

# SENATE BILL No. 479

June 21, 2017, Introduced by Senator JONES and referred to the Committee on Commerce.

A bill to amend 1974 PA 154, entitled  
 "Michigan occupational safety and health act,"  
 by amending section 35 (MCL 408.1035), as amended by 1991 PA 105.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 35. (1) ~~An~~ **SUBJECT TO SUBSECTION (11), IF AN** employer who  
 2 receives a citation for a serious violation of this act, an order  
 3 issued pursuant to this act, or a rule or standard promulgated  
 4 under this act, **THE BOARD** shall ~~be assessed~~ **ASSESS THE EMPLOYER** a  
 5 civil penalty of not more than ~~\$7,000.00~~ **\$12,675.00** for each  
 6 violation.

7       (2) ~~An~~ **SUBJECT TO SUBSECTION (11), IF AN** employer who fails to  
 8 correct a violation for which a citation was issued within the  
 9 period permitted for its correction, **THE BOARD** may ~~be assessed~~

1 **ASSESS THE EMPLOYER** a civil penalty of not more than ~~\$7,000.00~~  
 2 **\$12,675.00** for each day ~~during which~~ the failure or violation  
 3 continues. A period permitted for corrections does not begin to run  
 4 until the date of the final order of the board if a review  
 5 proceeding before a ~~THE~~ board is initiated by ~~the~~ **AN** employer in  
 6 good faith and not solely for delay or avoidance of a penalty.

7 (3) ~~An~~ **SUBJECT TO SUBSECTION (11), IF AN** employer ~~who~~ receives  
 8 a citation for a violation of this act, an order issued pursuant to  
 9 this act, or a rule or standard promulgated under this act, ~~which~~  
 10 **AND THE** violation is specifically determined not to be of a serious  
 11 nature, **THE BOARD** may ~~be assessed~~ **ASSESS THE EMPLOYER** a civil  
 12 penalty of not more than ~~\$7,000.00~~ **\$12,675.00** for each violation.

13 (4) ~~An~~ **SUBJECT TO SUBSECTION (11), IF AN** employer ~~who~~  
 14 willfully or repeatedly violates this act, an order issued pursuant  
 15 to this act, or a rule or standard promulgated under this act, **THE**  
 16 **BOARD** may ~~be assessed~~ **ASSESS THE EMPLOYER** a civil penalty of not  
 17 more than ~~\$70,000.00~~ **\$126,749.00** for each violation, but not less  
 18 than ~~\$5,000.00~~ **\$9,054.00** for each willful violation.

19 (5) ~~An~~ **IF AN** employer ~~who~~ willfully violates this act, an  
 20 order issued pursuant to this act, or a rule or standard  
 21 promulgated under this act ~~which~~ **AND THE VIOLATION** causes the death  
 22 of an employee, **THE EMPLOYER** is guilty of a felony and ~~shall be~~  
 23 ~~finned not more than \$10,000.00, or imprisoned~~ **PUNISHABLE BY**  
 24 **IMPRISONMENT** for not more than 1 year **OR A FINE OF NOT MORE THAN**  
 25 **\$10,000.00**, or both. ~~If the conviction is the second under this~~  
 26 ~~act, the person shall be fined not more than \$20,000.00, or~~  
 27 ~~imprisoned~~ **A SECOND OR SUBSEQUENT VIOLATION UNDER THIS SUBSECTION**

1 **IS PUNISHABLE BY IMPRISONMENT** for not more than 3 years **OR A FINE**  
2 **OF NOT MORE THAN \$20,000.00**, or both.

3 (6) ~~An~~ **SUBJECT TO SUBSECTION (11), IF AN** employer ~~who~~ violates  
4 a posting requirement prescribed under this act, **THE BOARD** shall be  
5 ~~assessed~~ **ASSESS THE EMPLOYER** a civil penalty of not more than  
6 ~~\$7,000.00~~ **\$12,675.00** for each violation.

7 (7) ~~A~~ **IF A** person ~~who~~ knowingly makes a false statement,  
8 representation, or certification in an application, record, report,  
9 plan, or other document filed or required to be maintained pursuant  
10 to this act, or ~~who~~ fails to maintain or transmit a record or  
11 report as required under section 61, **THE PERSON** is guilty of a  
12 misdemeanor ~~and shall be fined not more than \$10,000.00, or~~  
13 ~~imprisoned~~ **PUNISHABLE BY IMPRISONMENT** for not more than 6 months **OR**  
14 **A FINE OF NOT MORE THAN \$10,000.00**, or both.

15 (8) ~~A~~ **IF A** person ~~who~~ gives advance notice of an investigation  
16 or an inspection to be conducted under this act without authority  
17 from the appropriate director or the designee of the director, **THE**  
18 **PERSON** is guilty of a misdemeanor ~~and shall be fined not more than~~  
19 ~~\$1,000.00, or imprisoned~~ **PUNISHABLE BY IMPRISONMENT** for not more  
20 than 6 months **OR A FINE OF \$1,000.00**, or both.

21 (9) The department of ~~labor or the department of public~~  
22 ~~health,~~ **LICENSING AND REGULATORY AFFAIRS**, if the employer is a  
23 public employer, instead of applying a civil penalty otherwise  
24 applicable to an employer under this section, may request that the  
25 attorney general seek a writ of mandamus in the appropriate circuit  
26 court to compel compliance with a citation, including the terms of  
27 abatement.

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

8           (11) ~~The increases in the civil penalties of subsections (1),~~  
9 ~~(2), (3), (4), and (6) made pursuant to the 1991 amendatory act~~  
10 ~~that added this subsection shall take effect April 1, 1992.~~ **EVERY**  
11 **JANUARY BEGINNING JANUARY 2018, THE STATE TREASURER SHALL ADJUST**  
12 **THE CIVIL PENALTIES IN SUBSECTIONS (1), (2), (3), (4), AND (6) BY**  
13 **AN AMOUNT DETERMINED BY THE STATE TREASURER AT THE END OF THE**  
14 **PRECEDING CALENDAR YEAR TO REFLECT THE AVERAGE ANNUAL PERCENTAGE**  
15 **CHANGE IN THE CONSUMER PRICE INDEX FOR THE MOST RECENT 5-YEAR**  
16 **PERIOD FOR WHICH DATA ARE AVAILABLE. AS USED IN THIS SUBSECTION,**  
17 **"CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX OF**  
18 **CONSUMER PRICES AVAILABLE FOR THE MIDWEST REGION FROM THE BUREAU OF**  
19 **LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR. THE**  
20 **MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION SHALL POST**  
21 **THE ADJUSTED CIVIL PENALTIES ON ITS WEBSITE BY MARCH 1 OF THE YEAR**  
22 **THEY ARE CALCULATED, AND THE ADJUSTED PENALTIES ARE EFFECTIVE**  
23 **BEGINNING MAY 1 OF THAT YEAR. THE ANNUAL INCREASES UNDER THIS**  
24 **SUBSECTION MUST NOT EXCEED 3.5%, AND A CIVIL PENALTY IN SUBSECTIONS**  
25 **(1), (2), (3), (4), AND (6) MUST NOT BE INCREASED TO AN AMOUNT**  
26 **GREATER THAN THE CORRESPONDING FEDERAL PENALTY FOR THE SPECIFIED**  
27 **VIOLATION UNDER SECTION 17 OF THE OCCUPATIONAL SAFETY AND HEALTH**

1 ACT, 29 USC 666.

2 Enacting section 1. This amendatory act takes effect October  
3 1, 2017.