



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 213 (as enrolled)  
Sponsor: Senator Tonya Schuitmaker  
Senate Committee: Commerce  
House Committee: Commerce and Trade

Date Completed: 11-17-15

### **RATIONALE**

The Federal Occupational Safety and Health Act provides that any state that wishes to assume responsibility for development and enforcement of occupational safety and health standards may do so by adopting a State Plan approved by the Occupational Safety and Health Administration (OSHA). Michigan operates an OSHA-approved State Plan program through the Michigan Occupational Safety and Health Act, and through administrative rules. The Michigan Occupational Safety and Health Act prescribes and regulates working conditions for employees, specifies the duties of employers and employees as to workplace safety and employment conditions, and requires that certain workplace injuries be reported. Federal regulations require a state operating its own plan to adopt injury reporting requirements that are substantially similar to the Federal requirements. Recent changes to those Federal regulations have led some to suggest eliminating the applicable reporting requirements from the Act, and instead incorporating them in rules.

### **CONTENT**

**The bill would amend the Michigan Occupational Safety and Health Act to eliminate a requirement that an employer notify the Department of Licensing and Regulatory Affairs (LARA) within eight hours of a fatality or hospitalization of three or more employees resulting from the same accident or illness.**

The Act requires an employer to make, keep, and preserve accurate and timely records and reports of workplace illnesses and injuries, and to report that information to the appropriate department for the purpose of developing information regarding the causes and prevention of occupational illnesses and injuries. (Reports are made to the Michigan Occupational Safety and Health Administration (MIOSHA) in LARA.)

The Act also requires an employer to notify LARA within eight hours of a fatality or any hospitalization of three or more employees suffering injury from the same accident or illness from the same exposure to the same health hazard associated with their employment. The bill would eliminate that requirement.

The bill would take effect 90 days after its enactment.

MCL 408.1061

### **BACKGROUND**

The Federal government requires states operating plans approved by OSHA to have substantially identical requirements for injury and illness recording and reporting.<sup>1</sup> Before September 2014, the OSHA rule pertaining to occupational injury and illness recording required an employer to notify the nearest Area Office of OSHA within eight hours of a death or in-patient hospitalization of three

<sup>1</sup> See e.g., 29 C.F.R. § 1904.37.

or more employees resulting from a work-related incident.<sup>2</sup> Michigan adopted the Federal regulation by statute and by rule.<sup>3</sup>

In September 2014, OSHA issued a final rule revising the reporting requirements.<sup>4</sup> While the final rule retained the eight-hour reporting requirement for work-related fatalities, the rule expanded the regulation "to require employers to report all work-related in-patient hospitalizations, as well as amputations and losses of an eye, to OSHA within 24 hours of the event."<sup>5</sup>

Revisions to Michigan's rules have been adopted, effective May 27, 2015, to comply with Federal requirements. Under the revised rules, as previously required, an employer must report to MIOSHA within eight hours after the death of any employee from a work-related incident. The revised rules also require an employer to report to MIOSHA within 24 hours after the inpatient hospitalization of one or more employees or an employee's amputation or loss of an eye, as a result of a work-related incident.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Michigan must adopt standards that are substantially similar to the Federal rules within six months of the date of notification by OSHA in order to maintain the State Plan. According to LARA, few states have the level of detail in their occupational safety statutes as what is provided in Michigan's Act. Typically, reporting requirements are specified in a state's administrative rules. Changes to Michigan Administrative Code have been made to address the new Federal standards. By eliminating the need to amend the Act, the bill would allow the State to adopt changes required by OSHA more quickly.

Legislative Analyst: Jeff Mann

## **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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<sup>2</sup> See, e.g., 29 C.F.R. § 1904.39 (2014).

<sup>3</sup> See MI Admin Code R 408.22139.

<sup>4</sup> 71 Federal Register 56130, September 18, 2014; 29 C.F.R. § 1904.39.

<sup>5</sup> 71 Federal Register 56130.