; newsletter; statement as to standard, rule, or order.

Sec. 54. (1) A safety education and training division is created within the department of licensing and regulatory affairs.

(2) The functions of the safety education and training division shall include:

(a) The development and application of a statewide safety education and training program to familiarize employers, supervisors, employees, and union leaders with techniques of accident investigation and prevention.

(b) The development and utilization of consultative educational techniques to achieve long-range solutions

to occupational safety problems.

(c) The development of training programs for the department safety compliance staff.

(d) The acquisition, development, and distribution of occupational safety pamphlets, booklets, brochures, and other appropriate safety media as may be useful to accomplish the objectives of the safety education and training division.

(e) The conduct of other activities as necessary for the implementation of an effective safety education and training program.

(f) The development and administration of a program for employers, with special emphasis on small business employers, providing technical and educational assistance.

(g) The development and implementation of a training and education program for department staff engaged in the administration and enforcement of this act.

(3) The department shall publish a newsletter at least quarterly.

(4) When the director promulgates a standard or a rule or issues an order, a brief statement shall be included indicating the reasons for the action, which shall be published in the newsletter published under subsection (3).

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

408.1055 Safety education and training fund.

Sec. 55. (1) A safety education and training fund is created. Except as provided in subsection (2), the fund shall be used to accomplish the objectives outlined in sections 54 and 56. The state treasurer shall be custodian of the fund and may invest the surplus of the fund in investments as in the state treasurer's judgment are in the best interest of the state. Earnings from those investments shall be credited to the fund. The state treasurer shall notify the director of labor, the director of public health, and the legislature of interest credited and the balance of the safety education and training fund as of December 31 of each year.

(2) On October 1, 1991, $2,300,000.00 is transferred from the safety education and training fund to the state general fund for the operation of the programs specified in this act.

(3) The director of labor shall supervise and administer the fund. Except as provided in this section, the director shall annually assess a levy based on the total annual worker's disability compensation losses, excluding medical payments, paid in the immediately preceding calendar year by employers under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws. Except as provided in this section, each year the director shall assess upon and collect from each carrier and self-insured employer a sum equal to that proportion of 50% of the current fiscal year appropriation of safety education and training funds which the total worker's disability compensation benefits, exclusive of medical payments, paid by each carrier or each self-insured employer bears to the total of the compensation benefits paid by all carriers and self-insured employers during the immediately preceding calendar year. However, the total amount levied annually shall not exceed 3/4 of 1% of the total of the compensation benefits paid by all carriers and self-insured employers during the immediately preceding calendar year. Funds that are unexpended at the end of each fiscal year shall be returned to the safety education and training fund.

(4) If at any time during the fiscal year in which the assessment required by subsection (3) is made the balance of money in the safety education and training fund is less than $1,500,000.00, the assessment shall equal the total fiscal year appropriation of safety education and training funds.

(5) Notice of the assessments shall be sent by the director of labor by mail to each carrier. Payment of assessments shall be received in the principal office of the department of labor before a date specified uniformly in the notice, but not less than 90 days after the date of mailing.

(6) The levy assessments shall constitute an element of loss for the purpose of establishing rates for worker's disability compensation insurance. Funds derived from this levy shall be deposited in the safety education and training fund and shall be appropriated by the legislature for the operation of this program.

(7) To enable full and complete legislative review of the assessment process, the department of labor, not later than September 30 of each year, shall submit to the regulatory subcommittees of the house and senate appropriations committees and the house and senate committees that consider labor matters a written report on the status of the safety education and training assessment required by this section. The report shall include, but is not limited to, information on the amount of the assessment, the percentage of the assessment as compared to losses, an explanation of all expenditures from the safety education and training fund, and the balance of money in the safety education and training fund.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 24, Eff. Mar. 30, 1978;—Am. 1986, Act 24, Imd. Eff. Mar. 10, 1986;—Am. 1991, Act 6, Imd. Eff. Apr. 11, 1991;—Am. 1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 1993, Act 197, Eff. Dec. 28, 1994.

Compiler's note: Section 2 of Act 197 of 1993 provides as follows:

"Section 2. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

408.1056 Occupational health education and training program.

Sec. 56. The department of public health shall conduct an occupational health education and training program with employees and employers for the prevention of occupational health hazards, to achieve long-range solutions to occupational health problems, and to train persons in the recognition and control of occupational health hazards.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1057-408.1058 Repealed. 1991, Act 105, Eff. June 17, 1994.

Compiler's note: The repealed sections pertained to asbestos abatement projects in schools.

408.1058a-408.1058d Repealed. 1988, Act 439, Imd. Eff. Dec. 27, 1988.

