

SENATE BILL No. 448

May 2, 2001, Introduced by Senators SCOTT, PETERS, DE BEAUSSAERT, LELAND, SMITH, BYRUM, EMERSON, HART, MURPHY and CHERRY and referred to the Committee on Human Resources and Labor.

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 employer who receives a citation for a
2 serious violation of this act, an order issued pursuant to this
3 act, or a rule or standard promulgated under this act shall be
4 assessed a civil penalty of not more than ~~\$7,000.00~~ \$14,000.00
5 for each violation.

6 (2) An employer who fails to correct a violation for which a
7 citation was issued within the period permitted for its correc-
8 tion may be assessed a civil penalty of not more than ~~\$7,000.00~~
9 \$14,000.00 for each day during which the failure or violation
10 continues. A period permitted for corrections does not begin to

1 run until the date of the final order of the board if a review
2 proceeding before a board is initiated by the employer in good
3 faith and not solely for delay or avoidance of a penalty.

4 (3) An employer who receives a citation for a violation of
5 this act, an order issued pursuant to this act, or a rule or
6 standard promulgated under this act, which violation is specifi-
7 cally determined not to be of a serious nature, may be assessed a
8 civil penalty of not more than ~~\$7,000.00~~ \$14,000.00 for each
9 violation.

10 (4) An employer who willfully or repeatedly violates this
11 act, an order issued pursuant to this act, or a rule or standard
12 promulgated under this act may be assessed a civil penalty of not
13 more than ~~\$70,000.00~~ \$140,000.00 for each violation, but not
14 less than ~~\$5,000.00~~ \$10,000.00 for each willful violation.

15 (5) An employer who willfully violates this act, an order
16 issued pursuant to this act, or a rule or standard promulgated
17 under this act ~~which~~ THAT causes the death of an employee is
18 guilty of a felony and shall be fined not more than ~~\$10,000.00~~
19 \$20,000.00, or imprisoned for not more than 1 year, or both. If
20 the conviction is the second under this act, the person shall be
21 fined not more than ~~\$20,000.00~~ \$40,000.00, or imprisoned for
22 not more than 3 years, or both.

23 (6) An employer who violates a posting requirement pre-
24 scribed under this act shall be assessed a civil penalty of not
25 more than ~~\$7,000.00~~ \$14,000.00 for each violation.

26 (7) A person who knowingly makes a false statement,
27 representation, or certification in an application, record,

1 report, plan, or other document filed or required to be
2 maintained pursuant to this act, or who fails to maintain or
3 transmit a record or report as required under section 61, is
4 guilty of a misdemeanor and shall be fined not more than
5 ~~\$10,000.00~~ \$20,000.00, or imprisoned for not more than 6
6 months, or both.

7 (8) A person who gives advance notice of an investigation or
8 an inspection to be conducted under this act without authority
9 from the appropriate director or the designee of the director is
10 guilty of a misdemeanor and shall be fined not more than
11 \$1,000.00, or imprisoned for not more than 6 months, or both.

12 (9) ~~The department of labor or the department of public~~
13 ~~health, if the employer is a public employer, instead~~ INSTEAD of
14 applying a civil penalty otherwise applicable ~~to an employer~~
15 under this section ~~—~~, TO AN EMPLOYER WHO IS A PUBLIC EMPLOYER,
16 THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES OR THE DEPART-
17 MENT OF COMMUNITY HEALTH may request that the attorney general
18 seek a writ of mandamus in the appropriate circuit court to
19 compel compliance with a citation, including the terms of
20 abatement.

21 (10) A person shall not assault a department representative
22 or other person charged with enforcement of this act in the per-
23 formance of that person's legal duty to enforce this act. A
24 person who violates this subsection is guilty of a misdemeanor.
25 A prosecuting attorney having jurisdiction of this matter and the
26 attorney general knowing of a violation of this section may
27 prosecute the violator.

1 (11) The increases in the civil penalties of subsections
2 (1), (2), (3), (4), and (6) made pursuant to the ~~1991~~ 2001
3 amendatory act that ~~added~~ AMENDED this subsection shall ~~take~~
4 ~~effect April 1, 1992~~ FUND THE HIRING AND EMPLOYMENT OF ADDI-
5 TIONAL INDIVIDUALS TO CONDUCT INSPECTIONS AUTHORIZED UNDER THIS
6 ACT.