



# HOUSE BILL No. 4706

April 25, 1995, Introduced by Reps. Alley, Middaugh and Gnodtke and referred to the Committee on Human Resources and Labor.

A bill to amend sections 14i, 35, and 35a of Act No. 154 of the Public Acts of 1974, entitled as amended "Michigan occupational safety and health act," section 14i as added by Act No. 80 of the Public Acts of 1986 and section 35 as amended and section 35a as added by Act No. 105 of the Public Acts of 1991, being sections 408.1014i, 408.1035, and 408.1035a of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Sections 14i, 35, and 35a of Act No. 154 of the  
2 Public Acts of 1974, section 14i as added by Act No. 80 of the  
3 Public Acts of 1986 and section 35 as amended and section 35a as  
4 added by Act No. 105 of the Public Acts of 1991, being sections  
5 408.1014i, 408.1035, and 408.1035a of the Michigan Compiled Laws,  
6 are amended to read as follows:

1       Sec. 14i. (1) ~~The~~ SUBJECT TO SUBSECTION (2), THE chief of  
2 each organized fire department shall prepare and disseminate to  
3 each fire fighting employee of the organized fire department a  
4 plan for executing the department's responsibilities with respect  
5 to each site within the organized fire department's jurisdiction  
6 where hazardous chemicals are used or produced.

7       (2) SUBSECTION (1) APPLIES TO VOLUNTEER ORGANIZED FIRE  
8 DEPARTMENTS BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE OF THE  
9 AMENDATORY ACT THAT ADDED THIS SUBSECTION.

10       Sec. 35. (1) An employer who receives a citation for a  
11 serious violation of this act, an order issued pursuant to this  
12 act, or a rule or standard promulgated under this act shall be  
13 assessed a civil penalty of not more than \$7,000.00 for each  
14 violation.

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

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

1 (4) An employer who willfully or repeatedly violates this  
2 act, an order issued pursuant to this act, or a rule or standard  
3 promulgated under this act may be assessed a civil penalty of not  
4 more than \$70,000.00 for each violation, but not less than  
5 \$5,000.00 for each 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 causes the death of an employee is guilty of  
9 a felony and shall be fined not more than \$10,000.00, or impris-  
10 oned for not more than 1 year, or both. If the conviction is the  
11 second under this act, the person shall be fined not more than  
12 \$20,000.00, or imprisoned for not more than 3 years, or both.

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

16 (7) A person who knowingly makes a false statement, repre-  
17 sentation, or certification in an application, record, report,  
18 plan, or other document filed or required to be maintained pursu-  
19 ant to this act, or who fails to maintain or transmit a record or  
20 report as required under section 61, is guilty of a misdemeanor  
21 and shall be fined not more than \$10,000.00, or imprisoned for  
22 not more than 6 months, or both.

23 (8) A person who gives advance notice of an investigation or  
24 an inspection to be conducted under this act without authority  
25 from the appropriate director or the designee of the director is  
26 guilty of a misdemeanor and shall be fined not more than  
27 \$1,000.00, or imprisoned for not more than 6 months, or both.

1           (9) The department of labor or the department of public  
2 health, if the employer is a public employer, instead of applying  
3 a civil penalty otherwise applicable to an employer under this  
4 section, may request that the attorney general seek a writ of  
5 mandamus in the appropriate circuit court to compel compliance  
6 with a citation, including the terms of abatement.

7           (10) A person shall not assault a department representative  
8 or other person charged with enforcement of this act in the per-  
9 formance of that person's legal duty to enforce this act. A  
10 person who violates this subsection is guilty of a misdemeanor.  
11 A prosecuting attorney having jurisdiction of this matter and the  
12 attorney general knowing of a violation of this section may pros-  
13 ecute the violator.

14           (11) The increases in the civil penalties of subsections  
15 (1), (2), (3), (4), and (6) made ~~pursuant to the 1991 amendatory~~  
16 ~~act that added this subsection~~ BY PUBLIC ACT NO. 105 OF THE  
17 PUBLIC ACTS OF 1991 shall take effect April 1, 1992.

18           (12) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION,  
19 THE TOTAL AMOUNT OF ALL CIVIL PENALTIES ASSESSED AGAINST A VOLUN-  
20 TEER ORGANIZED FIRE DEPARTMENT UNDER THIS SECTION DURING A FISCAL  
21 YEAR OF THE VOLUNTEER ORGANIZED FIRE DEPARTMENT FOR 1 OR MORE  
22 VIOLATIONS OF SECTION 14I SHALL NOT EXCEED 10% OF THE ANNUAL  
23 BUDGET OF THE VOLUNTEER ORGANIZED FIRE DEPARTMENT FOR THAT FISCAL  
24 YEAR.

25           Sec. 35a. (1) An employer who receives a citation for a  
26 serious violation of this act, an order issued pursuant to this  
27 act, or a rule or standard promulgated under this act shall be

1 assessed a civil penalty of not more than \$1,000.00 for each  
2 violation.

3 (2) An employer who fails to correct a violation for which a  
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24 formance of that person's legal duty to enforce this act. A  
25 person who violates this subsection is guilty of a misdemeanor.  
26 A prosecuting attorney having jurisdiction of this matter and the

1 attorney general knowing of a violation of this section may  
2 prosecute the violator.

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