

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

***** 408.1035 THIS SECTION IS REPEALED IF SECTION 14, AS AMENDED BY ACT 105 OF 1991, IS HELD TO BE UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION AND THE ALLOWABLE TIME FOR FILING AN APPEAL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 AVENUES OF APPEAL *****

***** 408.1035 THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2024 REGULAR SESSION SINE DIE *****

408.1035.amended Violations; civil and criminal penalties.

Sec. 35. (1) If an employer 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, the board shall assess the employer a civil penalty of not more than \$7,000.00 for each violation.

(2) If an employer fails to correct a violation for which a citation was issued within the period permitted for its correction, the board may assess the employer a civil penalty of not more than \$7,000.00 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 the board is initiated by the employer in good faith and not solely for delay or avoidance of a penalty.

(3) If an employer 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, the board may assess the employer a civil penalty of not more than \$7,000.00 for each violation that is specifically determined not to be of a serious nature.

(4) If an employer willfully or repeatedly violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, the board may assess the employer a civil penalty of not more than \$70,000.00 for each violation, but not less than \$5,000.00 for each willful violation. As used in this subsection:

(a) "Case closing date", with respect to an asbestos-related violation, means the first date that all of the following conditions are met:

(i) The citation for the violation is a final order.

(ii) Satisfactory abatement documentation for the violation is received by the board.

(iii) All civil penalties related to the violation are timely paid, or the department of labor and economic opportunity complies with section 36(6).

(b) "Repeatedly violates", with respect to an asbestos-related violation, means commits an asbestos related violation not later than 5 years after the case closing date of an asbestos-related violation.

(5) If an employer willfully violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act and the violation causes the death of an employee, the employer is guilty of a felony punishable by imprisonment for not more than 1 year, a fine of not more than \$10,000.00, or both. A second and any subsequent violation under this subsection is punishable by imprisonment for not more than 3 years, a fine of \$20,000.00, or both.

(6) If an employer violates a posting requirement prescribed under this act, the board shall assess the employer a civil penalty of not more than \$7,000.00 for each violation.

(7) If a person 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 fails to maintain or transmit a record or report as required under section 61, the person is guilty of a misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than \$10,000.00, or both.

(8) If a person 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, the person is guilty of a misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than \$1,000.00, or both.

(9) For a public employer, the department of labor and economic opportunity, 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 the matter or the attorney general may prosecute the violator.

History: 1974, Act 154, Eff. Jan. 1, 1975;—Am. 1977, Act 300, Eff. Mar. 30, 1978;—Am. 1979, Act 149, Eff. Mar. 27, 1980;—Am.

1991, Act 105, Imd. Eff. Oct. 3, 1991;—Am. 2024, Act 17, Eff. (sine die).

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.”