
Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 31 (as introduced 1-28-97)
Sponsor: Senator Joel D. Gougeon
Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 2-24-97

CONTENT

The bill would amend the Michigan Occupational Safety and Health Act to give employers at least 14 days to abate violations; allow employers to apply civil penalties to the costs of correcting violations; and give employers one day after receiving notice to correct the violation of a posting requirement, before a fine would have to be imposed.

Under the Act, if a representative of the Department of Consumer and Industry Services (DCIS) believes that an employer has violated the Act, an order issued under it, or a rule or standard promulgated under it, he or she must issue a citation to the employer. The citation must state a reasonable time by which the violation is to be abated. The bill would require that time to be at least 14 consecutive days.

The Act establishes mandatory or permissive civil penalties for violations of the law, an order, or a rule or standard, depending upon whether a violation is serious, whether an employer fails to correct a violation, and whether an employer willfully or repeatedly commits violations. The bill would permit an employer to apply the civil penalty amount to the cost of correcting a violation (except a willful violation).

Under the Act, if an employer fails to correct a violation for which a citation was issued within the time permitted, the Department must notify the employer by registered mail of that failure and the proposed penalty. Under the bill, the notice also would have to indicate the employer's right to apply the penalty to the costs of correcting the violation.

The Act requires civil penalties to be credited to the State's General Fund, and requires the Department of Treasury to institute proceedings to collect unpaid civil penalties. Under the bill, these requirements would apply to civil penalties that were not applied to the cost of correcting violations.

Currently, an employer who violates a posting requirement prescribed under the Act must be assessed a civil penalty for each violation. Under the bill, the penalty would have to be imposed for each violation that was not corrected within one day after the employer received notice of the violation.

MCL 408.1033 et al.

Legislative Analyst: S. Margules

FISCAL IMPACT

This bill would allow an employer to apply the civil penalty for a violation except in the case of a willful violation, toward the cost of correcting or abating that violation. According to the Department

of Consumer and Industry Services, MIOSHA conducted 7,000 inspections and assessed \$6.1 million in penalties in FY 1995-96. Of those penalties, \$704,000 was for willful violations, leaving \$5.4 million in penalties that could have been affected by this bill. If all the amount that would be eligible for abatement under this bill had been applied, the loss of revenue to the General Fund would have been approximately \$5.4 million.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.