

HOUSE BILL NO. 5797

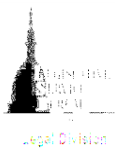
May 20, 2020, Introduced by Reps. Manoogian, Hood, Pohutsky, Kennedy, Stone, Kuppa, Shannon, Ellison, Chirkun, Sneller, Cherry and Hammoud and referred to the Committee on Commerce and Tourism.

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~~ **Except as provided in subsection (12), an**
2 employer who receives a citation for a serious violation of this
3 act, an order issued pursuant to this act, or a rule or standard
4 promulgated under this act shall be assessed a civil penalty of not
5 more than \$7,000.00 for each violation.

6 (2) An employer who fails to correct a violation for which a



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

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

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

21 (5) An employer who willfully violates this act, an order
 22 issued pursuant to this act, or a rule or standard promulgated
 23 under this act ~~which~~**that** causes the death of an employee is guilty
 24 of a felony ~~and shall be fined~~ **punishable by imprisonment for not**
 25 **more than 1 year or a fine of** not more than \$10,000.00, ~~or~~
 26 ~~imprisoned for not more than 1 year,~~ or both. If the conviction is
 27 ~~the~~**a second or subsequent conviction** under this act, the ~~person~~
 28 ~~shall be fined~~ **employer is guilty of a felony punishable by**
 29 **imprisonment for not more than 3 years or a fine of** not more than



1 \$20,000.00, ~~or imprisoned for not more than 3 years,~~ or both.

2 (6) An employer who violates a posting requirement prescribed
3 under this act shall be assessed a civil penalty of not more than
4 \$7,000.00 for each violation.

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

13 (8) A person who gives advance notice of an investigation or
14 an inspection to be conducted under this act without authority from
15 the appropriate director or the designee of the director is guilty
16 of a misdemeanor ~~and shall be fined~~ **punishable by imprisonment for**
17 **not more than 6 months or a fine of** not more than \$1,000.00, ~~or~~
18 ~~imprisoned for not more than 6 months,~~ or both.

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

26 (10) A person shall not assault a department representative or
27 other person charged with enforcement of this act in the
28 performance of that person's legal duty to enforce this act. A
29 person who violates this subsection is guilty of a misdemeanor. A



1 prosecuting attorney having jurisdiction of this matter and the
2 attorney general knowing of a violation of this section may
3 prosecute the violator.

4 (11) The increases in the civil penalties of subsections (1),
5 (2), (3), (4), and (6) made pursuant to the 1991 amendatory act
6 that added this subsection ~~shall~~ take effect April 1, 1992.

7 (12) **Beginning March 1, 2020, and until December 31, 2020, an**
8 **employer who receives a citation for a serious violation of this**
9 **act, an order issued pursuant to this act, a rule or standard**
10 **promulgated under this act, or an occupational safety and health**
11 **order issued pursuant to a declared state of emergency shall be**
12 **assessed a civil penalty of not more than \$15,000.00 for each**
13 **violation.**