Compiler's note: The repealed sections pertained to training course for employee or agent of asbestos abatement contractor.

408.1058e Repealed. 1991, Act 105, Eff. June 17, 1994.

Compiler's note: The repealed section pertained to asbestos abatement project records.

408.1058f Repealed. 1990, Act 2, Imd. Eff. Feb. 12, 1990.

Compiler's note: The repealed section pertained to notice of asbestos abatement projects.

408.1059, 408.1059a Repealed. 1991, Act 105, Eff. June 17, 1994.

Compiler's note: The repealed sections pertained to required training and a course on health and safety aspects of asbestos demolition, renovation, or encapsulation.

408.1059b Repealed. 1988, Act 439, Imd. Eff. Dec. 27, 1988.

Compiler's note: The repealed section pertained to penalty provisions.

408.1059c-408.1059e Repealed. 1991, Act 105, Eff. June 17, 1994.

Compiler's note: The repealed sections pertained to written materials relating to, and awareness training for, asbestos abatement projects.

408.1059f Repealed. 1988, Act 439, Imd. Eff. Dec. 27, 1988.

Compiler's note: The repealed section pertained to notice of asbestos abatement projects.

408.1060-408.1060d Repealed. 1991, Act 105, Eff. June 17, 1994.

Compiler's note: The repealed sections pertained to employer protections, prohibited conduct, and post-abatement procedures.

408.1060e, 408.1060f Repealed. 1991, Act 105, Imd. Eff. Oct. 3, 1991.

Compiler's note: The repealed sections pertained to repeal of MCL 408.1057 to 408.1060d and promulgation of rules.

408.1061 Records and reports of work illnesses and injuries; access to records by employee; notice to employee of exposure and corrective action; federal requirements not negated.

Sec. 61. (1) An employer shall make, keep, and preserve accurate and timely records and reports of work illnesses and injuries and report the information to the appropriate department in a form and in accordance with rules promulgated by the departments under authority of this act for the purpose of developing information regarding the causes and prevention of occupational illnesses and injuries.

(2) An employer shall maintain accurate records of employee exposures to potentially toxic substances or harmful physical agents that are required to be monitored or measured by standards promulgated by the commissions. An employee or former employee shall have access to those records that indicate the employee's or former employee's own exposure to toxic materials or harmful physical agents.

(3) An employer shall promptly notify an employee who was or is being exposed to toxic materials or harmful physical agents in concentrations or at levels that exceed those prescribed by a rule or standard promulgated under this act, and shall inform an employee who is being exposed to those toxic materials or harmful physical agents of the corrective action being taken.

(4) This act does not negate the record keeping and reporting requirements prescribed by sections 18 and

24 of the occupational safety and health act of 1970, Public Law 91-596, 29 USC 667 and 673.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1996, Act 437, Imd. Eff. Dec. 18, 1996;—Am. 2015, Act 199, Eff. Feb. 22, 2016.

408.1063 Confidentiality of trade secrets; protection; rules; orders; information available to public; identity of employee exempt from disclosure.

Sec. 63. (1) Information reported to or otherwise obtained by the department of licensing and regulatory affairs in connection with an inspection, investigation, or proceeding under this act that contains or that might reveal a trade secret, including information required to be made available under sections 14a through 14*l* and section 24(5) and (6) shall be considered confidential. In a proceeding under this act, the director shall promulgate rules for the purpose of protecting trade secrets regarding information required to be made available under sections 14a through 14*l* and section 24(5) and (6), and the department, the board, or the court shall issue orders as may be appropriate to protect the confidentiality of trade secrets and to carry out the objectives of this act.

(2) Except as otherwise provided by this subsection and subsection (1), information reported to or otherwise obtained by a department from an employee in connection with an inspection, investigation, or proceeding under this act shall be made available to the public pursuant to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The identity of an employee or any information that may lead to the identification of an employee who provides information pertaining to a possible violation or violations of this act is exempt from disclosure.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am. 1986, Act 80, Imd. Eff. Apr. 7, 1986;—Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012.

Administrative rules: R 325.3451 et seq. of the Michigan Administrative Code.

408.1065 Discharging or discriminating against employee prohibited; complaint; investigation; order; notice; review; finality of determination; parties; hearings officers; conduct of proceedings; determination as final disposition; judicial review; venue; civil action to enforce order; powers of director of labor.

Sec. 65. (1) A person shall not discharge an employee or in any manner discriminate against an employee because the employee filed a complaint or instituted or caused to be instituted a proceeding under or regulated by this act or has testified or is about to testify in such a proceeding or because of the exercise by the employee on behalf of himself or herself or others of a right afforded by this act.

