

Legislative Analysis



MIOSHA: DEFINE "WILLFUL"

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Senate Bill 647 (Substitute H-1)

Sponsor: Sen. Bruce Patterson

Senate Committee: Commerce and Labor

House Committee: Employment Relations, Training and Safety

Addendum to SFA Analysis

Complete to 5-5-04

ADDENDUM TO SENATE FISCAL AGENCY ANALYSIS OF SB 647 DATED 4-14-04:

BRIEF SUMMARY:

The bill would amend the Michigan Occupational Safety and Health Act to do all of the following:

- Define the term “willful” for purposes of an administrative action against an employer, and require the factual demonstration of particular criteria to establish a willful violation of the act.
- Require a Department of Labor and Economic Growth representative to develop or record certain evidence in an investigation of an employer’s willful violation of the act.
- Specify the rights of a person interviewed as part of an inspection, investigation, or violation proceeding.
- Allow a DLEG representative to conduct a partial interview to establish a violation of the act.

For a complete analysis of the provisions of the bill, see the Senate Fiscal Agency analysis dated 4-14-04 on the Michigan Legislature web site.

HOUSE COMMITTEE ACTION:

The House Committee on Employment Relations, Training and Safety adopted one amendment (creating a substitute) that would prohibit the Department of Labor and Economic Growth and any board or commission created under MIOSHA from promulgating any rules regarding workplace ergonomics.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the Michigan Occupational Safety and Health Agency. The proposed requirement for interviews to be conducted at mutually agreed upon location would increase the agency's administrative responsibilities and, according to the agency, could divert time from existing responsibilities, such as inspections, possibly resulting in penalty revenue collections.

POSITIONS:

Among those indicating support for the bill to the House Committee on Employment Relations, Training and Safety were the Associated Underground Contractors; the Michigan Road Builders Association; the Michigan Association of Home Builders; and the Michigan Restaurant Association. (4-28-04)

Among those indicating opposition to the bill were the Department of Labor and Economic Growth; the Michigan State AFL-CIO; and the International Union, UAW. (4-28-04)

Legislative Analyst: Chris Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.