

HOUSE BILL No. 4097

January 28, 1999, Introduced by Reps. Basham, DeHart, Hale, Brater and Bogardus and referred to the Committee on Employment Relations, Training and Safety.

A bill to amend 1974 PA 154, entitled
"Michigan occupational safety and health act,"
by amending sections 5 and 6 (MCL 408.1005 and 408.1006),
section 5 as amended by 1986 PA 80.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) "Employee" means a person WHO IS RECEIVING
2 VOCATIONAL TRAINING FROM AN EMPLOYER OR WHO IS permitted to work
3 by an employer.

4 (2) "Employer" means an individual or organization, includ-
5 ing the state or a political subdivision, ~~which~~ THAT employs 1
6 or more persons, OR THAT PROVIDES VOCATIONAL TRAINING TO 1 OR
7 MORE PERSONS.

8 (3) "Imminent danger" means a condition or practice in a
9 place of employment ~~which is such that a danger exists which~~
10 THAT IS DANGEROUS AND THAT could reasonably be expected to cause

1 death or serious physical harm either immediately or before the
2 imminence of the danger can be eliminated through the enforcement
3 procedures otherwise provided. A container of an unknown and
4 unlabeled chemical or a container of hazardous chemicals that is
5 not labeled or for which a material safety data sheet is not
6 available as required by the standard incorporated by reference
7 in section 14a shall be considered an imminent danger after meet-
8 ing the provisions of section 31.

9 (4) "Inspection" means the examination or survey of a place
10 of employment to detect the presence of an existing or potential
11 occupational safety or health hazard or to determine compliance
12 with this act, rules or standards promulgated, or orders issued
13 ~~pursuant to~~ IN ACCORDANCE WITH this act.

14 (5) "Investigation" means the detailed evaluation or study
15 of working conditions, including equipment, processes, sub-
16 stances, air contaminants, or physical agents with respect to the
17 actual or potential occurrence of occupational accidents, ill-
18 nesses, or diseases.

19 Sec. 6. (1) "Place of employment" means a factory, plant,
20 establishment, construction site or other similar area, work-
21 place, or environment where an employee is permitted to work OR
22 RECEIVE VOCATIONAL TRAINING.

23 (2) "Political subdivision" means a city, village, township,
24 county, school district, intermediate school district, or state
25 or local government authorized or supported agency, authority, or
26 institution.

1 (3) "Rule" means a rule as defined by section 7 of ~~Act No.~~
2 ~~306 of the Public Acts of 1969, being section 24.207 of the~~
3 ~~Michigan Compiled Laws~~ THE ADMINISTRATIVE PROCEDURES ACT OF
4 1969, 1969 PA 306, MCL 24.207. A rule may only be promulgated by
5 the director of ~~labor~~ THE DEPARTMENT OF CONSUMER AND INDUSTRY
6 SERVICES or THE director of THE DEPARTMENT OF COMMUNITY health
7 except as otherwise specifically prescribed in this act.

8 (4) "Serious violation" means a violation of this act, an
9 order issued ~~pursuant to~~ UNDER this act, or a rule or standard
10 promulgated under this act or adopted by reference ~~pursuant to~~
11 IN ACCORDANCE WITH this act for which a substantial probability
12 exists that death or serious physical harm could result from the
13 violation or from a practice, means, method, operation, or pro-
14 cess which is in use, unless the employer did not and could not,
15 with the exercise of reasonable diligence, know of the presence
16 of the violation.

17 (5) "Standard" means a health or safety standard ~~which~~
18 THAT specifies conditions, or the adoption or use of 1 or more
19 practices, means, methods, operations, or processes necessary to
20 provide safe and healthful employment OR VOCATIONAL TRAINING in
21 places of employment. Except as otherwise specifically pre-
22 scribed in this act, only the:

23 (a) General industry safety standards commission may promul-
24 gate a standard relative to occupational safety.

25 (b) Construction safety standards commission may promulgate
26 a standard relative to construction safety.

1 (c) Occupational health standards commission may promulgate
2 a standard relative to occupational health.

3 (6) "Standards promulgation commission" means the general
4 industry safety standards commission, the construction safety
5 standards commission, or the occupational health standards
6 commission.

7 (7) "Trade secret" means a confidential process, formula,
8 pattern, device, or compilation of information ~~which~~ THAT is
9 used in the employer's business and ~~which~~ THAT gives him OR HER
10 an opportunity to obtain an advantage over competitors who do not
11 know or use it.

12 (8) "VOCATIONAL TRAINING" MEANS INSTRUCTION UNDER A PROGRAM
13 DESIGNED TO PREPARE INDIVIDUALS FOR GAINFUL EMPLOYMENT AS SEMI-
14 SKILLED OR SKILLED WORKERS OR TECHNICIANS. VOCATIONAL TRAINING
15 INCLUDES INSTRUCTION DESCRIBED IN THIS SUBSECTION THAT IS PRO-
16 VIDED BY A SECONDARY OR POSTSECONDARY EDUCATIONAL INSTITUTION.

17 (9) ~~(8) "Wilful"~~ "WILLFUL", for the purpose of criminal
18 prosecutions, means the intent to do an act knowingly and pur-
19 posely by an individual who, having a free will and choice,
20 either intentionally disregards a requirement of this act, or a
21 rule or standard promulgated ~~pursuant to~~ UNDER this act, or is
22 knowingly and purposely indifferent to a requirement of this act,
23 or a rule or standard promulgated ~~pursuant to~~ UNDER this act.
24 An omission or failure to act is ~~wilful~~ WILLFUL if it is done
25 knowingly and purposely. ~~Wilful~~ WILLFUL does not require a
26 showing of moral turpitude, evil purpose, or criminal intent

1 ~~provided~~ IF the individual is shown to have acted or to have
2 failed to act knowingly and purposely.
3 (10) ~~(9)~~ "Working day" means any day other than a
4 Saturday, Sunday, or state legal holiday.