

Legislative Analysis



CHRISTMAS TREE OPERATIONS UNDER MIOSHA

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House Bill 4307 (Proposed Substitute H-1)

Sponsor: Rep. Jon Bumstead

Committee: Regulatory Reform

Complete to 5-10-11

A SUMMARY OF HOUSE BILL 4307 (PROPOSED SUBSTITUTE H-1)

House Bill 4307 (H-1) would amend the Michigan Occupational Safety and Health Act by changing the classification system used to define agriculture operations from the Standard Industrial Classifications (SIC) 01 and 02 to the North American Industry Classification System (NAICS) Sector 11.

Agricultural operations is currently defined as *"the work activity designated in major groups 01 and 02 of the Standard Industrial Classification Manual, United States Bureau of the Budget, 1972 edition."* This legislation would change the definition to *"the work activity designated in the North American Industry Classification System, Sector 11, United States Census Bureau, 2007 edition, and **includes work activity associated with cultivated Christmas trees.**"*

According to the Department of Licensing and Regulatory Affairs (LARA), this legislation would expand the definition of agriculture operations from the current agricultural production of crops, livestock, and animal specialties, to also include forestry, fishing, and hunting. The forestry code contains a subcategory for nursery floriculture production, which includes Christmas tree farms.

MCL 408.1004

FISCAL IMPACT:

By changing the definition of "agricultural operations" to include work activities under NAICS Sector 11 (Agriculture, Forestry, Fishing, and Hunting), the bill would appear to restrict MIOSHA's authority over the occupational safety and health standards of a number of industries beyond simply agricultural crop production (including the production of Christmas trees) or animal production.

Section 18 of the federal Occupational Safety and Health Act of 1970 allows for states to assume the responsibility for the development and enforcement of occupational safety and health standards by having a state plan approved by the federal Occupational Safety and Health Administration (OSHA). To have an approved state plan, the state must demonstrate that the plan, among other things, provides for the development and enforcement of safety and health standards that are "at least as effective in providing safe and healthful employment and places of employment" as similar federal standards.

There are a number of industries within NAICS Sector 11 that, when defined as "agricultural operations" in the state act, would potentially not be subject to state occupational safety and health standards that are "at least as effective" as applicable federal standards. (See, generally, 29 CFR 1928, Occupational Safety and Health Standards for Agriculture.) This gap in coverage could potentially result in Michigan's status as an OSHA State Plan state being withdrawn by OSHA in accordance with the federal Occupational Safety and Health Act and applicable federal regulations (29 CFR 1955, Procedures for Withdrawal of Approval of State Plans).

Reclassifying the production of Christmas trees as an "agricultural operation" under the act would not likely have a significant budgetary impact on the state or local units of government. For FY 2011, the agency's budget authorization is \$27.7 million Gross (\$0 GF/GP) and 229.0 FTE positions.

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