

HOUSE BILL NO. 4756

April 29, 2021, Introduced by Reps. Scott, Sabo, Koleszar, Bolden, Hope, Shannon, Haadsma, Pohutsky, Cavanagh, Steckloff, Stone, Brenda Carter, Hertel, Kuppa, Liberati, Morse, Thanedar, O'Neal, Rogers, Tyrone Carter, Young, Breen, Brabec, Weiss, Tate and Cynthia Johnson and referred to the Committee on Workforce, Trades, and Talent.

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~~ **Before June 1, 2021, an** employer who receives
2 a citation for a serious violation of this act, an order issued
3 pursuant to this act, or a rule or standard promulgated under this
4 act shall be assessed a civil penalty of not more than \$7,000.00
5 for each violation. **Beginning June 1, 2021, an employer who**

1 receives a citation for a serious violation of any of the following
2 shall be assessed a civil penalty of not more than \$15,000.00 for
3 each violation:

4 (a) This act.

5 (b) An order issued pursuant to this act.

6 (c) A rule or standard promulgated under this act.

7 (d) An occupational safety and health order issued during
8 either of the following:

9 (i) An emergency declared by the governor because of a
10 contagious disease.

11 (ii) The period of time that an order issued by the director of
12 the department of health and human services under section 2253 of
13 the public health code, 1978 PA 368, MCL 333.2253, is in effect.

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

22 (3) An employer who receives a citation for a violation of
23 this act, an order issued pursuant to this act, or a rule or
24 standard promulgated under this act ~~, which violation is~~
25 ~~specifically determined not to be of a serious nature,~~ may be
26 assessed a civil penalty of not more than \$7,000.00 for each
27 violation **that is specifically determined not to be of a serious**
28 **nature.**

29 (4) An employer who willfully or repeatedly violates this act,

1 an order issued pursuant to this act, or a rule or standard
 2 promulgated under this act may be assessed a civil penalty of not
 3 **less than \$5,000.00 but not** more than \$70,000.00 for each **willful**
 4 **or repeated** violation. ~~, but not less than \$5,000.00 for each~~
 5 ~~willful violation.~~

6 (5) An employer who willfully violates this act, an order
 7 issued pursuant to this act, or a rule or standard promulgated
 8 under this act ~~which~~ **that** causes the death of an employee is guilty
 9 of a felony ~~and shall be fined~~ **punishable by imprisonment for not**
 10 **more than 1 year or a fine of** not more than \$10,000.00, ~~or~~
 11 ~~imprisoned for not more than 1 year, or both.~~ If the conviction is
 12 ~~the~~ **a second or subsequent conviction** under this act, the ~~person~~
 13 ~~shall be fined~~ **employer is guilty of a felony punishable by**
 14 **imprisonment for not more than 3 years or a fine of** not more than
 15 \$20,000.00, ~~or imprisoned for not more than 3 years, or both.~~

16 (6) An employer who violates a posting requirement prescribed
 17 under this act shall be assessed a civil penalty of not more than
 18 \$7,000.00 for each violation.

19 (7) A person who knowingly makes a false statement,
 20 representation, or certification in an application, record, report,
 21 plan, or other document filed or required to be maintained pursuant
 22 to this act, or who fails to maintain or transmit a record or
 23 report as required under section 61, is guilty of a misdemeanor ~~and~~
 24 ~~shall be fined~~ **punishable by imprisonment for not more than 6**
 25 **months or a fine of** not more than \$10,000.00, ~~or imprisoned for not~~
 26 ~~more than 6 months, or both.~~

27 (8) A person who gives advance notice of an investigation or
 28 an inspection to be conducted under this act without authority from
 29 the appropriate director or the designee of the director is guilty

1 of a misdemeanor ~~and shall be fined~~ **punishable by imprisonment for**
 2 **not more than 6 months or a fine of** not more than \$1,000.00, ~~or~~
 3 ~~imprisoned for not more than 6 months, or both.~~

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

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

18 (11) The increases in the civil penalties of subsections (1),
 19 (2), (3), (4), and (6) made pursuant to the 1991 amendatory act
 20 that added this subsection ~~shall~~ take effect April 1, 1992.