

HOUSE BILL No. 4153

February 7, 1991, Introduced by Reps. DeLange, Middaugh, Nye, Gnodtke, Ouwinga, Hoekman, Dalman, Bender, Willis Bullard, Hoffman, Jaye, Oxender, Robertson, London and Walberg 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~~ IF another state agency has
9 rules 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 practica-
4 ble, the standards promulgated shall be expressed in terms of
5 objective criteria and of the performance desired. A GENERAL
6 INDUSTRY SAFETY STANDARD MAY INCLUDE A STANDARD TO REGULATE SUB-
7 STANCE ABUSE IN THE WORKPLACE, INCLUDING DRUG AND ALCOHOL TESTING
8 AND OTHER MEDICAL EXAMINATIONS OR TESTS CONSIDERED NECESSARY TO
9 CONTROL 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~~ IS 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~~ THAT are in effect on ~~the~~
14 ~~effective date of this act~~ JANUARY 1, 1975 are continued under
15 section 31 of THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No.
16 306 of the Public Acts of 1969, as amended, BEING SECTION 24.231
17 OF THE MICHIGAN COMPILED LAWS.

18 (4) The occupational health standards commission may promul-
19 gate an occupational health standard pursuant to THE ADMINISTRA-
20 TIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of
21 1969, as amended, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
22 COMPILED LAWS, except for standards adopted by reference pursuant
23 to section 14. AN OCCUPATIONAL HEALTH STANDARD MAY INCLUDE A
24 STANDARD TO REGULATE SUBSTANCE ABUSE IN THE WORKPLACE, INCLUDING
25 DRUG AND ALCOHOL TESTING AND OTHER MEDICAL EXAMINATIONS OR TESTS
26 CONSIDERED NECESSARY TO CONTROL SUBSTANCE ABUSE IN THE WORKPLACE.

1 Adoption of a standard shall be by a majority of the members
2 present if a quorum is present.

3 (5) When promulgating occupational health standards, the
4 occupational health standards commission shall promulgate a stan-
5 dard which most adequately assures, to the extent feasible and on
6 the basis of the best available evidence, that an employee will
7 not suffer material impairment of health or functional capacity,
8 even if the employee has regular exposure to a hazard dealt with
9 by the standard for the period of his or her working life.

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

17 (7) A standard shall prescribe appropriate forms of warning
18 ~~which~~ THAT are necessary to insure that employees are apprised
19 of health hazards to which they are exposed, relevant symptoms,
20 and the conditions and precautions for safe use or exposure,
21 including appropriate emergency treatment. ~~Where~~ IF appropri-
22 ate, a standard shall prescribe suitable protective equipment,
23 control, or technological procedures to be used and shall require
24 an employer to monitor or measure employee exposure, to allow
25 employees or their representatives to observe the monitoring and
26 have access to the records of the monitoring, and to conduct the
27 monitoring in a manner ~~which~~ THAT is necessary for the

1 protection of the employees' health. Former employees shall have
2 access to the records indicating their exposure to toxic materi-
3 als and harmful physical agents.

4 (8) ~~Where~~ IF appropriate, the occupational health stan-
5 dards commission shall prescribe by standard that medical exami-
6 nations or tests shall be made available, at the employer's cost,
7 to employees to determine if they are adversely affected by expo-
8 sure to health hazards. IF A STANDARD INCLUDES DRUG OR ALCOHOL
9 TESTING, OR BOTH, OR OTHER MEDICAL EXAMINATIONS OR TESTS RELATED
10 TO SUBSTANCE ABUSE IN THE WORKPLACE, THE EMPLOYER IS RESPONSIBLE
11 FOR THE COSTS OF THE TESTS AND EXAMINATIONS. If the examination
12 is performed by a physician other than a physician who is
13 retained for that purpose by the employer, the employer ~~shall~~
14 ~~be~~ IS responsible only for the reasonable costs of the examina-
15 tion, and only for costs related to the performance of the exami-
16 nation required by the standard. The results of the examinations
17 or tests shall be furnished to the employer, the employee, and
18 upon request of the employee, to the employee's personal physi-
19 cian, and upon request of the director of public health, to the
20 director of public health by the employer. However, ~~nothing in~~
21 ~~this or any other provision of this act shall be considered to~~
22 DOES NOT authorize or require medical examinations, immuniza-
23 tions, or treatments for those who object to them on religious
24 grounds, except where necessary for the protection of the health
25 or safety of others.

26 (9) An employer, ~~shall~~ in accordance with the standards
27 established by sections 3 and 4 of the Bullard-Plawecki employee

1 ~~right to know~~ RIGHT TO KNOW act, Act No. 397 of the Public
2 Acts of 1978, being sections 423.503 and 423.504 of the Michigan
3 Compiled Laws, SHALL make available to employees, for inspection
4 and copying, any general health surveys of conditions in the
5 employee's place of employment ~~which~~ THAT may affect adversely
6 the employee's health. General health surveys shall be narrowly
7 defined and interpreted by the departments to mean only those
8 studies or reports conducted by an employer ~~which~~ THAT as a
9 result ~~determines~~ DETERMINE 1 or more potential adverse effects
10 of employee exposure to toxic materials or harmful physical
11 agents. A specific log of all general health surveys of condi-
12 tions in the employee's place of employment ~~which~~ THAT may
13 affect adversely the employee's health shall be kept by the
14 employer and shall be made available to employees to aid in
15 information requests.

16 (10) Upon an employee's request, an employer, ~~shall~~ in
17 accordance with the standards established by sections 3 and 4 of
18 the Bullard-Plawecki employee ~~right to know~~ RIGHT TO KNOW act,
19 Act No. 397 of the Public Acts of 1978, SHALL make available to
20 the employee for inspection and copying all medical records and
21 health data in the employer's possession pertaining to that
22 employee.