

Legislative Analysis



INCREASE NUMBER OF TOILETS AT CONSTRUCTION SITES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5064

Sponsor: Rep. Mark Meadows

Committee: Regulatory Reform

Complete to 4-28-08

A SUMMARY OF HOUSE BILL 5064 AS INTRODUCED 7-25-07

Currently, departmental rules require that at a construction site there be one toilet for 1-20 employees, two for 21-40, and for 41 or more employees, one additional toilet for each additional 40 or fewer employees.

House Bill 5064 would amend the Michigan Occupational Safety and Health Act to instead require, unless exempted, each general contractor to provide at least one toilet facility at a construction site for each 10 employees or fraction thereof who work at the site.

If a permit was required for construction, renovation, or demolition of any improvement to real property, the appropriate enforcing agency could not issue the permit unless, before starting the project, the general contractor or other person requesting the permit demonstrated compliance by providing either (1) a written agreement signed by both the party requesting the permit and a toilet facility provider establishing that the proper number of toilets were being rented or (2) a written agreement or affidavit demonstrating a valid exemption under the bill.

Each toilet facility provided under the bill would have to be operational; kept in a clean and sanitary condition; and provided with water, hand soap or disinfecting agent, and adequate amounts of toilet paper.

A general contractor who violated these provisions would be issued a citation and would be responsible for a civil penalty under provisions of the act (Sections 33-45).

Exemptions. The following exemptions would apply:

- A private residential property owner or tenant performing a project on his or her own residential property would be exempt from the above requirements if before starting the project, he or she signed a written statement or affidavit agreeing to make toilet facilities available to the construction employees and toilet facilities meeting the bill's requirements were available on the property for the duration of the project.
- A general contractor would be exempt from the above requirements if before starting on the project, the residential or commercial property owner signed a written statement or affidavit agreeing to make toilet facilities available for use by the

contractor's employees and toilet facilities meeting the bill's requirements were available on the property for the duration of the project.

- A general contractor for a county road commission or the Michigan Department of Transportation would be exempt from the bill's requirements for a construction crew working on a public road.

"Construction site" would mean a location at which any improvement to real property was in progress or where actual construction, renovation, or demolition of an improvement to real property was in progress.

"Employee" would include a subcontractor, supplier, laborer, or other individual under a contract or an agreement with a general contractor or subcontractor who provided an improvement to real property or facilitated the renovation or demolition of an improvement through his or her own labor.

"General contractor" would mean a person who contracted with an owner, lessee, or other party to provide, directly or indirectly, substantially all of the materials or services for the project.

"Toilet facility" would mean a fixed or portable facility designed to collect and contain the products of both defecation and urination and that met applicable health standards. The term would include biological, chemical, flush, and combustion toilets and sanitary privies.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the state and local units of government. Current Michigan Occupational Safety and Health (MIOSHA) standards relative to the availability of toilets at construction sites are contained in Rule 129 of the Construction Safety Standards (R 408.40129). Generally the rule requires one toilet for 1 to 20 employees, two toilets for 21 to 40 employees, and one toilet for every 40 (or less) additional employees. The rule also requires the toilets to be serviced and maintained regularly, and be supplied with toilet paper. The rule does not apply to mobile crews that have transportation readily available to nearby toilet facilities. According to the Department of Labor and Economic Growth, between October 1, 2002 and September 30, 2007, there were 37 citations concerning violations of Rule 129, as follows:

- Inadequate number of facilities: 18 violations
- No toilet provided: 3 violations
- No transportation available for mobile crews: 1 violation
- Toilet not serviced or maintained regularly: 11 violations
- Toilet paper not provided: 4 violations

Under the MIOSHA Act (MCL 408.1036), revenue from civil penalties assessed for violations of standards is credited to the General Fund. To the extent the bill results in additional civil penalty revenue, the bill would increase general fund revenue by an

indeterminate, though likely minimal, amount. Additionally, the bill could potentially increase the costs of publicly financed construction projects, to the extent any increased costs imposed on employers to increase the availability of toilet facilities at construction sites are passed on to the state or local units of government. The bill would, however, exempt work done for county road commissions and the Department of Transportation.

According to one provider of construction site toilets, the typical monthly rental cost for standard portable units runs between \$85-\$95. The bill, however, requires the toilet facility to be equipped with water, hand soap or a similar disinfecting agent. In comparison, Rule 130 (R 408.40130) only requires washing facilities be available to employees engaged in the application of paint, coatings, herbicides, or insecticides or in other operations where contaminants may be harmful to employees. The same provider of construction site toilets states the typical monthly rental of sink stations is about \$185 per month. The typical monthly rental rates of restroom trailers, which provide multiple toilets and a sink station, range in price from \$1,250 for a 16-foot unit to \$2,500 for a 24-foot unit.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Mark Wolf

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