

Act No. 87  
Public Acts of 1996  
Approved by the Governor  
February 25, 1996  
Filed with the Secretary of State  
February 27, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

**Introduced by Reps. DeLange, Horton, Dalman, Ryan, Hill, Bullard, Perricone, Lowe, Bush and Gernaat**

# **ENROLLED HOUSE BILL No. 4149**

AN ACT to amend section 33 of Act No. 154 of the Public Acts of 1974, entitled as amended "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," being section 408.1033 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 33 of Act No. 154 of the Public Acts of 1974, being section 408.1033 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 33. (1) If, as the result of an inspection or investigation, the department representative believes that an employer has violated this act, an order issued pursuant to this act, or a rule or standard promulgated pursuant to this act, he or she shall issue a citation immediately or within 90 days after the completion of the physical inspection or investigation. The citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this act, or an order issued or a rule or standard promulgated pursuant to this act, alleged to have been violated. The citation shall state a reasonable time by which the violation is to be abated. The citation shall state on its face that it is an allegation of a violation. The date shall be set with due regard to the seriousness of the hazard and the difficulty of abating it. The citation and the proposed penalty, if any, may be presented to and shall, in each case, be sent by registered mail to the employer, and a copy shall be filed at the time of issuance with the appropriate department.

(2) The employer shall post a copy of the citation at or near the place of the violation, and the citation copy shall remain posted at that site until compliance is achieved or for 3 working days, whichever is later.

(3) The employer upon whom a citation is served shall notify the appropriate department of compliance with this act, an order issued pursuant to this act, or a rule or standard promulgated pursuant to this act.

(4) If an employer fails to correct a violation for which a citation was issued within the period permitted for its correction, the department shall notify the employer by registered mail of that failure and of the penalty proposed to be assessed under section 35 for the failure.

(5) If it is determined upon inspection or investigation that a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated pursuant to this act exists, but that the conditions that constitute the violation have no direct or immediate relationship to the safety or health of workers, the department may issue a notice in place

of a citation. A notice issued under this subsection shall be referred to as a "de minimis notice of violation". The employer shall post a copy of the de minimis notice of violation at or near the place of violation for 3 working days. The department shall promulgate all necessary rules for administering the de minimis notice of violation.

(6) A citation for an alleged violation of this act, an order issued pursuant to this act, or a rule or standard promulgated pursuant to this act shall be vacated if it is shown that the employer has 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 employees utilize the equipment and comply with the training as referenced in this section.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.