

Act No. 17
Public Acts of 2024
Approved by the Governor
March 12, 2024
Filed with the Secretary of State
March 12, 2024
EFFECTIVE DATE: Sine Die
(91st day after final adjournment of the 2024 Regular Session)

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2024**

Introduced by Reps. Mentzer, Aiyash, McKinney, Tyrone Carter, Tsernoglou, Dievendorf, Rheingans, Wilson, Paiz, Morgan, VanderWall, Wegela, Hope, Byrnes, Puri, Liberati and Weiss

ENROLLED HOUSE BILL No. 4185

AN ACT to amend 1974 PA 154, entitled “An act to prescribe and regulate working conditions; to prescribe the duties of employers and employees as to places and conditions of employment; to create certain boards, commissions, committees, and divisions relative to occupational and construction health and safety; to prescribe their powers and duties and powers and duties of the department of labor and department of public health; to prescribe certain powers and duties of the directors of the departments of labor, public health, and agriculture; to impose an annual levy to provide revenue for the safety education and training division; to provide remedies and penalties; to repeal certain acts and parts of acts; and to repeal certain acts and parts of act on specific dates,” by amending sections 4, 35, and 36 (MCL 408.1004, 408.1035, and 408.1036), section 4 as amended by 2012 PA 416 and sections 35 and 36 as amended by 1991 PA 105.

The People of the State of Michigan enact:

Sec. 4. (1) “Agricultural operations” means the work activity designated in major groups 01 and 02 of the Standard Industrial Classification Manual, United States Bureau of the Budget, 1972 edition. Agricultural operations include any practices performed by a farmer or on a farm as an incident to or in conjunction with farming operations including preparation for market or delivery to storage or market or to carriers for transportation to market.

(2) “Asbestos” means a group of naturally occurring minerals that separate into fibers, including chrysotile, amosite, crocidolite, anthophyllite, tremolite, and actinolite.

(3) “Asbestos-related violation” means a violation of this act, an order issued under this act, or a rule or standard promulgated under this act that involves the demolition, renovation, encapsulation, removal, or handling of friable asbestos material or otherwise involves the exposure of an individual to friable asbestos material.

(4) “Authorized employee representative” or “representative of employee” means a person designated by a labor organization certified by the National Labor Relations Board or the employment relations commission created under section 3 of 1939 PA 176, MCL 423.3, as the bargaining representative for the affected employees. In the absence of certification, it shall be a person designated by the organization having a collective bargaining relationship with the employer and designated as having a collective bargaining relationship with the employer by the affected employees. If a labor organization has not been certified, or if no organization has a collective bargaining relationship with the employer, “authorized employee representative” or “representative of employee” means a person designated by the affected employees to represent them for the purpose of proceedings under this act.

(5) “Board” means the board of health and safety compliance and appeals created in section 46.

(6) “Construction operations” means the work activity designated in major groups 15, 16, and 17 of the Standard Industrial Classification Manual, United States Bureau of the Budget, 1972 edition.

(7) “Director” means the director of the department of labor and economic opportunity.

(8) “Department attorney” means the attorney general or the authorized representative of the attorney general.

(9) “Domestic employment” means that employment involving an employee specifically employed by a householder to engage in work or an activity relating to the operation of a household and its surroundings, whether or not the employee resides in the household.

(10) “Friable asbestos material” means any material that contains more than 1% asbestos by weight and that can be, by hand pressure, crumbled, pulverized, or reduced to powder when dry.

(11) “Mines”, except as provided in subsection (12), means all of the following:

(a) An area of land from which minerals are extracted in nonliquid form, or if in liquid form, are extracted with workers underground.

(b) Private ways and roads appurtenant to an area of land described in subdivision (a).

(c) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property, including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting minerals from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities.

(12) “Mines” does not include industrial borrow pits, or sand, gravel, or crushed and dimension stone quarrying operations, or surface construction operations.

Sec. 35. (1) If an employer receives a citation for a serious violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, the board shall assess the employer a civil penalty of not more than \$7,000.00 for each violation.

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

(3) If an employer receives a citation for a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, the board may assess the employer a civil penalty of not more than \$7,000.00 for each violation that is specifically determined not to be of a serious nature.

