



# HOUSE BILL No. 5370

February 23 1994 Introduced by Rep Alley and referred to the Committee on Labor

A bill to amend sections 141, 35, and 35a of Act No 154 of the Public Acts of 1974, entitled as amended "Michigan occupational safety and health act," section 141 as added by Act No 80 of the Public Acts of 1986 and section 35 as amended and section 35a as added by Act No 105 of the Public Acts of 1991, being sections 408 10141, 408 1035, and 408 1035a of the Michigan Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 141, 35, and 35a of Act No 154 of the  
2 Public Acts of 1974, section 141 as added by Act No 80 of the  
3 Public Acts of 1986 and section 35 as amended and section 35a as  
4 added by Act No 105 of the Public Acts of 1991, being sections  
5 408 10141, 408 1035, and 408 1035a of the Michigan Compiled Laws,  
6 are amended to read as follows

1       Sec 141   (1) ~~The~~ SUBJECT TO SUBSECTION (2) THE chief of  
2 each organized fire department shall prepare and disseminate to  
3 each fire fighting employee of the organized fire department a  
4 plan for executing the department s responsibilities with respect  
5 to each site within the organized fire department s jurisdiction  
6 where hazardous chemicals are used or produced

7       (2) SUBSECTION (1) APPLIES TO VOLUNTEER ORGANIZED FIRE  
8 DEPARTMENTS BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE OF THE  
9 AMENDATORY ACT THAT ADDED THIS SUBSECTION

10       Sec 35   (1) An employer who receives a citation for a  
11 serious violation of this act an order issued pursuant to this  
12 act or a rule or standard promulgated under this act shall be  
13 assessed a civil penalty of not more than \$7,000 00 for each  
14 violation

15       (2) An employer who fails to correct a violation for which a  
16 citation was issued within the period permitted for its correc-  
17 tion may be assessed a civil penalty of not more than \$7 000 00  
18 for each day during which the failure or violation continues A  
19 period permitted for corrections does not begin to run until the  
20 date of the final order of the board if a review proceeding  
21 before a board is initiated by the employer in good faith and not  
22 solely for delay or avoidance of a penalty

23       (3) An employer who receives a citation for a violation of  
24 this act, an order issued pursuant to this act, or a rule or  
25 standard promulgated under this act, which violation is specifi-  
26 cally determined not to be of a serious nature, may be assessed a  
27 civil penalty of not more than \$7,000 00 for each violation

1       (4) An employer who willfully or repeatedly violates this  
2 act, an order issued pursuant to this act, or a rule or standard  
3 promulgated under this act may be assessed a civil penalty of not  
4 more than \$70,000 00 for each violation, but not less than  
5 \$5 000 00 for each willful violation

6       (5) An employer who willfully violates this act, an order  
7 issued pursuant to this act, or a rule or standard promulgated  
8 under this act which causes the death of an employee is guilty of  
9 a felony and shall be fined not more than \$10,000 00, or impris-  
10 oned for not more than 1 year or both If the conviction is the  
11 second under this act, the person shall be fined not more than  
12 \$20 000 00, or imprisoned for not more than 3 years or both

13       (6) An employer who violates a posting requirement pre-  
14 scribed under this act shall be assessed a civil penalty of not  
15 more than \$7 000 00 for each violation

16       (7) A person who knowingly makes a false statement, repre-  
17 sentation or certification in an application record report,  
18 plan or other document filed or required to be maintained pursu-  
19 ant to this act or who fails to maintain or transmit a record or  
20 report as required under section 61 is guilty of a misdemeanor  
21 and shall be fined not more than \$10,000 00 or imprisoned for  
22 not more than 6 months or both

23       (8) A person who gives advance notice of an investigation or  
24 an inspection to be conducted under this act without authority  
25 from the appropriate director or the designee of the director is  
26 guilty of a misdemeanor and shall be fined not more than  
27 \$1 000 00 or imprisoned for not more than 6 months or both

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

7 (10) A person shall not assault a department representative  
 8 or other person charged with enforcement of this act in the per-  
 9 formance of that person's legal duty to enforce this act A  
 10 person who violates this subsection is guilty of a misdemeanor  
 11 A prosecuting attorney having jurisdiction of this matter and the  
 12 attorney general knowing of a violation of this section may pros-  
 13 ecute the violator

