

SUBSTITUTE FOR
HOUSE BILL NO. 4017

A bill to amend 1974 PA 154, entitled
"Michigan occupational safety and health act,"
by amending section 35 (MCL 408.1035), as amended by 2024 PA 17.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 (2) If an employer fails to correct a violation for which a
7 citation was issued within the period permitted ~~for its correction,~~
8 **to correct the violation,** the board may assess the employer a civil
9 penalty of not more than \$7,000.00 for each day during which the

1 failure or violation continues. A period permitted ~~for corrections~~
2 **to correct a violation** does not begin to run until the date of the
3 final order of the board if a review proceeding before the board is
4 initiated by the employer in good faith and not solely for delay or
5 avoidance of a penalty.

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

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

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

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

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

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

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

1 (5) If an employer willfully violates this act, an order
2 issued pursuant to this act, or a rule or standard promulgated
3 under this act and the violation causes the death of an employee,
4 the employer is guilty of a felony punishable by imprisonment for
5 not more than 1 year, a fine of not more than \$10,000.00, or both.
6 A second and any subsequent violation under this subsection is
7 punishable by imprisonment for not more than 3 years, a fine of
8 \$20,000.00, or both.

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

12 (7) If a person knowingly makes a false statement,
13 representation, or certification in an application, record, report,
14 plan, or other document filed or required to be maintained pursuant
15 to this act, or, **except as otherwise provided in this subsection,**
16 fails to maintain or transmit a record or report as required under
17 section 61, the person is guilty of a misdemeanor punishable by
18 imprisonment for not more than 6 months, a fine of not more than
19 \$10,000.00, or both. **If a death or injury occurs on a family farm**
20 **to the owner of the family farm or a family member of the owner,**
21 **and if the employer fails to report the death or injury within the**
22 **time period prescribed under this act or a rule promulgated under**
23 **this act, a civil penalty or fine assessed against the employer**
24 **under this subsection must be reduced by the maximum amount allowed**
25 **under the federal Occupational Safety and Health Administration's**
26 **penalty adjustment factors.**

27 (8) If ~~a person~~**an individual** gives advance notice of an
28 investigation or an inspection to be conducted under this act
29 without authority from the appropriate director or the **director's**

1 designee, ~~of the director, the person~~**individual** is guilty of a
2 misdemeanor punishable by imprisonment for not more than 6 months,
3 a fine of not more than \$1,000.00, or both.

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

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

17 (11) **As used in this section:**

18 (a) **"Family farm" means a farming operation, including, but**
19 **not limited to, a sole proprietorship, partnership, or family**
20 **corporation, that meets all of the following conditions:**

21 (i) **The farming operation is wholly owned by the operator or**
22 **the operator's family members.**

23 (ii) **During the immediately preceding 12-month period, all of**
24 **the following conditions were met:**

25 (A) **More than 50% of the employees of the farming operation**
26 **were family members of the owner or operator of the farming**
27 **operation.**

28 (B) **The farming operation did not employ, at any 1 time, more**
29 **than 9 employees who were not family members of the owner or**

1 operator of the farming operation.

2 (C) The farming operation did not operate a temporary labor
3 camp.

4 (b) Family farm does not include either of the following:

5 (i) A farming operation that is organized as a nonfamily
6 corporation or cooperation.

7 (ii) A farming operation with a hired manager who is not a
8 family member of the owner or operator of the farming operation.

9 (c) "Family member" means a spouse, child, stepchild, foster
10 child, parent, stepparent, or foster parent.