(4) If an employer willfully or repeatedly violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, the board may assess the employer a civil penalty of not more than \$70,000.00 for each violation, but not less than \$5,000.00 for each willful violation. As used in this subsection:

(a) “Case closing date”, with respect to an asbestos-related violation, means the first date that all of the following conditions are met:

(i) The citation for the violation is a final order.

(ii) Satisfactory abatement documentation for the violation is received by the board.

(iii) All civil penalties related to the violation are timely paid, or the department of labor and economic opportunity complies with section 36(6).

(b) “Repeatedly violates”, with respect to an asbestos-related violation, means commits an asbestos related violation not later than 5 years after the case closing date of an asbestos-related violation.

(5) If an employer willfully violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act and the violation causes the death of an employee, the employer is guilty of a felony punishable by imprisonment for not more than 1 year, a fine of not more than \$10,000.00, or both. A second and any subsequent violation under this subsection is punishable by imprisonment for not more than 3 years, a fine of \$20,000.00, or both.

(6) If an employer violates a posting requirement prescribed under this act, the board shall assess the employer a civil penalty of not more than \$7,000.00 for each violation.

(7) If a person knowingly makes a false statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this act, or fails to maintain or transmit a record or report as required under section 61, the person is guilty of a misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than \$10,000.00, or both.

(8) If a person gives advance notice of an investigation or an inspection to be conducted under this act without authority from the appropriate director or the designee of the director, the person is guilty of a misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than \$1,000.00, or both.

(9) For a public employer, the department of labor and economic opportunity, instead of applying a civil penalty otherwise applicable to an employer under this section, may request that the attorney general seek a writ of mandamus in the appropriate circuit court to compel compliance with a citation, including the terms of abatement.

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

Sec. 36. (1) The board shall assess civil penalties, considering the size of the business, the seriousness of the violation, the good-faith efforts of the employer, and the history of previous citations, and may establish a schedule of civil penalties. Subject to subsection (2), for a civil penalty that was assessed as the result of an asbestos-related violation, the board shall not reduce the civil penalty by more than a total of 95% or by more than the corresponding percentage for each of the following:

- (a) In considering the size of the business, 70%.
- (b) In considering the good-faith efforts of the employer, 25%.
- (c) In considering the history of previous citations, 10%.

(2) The board may issue an order for a reduction of a civil penalty if the order is consistent with a dismissal or reclassification of an asbestos-related violation included in a hearing officer's report submitted to the board following an administrative hearing held under section 42 or 44. For an asbestos-related violation that has been reclassified by a hearing officer, the board shall not reduce the civil penalty that corresponds to the reclassified violation by more than is prescribed under subsection (1).

(3) The department of labor and economic opportunity shall administer and enforce the assessment of civil penalties in a manner that is consistent with the administration and enforcement of civil penalties by the federal Occupational Safety and Health Administration.

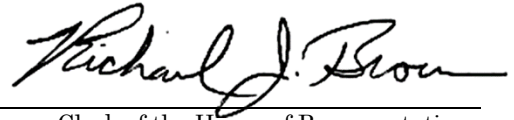
(4) A civil penalty owed under this act must be paid to the department of labor and economic opportunity not later than 15 working days after the date the penalty becomes a final order of the board, not subject to further agency or judicial review. A civil penalty must be credited to the state general fund.

(5) If a civil penalty remains unpaid beyond the period of time specified in subsection (4), the department of labor and economic opportunity shall issue a letter to the employer demanding payment not later than 20 days after the date of the letter.

(6) If the penalty remains unpaid following the period specified in subsection (5), the department of labor and economic opportunity shall transmit information on the amount of the penalty and the name and address of the employer owing the penalty to the department of treasury.

(7) The department of treasury shall institute proceedings to collect the amount assessed as a civil penalty. The department of treasury shall offset the amount of the penalty against money owed by the state to the employer. The department of treasury shall request that the attorney general recover the amount of the penalty remaining unpaid, after offsets, by instituting a civil action in the circuit court for the county in which the violation occurred or in the circuit court for the county in which the employer owing the penalty has its principal place of business.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.


Clerk of the House of Representatives


Secretary of the Senate

Approved _____

Governor