



**House  
Legislative  
Analysis  
Section**

Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**MIOSHA CITATIONS:  
EMPLOYER DEFENSE**

**House Bill 4149 (Substitute H-2)  
First Analysis (11-8-95)**

**Sponsor: Rep. Walter J. DeLange  
Committee: Human Resources and Labor**

***THE APPARENT PROBLEM:***

Some business groups believe that the current regulatory framework for workplace safety places too much of the compliance burden and responsibility on the employer and not enough on the employees. Thus, for example, when employers violate the Michigan Occupational Safety and Health Act (MIOSHA), they are subject to citations and penalties. And if employees believe that a worksite is unsafe, they can file a complaint against their employer and MIOSHA will investigate. However, even when employers provide their employees with safety equipment, employees may not use the equipment -- or may disobey safety rules. Although employers can take disciplinary action against employees in such cases, employers still may be penalized for employee behavior by receiving MIOSHA citations.

***THE CONTENT OF THE BILL:***

The bill would amend the Michigan Occupational Safety and Health Act (Public Act 154 of 1974) to vacate, under certain circumstances, a citation for an alleged violation of the act (or of an order issued under, or a rule or standard promulgated under, the act).

Currently, the act vacates citations for alleged violations of "the personal protective equipment standard" when it is shown that the employer had provided the equipment, educated employees regarding its use, and taken reasonable steps (including, "where appropriate," disciplinary action) to assure that employees wear personal protective equipment. The bill would amend this provision of the act to say instead that citations for alleged violations would be vacated if it was shown that the employer had provided the equipment "or training," educated employees regarding use of the equipment "or implementation of the training," and taken reasonable steps (including, where appropriate, disciplinary action) to assure that the employees used the equipment and complied with the training.

MCL 408.1033

***FISCAL IMPLICATIONS:***

Fiscal information is not available. 11-7-95

***ARGUMENTS:***

***For:***

The bill would protect employers who provide their employees with safety equipment and training from MIOSHA citations if the employees, after receiving the training and equipment, chose not to use the equipment or comply with the training. Workplace safety has to be a partnership between employers and employees, and while employers have the responsibility of providing the safest possible workplace, employees equally have the responsibility to do their work as safely as possible. The bill would send a message to employees that they, too, are responsible for workplace safety, while protecting employers who make the effort to provide safety equipment and training to their employees from unfair MIOSHA citations.

***POSITIONS:***

The Michigan State Chamber of Commerce supports the bill. (11-7-95)

The National Federation of Independent Businesses supports the bill. (11-7-95)

The Michigan Manufacturer's Association supports the bill. (11-7-95)

House Bill 4149 (11-8-95)

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.