

HOUSE BILL No. 5733

May 9, 1990, Introduced by Reps. DeLange, Bender, Ouwinga, Hoekman, Gnodtke, London and Dolan and referred to the Committee on Labor.

A bill to amend sections 16, 19, and 24 of Act No. 154 of the Public Acts of 1974, entitled as amended "Michigan occupational safety and health act," being sections 408.1016, 408.1019, and 408.1024 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 16, 19, and 24 of Act No. 154 of the
2 Public Acts of 1974, being sections 408.1016, 408.1019, and
3 408.1024 of the Michigan Compiled Laws, are amended to read as
4 follows:

5 Sec. 16. (1) The general industry safety standards commis-
6 sion may promulgate standards in accordance with this act to pre-
7 vent accidents in places of employment and to protect the life
8 and safety of employees. Where another state agency has rules
9 promulgated before ~~the effective date of this act which~~

1 JANUARY 1, 1975 THAT regulate a place of employment relative to
2 the safety of the public, the rules of the other state agency
3 shall apply only to the safety of the public. When practicable,
4 the standards promulgated shall be expressed in terms of objec-
5 tive criteria and of the performance desired. A GENERAL INDUSTRY
6 SAFETY STANDARD MAY INCLUDE A STANDARD TO REGULATE SUBSTANCE
7 ABUSE IN THE WORKPLACE, INCLUDING DRUG AND ALCOHOL TESTING AND
8 OTHER MEDICAL EXAMINATIONS OR TESTS CONSIDERED NECESSARY TO CON-
9 TROL SUBSTANCE ABUSE IN THE WORKPLACE.

10 (2) Adoption of a standard shall be by a majority of the
11 members present if a quorum is present.

12 Sec. 19. (1) The construction safety standards commission
13 may promulgate construction safety standards pursuant to this act
14 and based upon, but not necessarily limited to, generally
15 accepted nationwide engineering standards and practices designed
16 to prevent accidents and to protect the life and safety of
17 employees engaged in construction operations. Where practicable,
18 the standards promulgated shall be expressed in terms of objec-
19 tive criteria and of the performance desired. A CONSTRUCTION
20 SAFETY STANDARD MAY INCLUDE A STANDARD TO REGULATE SUBSTANCE
21 ABUSE IN THE WORKPLACE, INCLUDING DRUG AND ALCOHOL TESTING AND
22 OTHER MEDICAL EXAMINATIONS OR TESTS CONSIDERED NECESSARY TO CON-
23 TROL SUBSTANCE ABUSE IN THE WORKPLACE.

24 (2) Adoption of a standard shall be by a majority of the
25 members present if a quorum is present.

26 Sec. 24. (1) Before a proposed standard, except an
27 emergency standard, may be promulgated, the commission shall

1 appoint and consult with an advisory committee which shall be
2 representative of the major interests affected by the proposed
3 standard. The members of the advisory committee shall be
4 selected on the basis of their experience and competence in the
5 subject of the proposed standard. At least 1 member of each
6 advisory committee shall be a person who devotes a major portion
7 of time to occupational health functions.

8 (2) The per diem compensation and the schedule for reim-
9 bursement of expenses for members of the occupational health
10 standards advisory committees shall be established annually by
11 the legislature.

12 (3) Standards governing occupational health promulgated by
13 the director of public health which are in effect on the effec-
14 tive date of this act are continued under section 31 of Act No.
15 306 of the Public Acts of 1969, as amended, BEING SECTION 24.231
16 OF THE MICHIGAN COMPILED LAWS.

17 (4) The occupational health standards commission may promul-
18 gate an occupational health standard pursuant to Act No. 306 of
19 the Public Acts of 1969, as amended, except for standards adopted
20 by reference pursuant to section 14. AN OCCUPATIONAL HEALTH
21 STANDARD MAY INCLUDE A STANDARD TO REGULATE SUBSTANCE ABUSE IN
22 THE WORKPLACE, INCLUDING DRUG AND ALCOHOL TESTING AND OTHER MEDI-
23 CAL EXAMINATIONS OR TESTS CONSIDERED NECESSARY TO CONTROL SUB-
24 STANCE ABUSE IN THE WORKPLACE. Adoption of a standard shall be by
25 a majority of the members present if a quorum is present.

