

HOUSE BILL No. 5266

August 19, 2009, Introduced by Rep. Meadows and referred to the Committee on Labor.

A bill to amend 1974 PA 154, entitled
"Michigan occupational safety and health act,"
(MCL 408.1001 to 408.1094) by adding section 14o.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 14o. (1) EXCEPT AS PROVIDED IN SUBSECTION (6), DURING THE
2 CONSTRUCTION, RENOVATION, OR DEMOLITION OF ANY IMPROVEMENT TO REAL
3 PROPERTY IN THIS STATE THAT WILL TAKE MORE THAN 2 DAYS, A GENERAL
4 CONTRACTOR SHALL PROVIDE NO LESS THAN 1 TOILET FACILITY AT THE
5 CONSTRUCTION SITE FOR EACH 10 EMPLOYEES OR FRACTION THEREOF WORKING
6 AT THE CONSTRUCTION SITE.

7 (2) IF A PERMIT IS REQUIRED FOR CONSTRUCTION, RENOVATION, OR
8 DEMOLITION OF ANY IMPROVEMENT TO REAL PROPERTY IN THIS STATE, THE
9 APPROPRIATE ENFORCING AGENCY SHALL NOT ISSUE THE PERMIT UNLESS,
10 BEFORE STARTING CONSTRUCTION, RENOVATION, OR DEMOLITION, THE

1 GENERAL CONTRACTOR OR ANOTHER PERSON REQUESTING THE PERMIT
2 DEMONSTRATES COMPLIANCE WITH THIS SECTION BY PROVIDING THE
3 ENFORCING AGENCY WITH EITHER OF THE FOLLOWING:

4 (A) A WRITTEN AGREEMENT SIGNED BY BOTH THE PARTY REQUESTING
5 THE PERMIT AND A TOILET FACILITY PROVIDER THAT ESTABLISHES THE
6 RENTAL OF NO FEWER TOILET FACILITIES THAN ARE NECESSARY TO COMPLY
7 WITH SUBSECTION (1).

8 (B) A WRITTEN AGREEMENT OR AFFIDAVIT DEMONSTRATING EITHER A
9 VALID EXEMPTION UNDER SUBSECTION (6) (A) OR (B) OR THAT THE
10 CONSTRUCTION, RENOVATION, OR DEMOLITION WILL NOT TAKE MORE THAN 2
11 DAYS.

12 (3) EACH TOILET FACILITY PROVIDED UNDER SUBSECTION (1) SHALL
13 BE OPERATIONAL; MAINTAINED IN A CLEAN AND SANITARY CONDITION; AND
14 PROVIDED WITH WATER, HAND SOAP OR SOME SIMILAR CLEANSING OR
15 DISINFECTING AGENT, AND TOILET PAPER ADEQUATE TO EMPLOYEE NEEDS.

16 (4) A GENERAL CONTRACTOR WHO VIOLATES THIS SECTION SHALL BE
17 ISSUED A CITATION AND IS RESPONSIBLE FOR A CIVIL PENALTY ASSESSED
18 PURSUANT TO SECTIONS 33 TO 45. A THIRD PARTY CONTRACT OR AGREEMENT
19 THAT PURPORTS TO ASSIGN THE GENERAL CONTRACTOR'S COMPLIANCE
20 OBLIGATIONS UNDER THIS SECTION IS VOID.

21 (5) AS USED IN THIS SECTION:

22 (A) "CONSTRUCTION SITE" MEANS A LOCATION AT WHICH ANY
23 IMPROVEMENT TO REAL PROPERTY IS IN PROGRESS OR WHERE ACTUAL
24 CONSTRUCTION, RENOVATION, OR DEMOLITION OF AN IMPROVEMENT TO REAL
25 PROPERTY IS IN PROGRESS.

26 (B) "EMPLOYEE" INCLUDES, BUT IS NOT LIMITED TO, A
27 SUBCONTRACTOR, SUPPLIER, LABORER, OR ANY OTHER INDIVIDUAL WHO,

1 UNDER A CONTRACT OR AN AGREEMENT WITH A GENERAL CONTRACTOR OR
2 SUBCONTRACTOR, PROVIDES ANY IMPROVEMENT TO REAL PROPERTY OR
3 FACILITATES THE RENOVATION OR DEMOLITION OF AN IMPROVEMENT TO REAL
4 PROPERTY AT THE CONSTRUCTION SITE THROUGH THE INDIVIDUAL'S PERSONAL
5 LABOR.