14 (11) The increases in the civil penalties of subsections  
 15 (1), (2), (3), (4) and (6) made ~~pursuant to the 1991 amendatory~~  
 16 ~~act that added this subsection~~ BY PUBLIC ACT NO 105 OF THE  
 17 PUBLIC ACTS OF 1991 shall take effect April 1, 1992

18 (12) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION  
 19 THE TOTAL AMOUNT OF ALL CIVIL PENALTIES ASSESSED AGAINST A VOLUN-  
 20 TEER ORGANIZED FIRE DEPARTMENT UNDER THIS SECTION DURING A FISCAL  
 21 YEAR OF THE VOLUNTEER ORGANIZED FIRE DEPARTMENT FOR 1 OR MORE  
 22 VIOLATIONS OF SECTION 14I SHALL NOT EXCEED 10% OF THE ANNUAL  
 23 BUDGET OF THE VOLUNTEER ORGANIZED FIRE DEPARTMENT FOR THAT FISCAL  
 24 YEAR

25 Sec 35a (1) An employer who receives a citation for a  
 26 serious violation of this act, an order issued pursuant to this  
 27 act or a rule or standard promulgated under this act shall be

1 assessed a civil penalty of not more than \$1 000 00 for each  
2 violation

3 (2) An employer who fails to correct a violation for which a  
4 citation was issued within the period permitted for its correc-  
5 tion may be assessed a civil penalty of not more than \$1,000 00  
6 for each day during which the failure or violation continues A  
7 period permitted for corrections does not begin to run until the  
8 date of the final order of the board if a review proceeding  
9 before a board is initiated by the employer in good faith and not  
10 solely for delay or avoidance of a penalty

11 (3) An employer who receives a citation for a violation of  
12 this act an order issued pursuant to this act, or a rule or  
13 standard promulgated under this act which violation is specif-  
14 ically determined not to be of a serious nature may be assessed a  
15 civil penalty of not more than \$1,000 00 for each violation

16 (4) An employer who willfully or repeatedly violates this  
17 act an order issued pursuant to this act or a rule or standard  
18 promulgated under this act may be assessed a civil penalty of not  
19 more than \$10,000 00 for each violation

20 (5) An employer who willfully violates this act an order  
21 issued pursuant to this act or a rule or standard promulgated  
22 under this act which causes the death of an employee is guilty of  
23 a felony and shall be fined not more than \$10,000 00, or impris-  
24 oned for not more than 1 year, or both If the conviction is the  
25 second under this act the person shall be fined not more than  
26 \$20,000 00, or imprisoned for not more than 3 years, or both

1 (6) An employer who violates a posting requirement  
2 prescribed under this act shall be assessed a civil penalty of  
3 not more than \$1,000 00 for each violation

4 (7) A person who knowingly makes a false statement, repre-  
5 sentation, or certification in an application record report  
6 plan or other document filed or required to be maintained pursu-  
7 ant to this act or who fails to maintain or transmit a record or  
8 report as required under section 61 is guilty of a misdemeanor  
9 and shall be fined not more than \$10 000 00, or imprisoned for  
10 not more than 6 months, or both

11 (8) A person who gives advance notice of an investigation or  
12 an inspection to be conducted under this act without authority  
13 from the appropriate director or the designee of the director is  
14 guilty of a misdemeanor and shall be fined not more than  
15 \$1,000 00 or imprisoned for not more than 6 months or both

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

22 (10) A person shall not assault a department representative  
23 or other person charged with enforcement of this act in the per-  
24 formance of that person's legal duty to enforce this act A  
25 person who violates this subsection is guilty of a misdemeanor  
26 A prosecuting attorney having jurisdiction of this matter and the

1 attorney general knowing of a violation of this section may  
2 prosecute the violator

3 (11) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION  
4 THE TOTAL AMOUNT OF ALL CIVIL PENALTIES ASSESSED AGAINST A VOLUN-  
5 TEER ORGANIZED FIRE DEPARTMENT UNDER THIS SECTION DURING A FISCAL  
6 YEAR OF THE VOLUNTEER ORGANIZED FIRE DEPARTMENT FOR 1 OR MORE  
7 VIOLATIONS OF SECTION 14I SHALL NOT EXCEED 10% OF THE ANNUAL  
8 BUDGET OF THE VOLUNTEER ORGANIZED FIRE DEPARTMENT FOR THAT FISCAL  
9 YEAR