26 (5) When promulgating occupational health standards, the
27 occupational health standards commission shall promulgate a

1 standard which most adequately assures, to the extent feasible
2 and on the basis of the best available evidence, that an employee
3 will not suffer material impairment of health or functional
4 capacity, even if the employee has regular exposure to a hazard
5 dealt with by the standard for the period of his or her working
6 life.

7 (6) The director of public health shall promulgate an emer-
8 gency standard pursuant to section 48 of Act No. 306 of the
9 Public Acts of 1969, as amended, BEING SECTION 24.248 OF THE
10 MICHIGAN COMPILED LAWS, when the director finds that employees
11 are exposed to substances or agents determined to be toxic or
12 physically harmful, and the emergency standard is necessary to
13 protect employees from that danger.

14 (7) A standard shall prescribe appropriate forms of warning
15 which are necessary to insure that employees are apprised of
16 health hazards to which they are exposed, relevant symptoms, and
17 the conditions and precautions for safe use or exposure, includ-
18 ing appropriate emergency treatment. Where appropriate, a stan-
19 dard shall prescribe suitable protective equipment, control, or
20 technological procedures to be used and shall require an employer
21 to monitor or measure employee exposure, to allow employees or
22 their representatives to observe the monitoring and have access
23 to the records of the monitoring, and to conduct the monitoring
24 in a manner which is necessary for the protection of the
25 employees' health. Former employees shall have access to the
26 records indicating their exposure to toxic materials and harmful
27 physical agents.

1 (8) Where appropriate, the occupational health standards
2 commission shall prescribe by standard that medical examinations
3 or tests shall be made available, at the employer's cost, to
4 employees to determine if they are adversely affected by exposure
5 to health hazards. IF A STANDARD INCLUDES DRUG AND ALCOHOL TEST-
6 ING OR OTHER MEDICAL EXAMINATIONS OR TESTS RELATED TO SUBSTANCE
7 ABUSE IN THE WORKPLACE, THE EMPLOYER SHALL BE RESPONSIBLE FOR THE
8 COSTS OF THE TESTS AND EXAMINATIONS. If the examination is per-
9 formed by a physician other than a physician who is retained for
10 that purpose by the employer, the employer shall be responsible
11 only for the reasonable costs of the examination, and only for
12 costs related to the performance of the examination required by
13 the standard. The results of the examinations or tests shall be
14 furnished to the employer, the employee, and upon request of the
15 employee, to the employee's personal physician, and upon request
16 of the director of public health, to the director of public
17 health by the employer. However, nothing in this or any other
18 provision of this act shall be considered to authorize or require
19 medical examinations, immunizations, or treatments for those who
20 object to them on religious grounds, except where necessary for
21 the protection of the health or safety of others.

22 (9) An employer shall, in accordance with the standards
23 established by sections 3 and 4 of the Bullard-Plawecki employee
24 right-to-know act, Act No. 397 of the Public Acts of 1978, being
25 sections 423.503 and 423.504 of the Michigan Compiled Laws, make
26 available to employees, for inspection and copying, any general
27 health surveys of conditions in the employee's place of

1 employment which may affect adversely the employee's health.
2 General health surveys shall be narrowly defined and interpreted
3 by the departments to mean only those studies or reports con-
4 ducted by an employer which as a result determines 1 or more
5 potential adverse effects of employee exposure to toxic materials
6 or harmful physical agents. A specific log of all general health
7 surveys of conditions in the employee's place of employment which
8 may affect adversely the employee's health shall be kept by the
9 employer and shall be made available to employees to aid in
10 information requests.

11 (10) Upon an employee's request, an employer shall in
12 accordance with the standards established by sections 3 and 4 of
13 the Bullard-Plawecki employee right-to-know act, Act No. 397 of
14 the Public Acts of 1978, make available to the employee for
15 inspection and copying all medical records and health data in the
16 employer's possession pertaining to that employee.