6 (C) "GENERAL CONTRACTOR" MEANS A PERSON WHO CONTRACTS WITH AN
7 OWNER, LESSEE, OR OTHER PARTY TO PROVIDE, DIRECTLY OR INDIRECTLY
8 THROUGH CONTRACTS OR AGREEMENTS WITH SUBCONTRACTORS, SUPPLIERS, OR
9 LABORERS, SUBSTANTIALLY ALL OF THE MATERIALS OR SERVICES FOR THE
10 CONSTRUCTION, RENOVATION, OR DEMOLITION OF IMPROVEMENTS TO REAL
11 PROPERTY AT A CONSTRUCTION SITE.

12 (D) "TOILET FACILITY" MEANS A FIXED OR PORTABLE FACILITY
13 DESIGNED TO COLLECT AND CONTAIN THE PRODUCTS OF BOTH DEFECATION AND
14 URINATION AND THAT MEETS APPLICABLE HEALTH STANDARDS. TOILET
15 FACILITY INCLUDES BIOLOGICAL, CHEMICAL, FLUSH, AND COMBUSTION
16 TOILETS AND SANITARY PRIVIES.

17 (6) ALL OF THE FOLLOWING EXEMPTIONS APPLY:

18 (A) A PRIVATE RESIDENTIAL PROPERTY OWNER OR PRIVATE
19 RESIDENTIAL PROPERTY TENANT PERFORMING A CONSTRUCTION, RENOVATION,
20 OR DEMOLITION PROJECT ON HIS OR HER PRIVATELY OWNED OR PRIVATELY
21 LEASED RESIDENTIAL PROPERTY IS NOT SUBJECT TO THE REQUIREMENTS OF
22 SUBSECTION (1) OR (2) FOR A PROJECT THAT MEETS BOTH OF THE
23 FOLLOWING CONDITIONS:

24 (i) BEFORE STARTING CONSTRUCTION, RENOVATION, OR DEMOLITION,
25 THE PROPERTY OWNER OR TENANT HAS AGREED TO MAKE TOILET FACILITIES
26 AVAILABLE FOR USE BY EMPLOYEES WORKING ON THAT RESIDENTIAL
27 PROPERTY.

1 (ii) TOILET FACILITIES MEETING THE REQUIREMENTS OF SUBSECTION
2 (3) ARE AVAILABLE FOR EMPLOYEE USE ON THE RESIDENTIAL PROPERTY FOR
3 THE DURATION OF THE PROJECT.

4 (B) A GENERAL CONTRACTOR PERFORMING A CONSTRUCTION,
5 RENOVATION, OR DEMOLITION PROJECT ON EITHER RESIDENTIAL OR
6 COMMERCIAL PROPERTY IS NOT SUBJECT TO THE REQUIREMENTS OF
7 SUBSECTION (1) OR (2) FOR A PROJECT THAT MEETS BOTH OF THE
8 FOLLOWING CONDITIONS:

9 (i) BEFORE THE CONTRACTOR STARTS CONSTRUCTION, RENOVATION, OR
10 DEMOLITION, THE RESIDENTIAL OR COMMERCIAL PROPERTY OWNER HAS SIGNED
11 A WRITTEN STATEMENT OR AFFIDAVIT AGREEING TO MAKE TOILET FACILITIES
12 AVAILABLE FOR USE BY THE EMPLOYEES WORKING ON THAT PROPERTY.

13 (ii) TOILET FACILITIES MEETING THE REQUIREMENTS OF SUBSECTION
14 (3) ARE AVAILABLE FOR EMPLOYEE USE ON THE PROPERTY FOR THE DURATION
15 OF THE PROJECT.

16 (C) A GENERAL CONTRACTOR FOR A COUNTY ROAD COMMISSION OR THE
17 MICHIGAN DEPARTMENT OF TRANSPORTATION IS EXEMPT FROM THE
18 REQUIREMENTS OF THIS SECTION FOR A CONSTRUCTION CREW WORKING ON A
19 PUBLIC ROAD.