

SENATE BILL No. 493

May 11, 2005, Introduced by Senators BASHAM, SCHAUER and CHERRY and referred to the Committee on Government Operations.

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 by
 3 an employer.

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

8 (3) "Imminent danger" means a condition or practice in a place

1 of employment ~~which is such that a danger exists which~~ **THAT IS**
2 **DANGEROUS AND THAT** could reasonably be expected to cause death or
3 serious physical harm either immediately or before the imminence of
4 the danger can be eliminated through the enforcement procedures
5 otherwise provided. A container of an unknown and unlabeled
6 chemical or a container of hazardous chemicals that is not labeled
7 or for which a material safety data sheet is not available as
8 required by the standard incorporated by reference in section 14a
9 shall be considered an imminent danger after meeting the provisions
10 of section 31.

11 (4) "Inspection" means the examination or survey of a place of
12 employment to detect the presence of an existing or potential
13 occupational safety or health hazard or to determine compliance
14 with this act, rules or standards promulgated **UNDER THIS ACT**, or
15 orders issued ~~pursuant to~~ **UNDER** this act.

16 (5) "Investigation" means the detailed evaluation or study of
17 working conditions, including equipment, processes, substances, air
18 contaminants, or physical agents with respect to the actual or
19 potential occurrence of occupational accidents, illnesses, or
20 diseases.

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

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

1 institution.

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

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

18 (5) "Standard" means a health or safety standard ~~which~~ **THAT**
19 specifies conditions, or the adoption or use of 1 or more
20 practices, means, methods, operations, or processes necessary to
21 provide safe and healthful employment **OR VOCATIONAL TRAINING** in
22 places of employment. Except as otherwise specifically ~~prescribed~~
23 **PROVIDED** in this act, ~~only~~ the **AUTHORITY TO PROMULGATE STANDARDS**
24 **UNDER THIS ACT IS RESTRICTED, AS FOLLOWS:**

25 (a) ~~General~~ **THE GENERAL** industry safety standards commission
26 may promulgate ~~a standard relative~~ **STANDARDS RELATING** to
27 occupational safety.

1 (b) ~~Construction~~ **THE CONSTRUCTION** safety standards
2 commission may promulgate ~~a standard relative~~ **STANDARDS RELATING**
3 to construction safety.

4 (c) ~~Occupational~~ **THE OCCUPATIONAL** health standards
5 commission may promulgate ~~a standard relative~~ **STANDARDS RELATING**
6 to occupational health.

7 ~~——(6) "Standards promulgation commission" means the general~~
8 ~~industry safety standards commission, the construction safety~~
9 ~~standards commission, or the occupational health standards~~
10 ~~commission.~~

11 (6) ~~(7)~~ "Trade secret" means a confidential process,
12 formula, pattern, device, or compilation of information ~~which~~
13 **THAT** is used in the employer's business and ~~which~~ **THAT** gives him
14 **OR HER AN OPPORTUNITY TO OBTAIN AN ADVANTAGE OVER COMPETITORS WHO**
15 **DO NOT KNOW OR USE IT.**

16 (7) **"VOCATIONAL TRAINING" MEANS INSTRUCTION UNDER A PROGRAM**
17 **DESIGNED TO PREPARE INDIVIDUALS FOR GAINFUL EMPLOYMENT AS**
18 **SEMISKILLED OR SKILLED WORKERS OR TECHNICIANS. VOCATIONAL TRAINING**
19 **INCLUDES INSTRUCTION DESCRIBED IN THIS SUBSECTION THAT IS PROVIDED**
20 **BY A SECONDARY OR POSTSECONDARY EDUCATIONAL INSTITUTION.**

21 (8) ~~"Wilful"~~ **"WILLFUL"**, for the purpose of criminal
22 prosecutions, means the intent to do an act knowingly and purposely
23 by an individual who, having a free will and choice, either
24 intentionally disregards a requirement of this act, or a rule or
25 standard promulgated ~~pursuant to~~ **UNDER** this act, or is knowingly
26 and purposely indifferent to a requirement of this act, or a rule
27 or standard promulgated ~~pursuant to~~ **UNDER** this act. An omission

1 or failure to act is ~~wilful~~ **WILLFUL** if it is done knowingly and
2 purposely. ~~Wilful~~ **WILLFUL** does not require a showing of moral
3 turpitude, evil purpose, or criminal intent ~~provided~~ **IF** the
4 individual is shown to have acted or to have failed to act
5 knowingly and purposely.

6 (9) "Working day" means any day other than a Saturday,
7 Sunday, or state legal holiday.