

MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ACT (EXCERPT)
Act 154 of 1974

***** 408.1035a.added THIS ADDED SECTION TAKES EFFECT WHEN ANY PROVISION OF SECTION 14 IS HELD TO BE UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION, THE ALLOWABLE TIME FOR FILING AN APPEAL HAS EXPIRED OR THE APPELLANT HAS EXHAUSTED ALL AVENUES OF APPEAL, AND SECTION 35 IS REPEALED *****

408.1035a.added Violations; civil and criminal penalties.

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

(2) An employer who fails to correct a violation for which a citation was issued within the period permitted for its correction may be assessed a civil penalty of not more than \$1,000.00 for each day during which the failure or violation continues. A period permitted for corrections does not begin to run until the date of the final order of the board if a review proceeding before a board is initiated by the employer in good faith and not solely for delay or avoidance of a penalty.

(3) An employer who receives a citation for a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, which violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than \$1,000.00 for each violation.

(4) An employer who willfully or repeatedly violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act may be assessed a civil penalty of not more than \$10,000.00 for each violation.

(5) An employer who willfully violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act which causes the death of an employee is guilty of a felony and shall be fined not more than \$10,000.00, or imprisoned for not more than 1 year, or both. If the conviction is the second under this act, the person shall be fined not more than \$20,000.00, or imprisoned for not more than 3 years, or both.

(6) An employer who violates a posting requirement prescribed under this act shall be assessed a civil penalty of not more than \$1,000.00 for each violation.

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

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

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

(10) A person shall not assault a department representative or other person charged with enforcement of this act in the performance of that person's legal duty to enforce this act. A person who violates this subsection is guilty of a misdemeanor. A prosecuting attorney having jurisdiction of this matter and the attorney general knowing of a violation of this section may prosecute the violator.

History: Add. 1991, Act 105, Eff. (pending).

Compiler's note: Sections 4 and 5 of Act 105 of 1991 read as follows:

“Section 4. If any provision of section 14 of this amendatory act is held to be unconstitutional by a court of competent jurisdiction and the allowable time for filing an appeal has expired or the appellant has exhausted all of his or her avenues of appeal, section 35 of Act No. 154 of the Public Acts of 1974, being section 408.1035 of the Michigan Compiled Laws, is repealed.

“Section 5. Section 35a of this amendatory act shall not take effect unless the condition described in enacting section 4 is met and section 35 of Act No. 154 of the Public Acts of 1974, being section 408.1035 of the Michigan Compiled Laws, is repealed.”