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

(3) The director of labor, within 90 days after the receipt of a complaint filed under this section, shall notify the complainant of the determination under subsection (2).

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

(5) The director shall appoint hearings officers to make determinations in proceedings brought pursuant to this section. All proceedings in a hearing shall be conducted pursuant to the procedures applicable to the trial of contested cases under Act No. 306 of the Public Acts of 1969, as amended. The hearings officer shall affirm, modify, or rescind the order of the department and may order an employer who violates this section to pay attorney costs, hearing costs, and transcript costs. The hearings officer shall issue a determination which constitutes a final disposition of the proceedings to each party within 30 working days after the conclusion of the hearing. The determination of the hearings officer shall become the final agency order upon receipt by the parties.

(6) A party to the proceeding may obtain judicial review within 60 days after receipt of the determination of the hearings officer pursuant to Act No. 306 of the Public Acts of 1969, as amended. Venue for an appeal under this act shall be only in the circuit where the employee is a resident, where the employment occurred, or where the employer has a principal place of business.

(7) In absence of an appeal by an employer who has not complied with the determination of the hearings officer, the director of labor shall initiate, in the county where the violation occurred, in the county of Ingham,

or in the county where the employer has its principal office, the civil action necessary to enforce an order of the department which has become a final agency order as prescribed in this act.

(8) For the purpose of an investigation or proceeding under this section, the director of labor or an authorized representative of the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records or other documents which the department considers relevant or material to the inquiry.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1979, Act 149, Eff. Mar. 27, 1980.

408.1067 Posting requirements; warning labels.

Sec. 67. (1) Where posting is required by this act, except for citations, the posting shall be centrally and conspicuously located with respect to all affected employees. If there is no place central to all affected employees, posting shall take place in as many locations as necessary to be normally observed by the affected employees. Where posting is necessary in other locations the posting shall be in accordance with rules promulgated by the appropriate department.

(2) A rule or standard promulgated under this act shall where appropriate prescribe the use or posting of labels or other appropriate forms of warning which are necessary to insure that employees are apprised of all hazards to which they are exposed and proper conditions and precautions of safe use or exposure, including appropriate emergency treatment. Any warning labels which may be required by a standard or rule shall be consistent with warning labels prescribed by the federal government pursuant to 29 U.S.C. sections 651 et seq.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1069 Rules; declaratory rulings; effect of standards adopted by reference or continued in effect.

Sec. 69. (1) The director may promulgate, amend, and rescind rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, with respect to matters necessary for the administration of this act.

(2) Declaratory rulings that concern the application of occupational safety and health standards promulgated pursuant to this act to specific facts shall be made solely by the director or his or her authorized representative with respect to occupational safety standards or occupational health standards, pursuant to section 63 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.263.

(3) Any occupational safety or health standard adopted by reference pursuant to section 14, promulgated pursuant to this act, or continued in effect pursuant to sections 21(1) and 24(1) is considered to supersede any occupational safety or health standard or rule promulgated pursuant to any other law of this state. However, if another state agency has authority to promulgate standards or rules applicable to the public safety or health, the rules and standards promulgated pursuant to this act do not supersede those other agency rules or standards but have concurrent applicability with those rules and standards.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 2012, Act 416, Eff. Dec. 27, 2012.

Administrative rules: R 408.19901 et seq. and R 408.22101 et seq. of the Michigan Administrative Code.

408.1085, 408.1085a Repealed. 2022, Act 140, Eff. July 1, 2023.

Compiler's note: The repealed sections pertained to definition of COVID-19 and employer liability for COVID-19 exposure.

408.1091 Pending proceedings continued.

Sec. 91. Any proceeding pending before the department of labor or the department of health shall be continued and be conducted and determined by the appropriate department in accordance with the statutes governing the proceedings.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1093 Repeal.

Sec. 93. Act No. 285 of the Public Acts of 1909, as amended, being sections 408.51 to 408.94 of the Compiled Laws of 1970, Act No. 89 of the Public Acts of 1963, as amended, being sections 408.711 to 408.724 of the Compiled Laws of 1970, and Act No. 282 of the Public Acts of 1967, as amended, being sections 408.851 to 408.868 of the Compiled Laws of 1970, are repealed.

History: 1974, Act 154, Eff. Jan. 1, 1975.

408.1094 Effective date.

Sec. 94. (1) This act shall take effect on January 1, 1975, except as to public employers as specified in

subsection (2).

(2) Standards adopted by reference pursuant to section 14 shall not be applicable to the state or political subdivisions until July 1, 1975.

History: 1974, Act 154, Eff. Jan. 1, 1975.