

Legislative Analysis



REIMBURSEMENT OF CIVIL PENALTIES FOR EMERGENCY STANDARD VIOLATIONS

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<http://www.house.mi.gov/hfa>

House Bill 4501 as introduced
Sponsor: Rep. Timothy Beson
Committee: Government Operations
Complete to 5-19-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4501 would amend the Michigan Occupational Safety and Health Act (MIOSHA) to prohibit the Department of Labor and Economic Opportunity (LEO) from assessing an employer a civil penalty for violating an emergency standard under certain conditions. The bill also would require LEO to reimburse an employer that paid a civil penalty assessed for violating a gubernatorial executive order dealing with COVID-19 that the Michigan Supreme Court determines to be void or unconstitutional. This provision would apply retroactively regardless of when the civil penalty was assessed.

Sections 21 and 24 of MIOSHA require the director of LEO to promulgate an emergency safety standard if the standard is necessary to protect employees (section 21) or if the director finds that the standard is necessary to protect employees from substances or agents they are being exposed to that have been determined to be toxic or physically harmful (section 24).

The bill would prohibit LEO from assessing an employer a civil penalty for violating an emergency standard that addresses COVID-19 if the violation is the employer's first violation of that standard and the employer takes action to correct the violation.

In addition, LEO would have to reimburse an employer for the amount of a civil penalty paid by the employer that was assessed for violating an executive order issued by the governor that deals with COVID-19 if the executive order is determined to be unconstitutional or otherwise void by the supreme court. The reimbursement would have to be made within 30 days after the effective date of the supreme court order or 30 days after the effective date of the bill, whichever was later. The bill states that this provision would be retroactive and apply regardless of whether the civil penalty was assessed before the bill's effective date.

Proposed MCL 408.38

FISCAL IMPACT:

A fiscal analysis is in progress.

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