



# SENATE BILL No. 391

February 11, 1993, Introduced by Senator KOIVISTO and referred to the Committee on Labor.

A bill to amend sections 42 and 44 of Act No. 154 of the Public Acts of 1974, entitled as amended "Michigan occupational safety and health act," being sections 408.1042 and 408.1044 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 42 and 44 of Act No. 154 of the Public  
2 Acts of 1974, being sections 408.1042 and 408.1044 of the  
3 Michigan Compiled Laws, are amended to read as follows:

4 Sec. 42. (1) Upon receipt of a notice from an employer,  
5 employee, or an employee representative that the employer wishes  
6 to appeal the department's decision relative to a citation,  
7 abatement period, or proposed penalty or fine, or that an  
8 employee or an employee representative wishes to appeal the

1 department's decision relative to a proposed abatement,  
2 classification of citation, or penalty, the department shall  
3 notify the board, and the board shall afford an opportunity for a  
4 hearing. VENUE FOR A HEARING UNDER THIS SUBSECTION SHALL BE THE  
5 COUNTY SEAT FOR THE COUNTY IN WHICH THE ALLEGED VIOLATION  
6 OCCURRED.

7       (2) If an employee or employee representative appeals the  
8 department's decision with respect to the violation abatement  
9 period, the appeal shall not stay the abatement period. The  
10 board shall cause an inquiry into the fact and issue an order  
11 based upon findings of fact, affirming, modifying, or rescinding  
12 the citation or proposed penalty or fine, or directing other  
13 appropriate relief. The order is final 20 days after receipt by  
14 affected parties. The rules of procedure prescribed by a board  
15 shall provide for a hearing officer to make a determination upon  
16 a proceeding before the board and shall provide affected employ-  
17 ees or their employee representative an opportunity to partici-  
18 pate as parties to the hearing under this section. A hearing  
19 officer shall make a report to the board of a determination which  
20 constitutes a final disposition of a proceeding. Copies of the  
21 report shall be served on all parties. The report of the hearing  
22 officer ~~shall become~~ BECOMES the final order of the board  
23 within 30 days after filing with the board and parties ~~—~~ unless  
24 a member of the board directs that the report be reviewed and  
25 acted upon by the board.

1       Sec. 44. (1) In reviewing a report of a hearing officer,  
2 the board by a vote of not less than a majority of its members  
3 may DO THE FOLLOWING:

4       (a) Dismiss the citation.

5       (b) Modify the citation.

6       (c) Modify the abatement time of the citation.

7       (d) Issue a final order sustaining the citation, the abate-  
8 ment time, or the assessed penalty.

9       (e) Vacate or modify assessed penalties.

10       (2) Upon a showing by an employer that a good faith effort  
11 has been made to comply with the abatement requirements of a  
12 citation that has become a final order of the board as provided  
13 in this act — and that the abatement has not been completed  
14 because of circumstances beyond the reasonable control of the  
15 employer, the board, after a hearing, if requested by the employ-  
16 er, affected employees, or the department, shall issue an order  
17 affirming or modifying the abatement requirements in the  
18 citation.

19       (3) A person or department adversely affected or aggrieved  
20 by an order of the board issued under this act or a standard  
21 promulgated by a commission pursuant to this act may obtain judi-  
22 cial review of the order or standard pursuant to THE ADMINISTRA-  
23 TIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of  
24 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED  
25 LAWS, as amended. VENUE FOR AN APPEAL UNDER THIS SUBSECTION  
26 SHALL BE THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE ALLEGED  
27 VIOLATION OCCURRED.