

SENATE BILL NO. 162

February 23, 2021, Introduced by Senators CHANG, HOLLIER, ALEXANDER, BULLOCK, GEISS, MOSS, SANTANA, POLEHANKI, BRINKS, MCCANN, ANANICH, BAYER, WOJNO and HERTEL and referred to the Committee on Economic and Small Business Development.

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~~**Before June 1, 2021, an** employer who receives
2 a citation for a serious violation of this act, an order issued
3 pursuant to this act, or a rule or standard promulgated under this
4 act shall be assessed a civil penalty of not more than \$7,000.00
5 for each violation. **Beginning June 1, 2021, an employer who**
6 **receives a citation for a serious violation of this act, an order**

1 issued pursuant to this act, a rule or standard promulgated under
 2 this act, or an occupational safety and health order issued
 3 pursuant to a declared state of emergency shall be assessed a civil
 4 penalty of not more than \$15,000.00 for each violation.

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

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

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

26 (5) An employer who willfully violates this act, an order
 27 issued pursuant to this act, or a rule or standard promulgated
 28 under this act ~~which~~**that** causes the death of an employee is guilty
 29 of a felony ~~and shall be fined~~ **punishable by imprisonment for not**

1 **more than 1 year or a fine of** not more than \$10,000.00, ~~or~~
 2 ~~imprisoned for not more than 1 year,~~ or both. If the conviction is
 3 ~~the~~ **a second or subsequent conviction** under this act, the ~~person~~
 4 ~~shall be fined~~ **employer is guilty of a felony punishable by**
 5 **imprisonment for not more than 3 years or a fine of** not more than
 6 \$20,000.00, ~~or imprisoned for not more than 3 years,~~ or both.

7 (6) An employer who violates a posting requirement prescribed
 8 under this act shall be assessed a civil penalty of not more than
 9 \$7,000.00 for each violation.

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

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

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

1 abatement.

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

9 (11) The increases in the civil penalties of subsections (1),
10 (2), (3), (4), and (6) made pursuant to the 1991 amendatory act
11 that added this subsection ~~shall~~ take effect April 1, 1992.