

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

408.1031 Determination of imminent danger; notice; order; tagging equipment or process; removal of tag; on site review; recommendation; discrimination prohibited; noncompliance with order; petition to restrain condition or practice; action against department; response to imminent danger complaint; opportunity to identify, label, or provide safety data sheet for container.

Sec. 31.

(1) When and as soon as a department representative determines that an imminent danger exists in a place of employment, the department representative shall inform the employer and the affected employees of a determination of the imminent danger. The department representative immediately shall recommend to the director that an order be issued to require that steps be taken as may be necessary to avoid, correct, or remove the imminent danger. After receiving authorization for the issuance of an order from the director, the department representative shall apply a tag to the equipment or process that is the source of the imminent danger identifying that an imminent danger exists. The tag shall be removed only by the department representative. At request of the employer, an area supervisor shall, within 24 hours after a request, make an on site review of any tagging and recommend continuance or removal. The order shall prohibit the employment or presence of an individual in locations or under conditions where imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove the imminent danger in a safe and orderly manner. In tagging the equipment or process that is the source of imminent danger and in issuing the order, consideration shall be given to any necessity to maintain the capacity of a continuous process operation and to the reestablishment of normal operations without a complete cessation of operations.

(2) An employer shall not permit an employee, other than an employee whose presence is necessary to avoid, correct, or remove the imminent danger, to operate equipment or engage in a process that has been tagged by the department and that is the subject of an order issued by the department identifying that an imminent danger exists. An employee who suffers a loss of wages or fringe benefits or is in any manner discriminated against for refusing to operate equipment or engage in a process that has been tagged by the department and that is the subject of an order issued by the department, as provided in this section, may file a discrimination complaint, and the department of licensing and regulatory affairs may order appropriate relief as provided in section 65. This section does not prohibit an employer from assigning an employee to an operation not affected by the imminent danger situation, subject to any collective bargaining agreement.

(3) Upon failure of the employer to promptly comply with a department order, as described in subsection (1), the department shall petition the circuit court having jurisdiction to restrain a condition or practice in a place of employment that the department has determined to cause the imminent danger.

(4) If the department arbitrarily or capriciously fails to seek relief under this section, an employee who may be injured by reason of the failure, or the representative of those employees, may bring action against the department in the circuit court having jurisdiction for a writ of mandamus to compel the department to seek an order and for further relief, as may be appropriate.

(5) The department of licensing and regulatory affairs shall respond within 24 hours after receipt of an imminent danger complaint concerning an unknown and unlabeled container of chemicals or an imminent danger complaint concerning a container of hazardous chemicals that is not labeled or for which a safety data sheet is not available as required by the standard incorporated by reference in section 14a and by sections 14b to 14l.

(6) Before a department representative seeks authorization to issue an order pursuant to the procedures prescribed in subsection (1), an employer shall be given a reasonable opportunity to identify, label, or provide the safety data sheet for the container that is the subject of the imminent danger determination.

History: 1974, Act 154, Eff. Jan. 1, 1975 ;-- Am. 1979, Act 149, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 80, Imd. Eff. Apr. 7, 1986 ;-- Am. 2012, Act 447, Imd. Eff. Dec. 27, 2012