




Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 647 (as reported by the Committee of the Whole)
Sponsor: Senator Bruce Patterson
Committee: Commerce and Labor

CONTENT

The bill would amend the Michigan Occupational Safety and Health Act to require a Department of Labor and Economic Growth (LEG) representative to keep certain records in an investigation of an employer's wilful violation of the Act; define "wilful" for purposes of an administrative action; specify the rights of a person interviewed as part of an inspection, investigation, or violation proceeding; and allow a LEG representative to conduct a partial interview to establish a violation of the Act.

The Act presently defines "wilful" for the purpose of criminal prosecutions. Under the bill, for purposes of an administrative action, "wilful" would mean an action performed with knowledge of the hazardous condition and action with a knowing and purposeful intentional disregard of the Act, a rule, or standard, despite that knowledge. For purposes of an administrative action, "wilful" would be established by factual demonstration of the following:

- Whether the employer had knowledge that the condition was hazardous and did not abate the hazard.
- Whether the employer was aware of the standard established by the Act or by rule.
- Whether the employer knew that the condition at issue violated a standard established by the Act or by rule.
- Whether the employer took steps to comply with the standard established by the Act or rule.
- How the employer intentionally and deliberately disregarded his or her responsibilities under the Act or a rule or standard adopted under it.
- How the employer intentionally and deliberately disregarded his or her responsibilities under a specific provision of the Act or a rule or standard adopted under it.
- The employer's motive for noncompliance.

The bill also specifies that if a person interviewed by a LEG representative had a representative present, the interview would have to be conducted on a date and in a location mutually agreed upon by all of the parties to the interview.

MCL 408.1006 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Michigan Occupational Safety and Health Agency. The proposed requirement for interviews to be conducted at a mutually agreed upon location would increase the Agency's administrative responsibilities and, according to the Agency, could divert time from existing responsibilities, such as inspections, possibly resulting in a reduction in penalty revenue collections.

Date Completed: 3-17-04

Fiscal Analyst: Maria Tyszkiewicz