



SENATE BILL No. 1034

September 6, 2016, Introduced by Senator HERTEL and referred to the Committee on Commerce.

A bill to amend 1974 PA 154, entitled
"Michigan occupational safety and health act,"
by amending section 35 (MCL 408.1035), as amended by 1991 PA 105.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35. (1) ~~An~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,**
2 **AN** employer who receives a citation for a serious violation of this
3 act, an order issued pursuant to this act, or a rule or standard
4 promulgated under this act shall be assessed a civil ~~penalty~~ **FINE**
5 of not more than \$7,000.00 for each violation. **HOWEVER, IF THE**
6 **SERIOUS VIOLATION CAUSES OR CONTRIBUTES TO THE DEATH OF AN**
7 **EMPLOYEE, THE EMPLOYER SHALL BE FINED NOT LESS THAN \$18,000.00 OR**
8 **MORE THAN \$36,000.00.**

9 (2) An employer who fails to correct a violation for which a
10 citation was issued within the period permitted for its correction
11 may be assessed a civil ~~penalty~~ **FINE** of not more than \$7,000.00 for

each day during which the failure or violation continues. A period permitted for corrections does not begin to run until the date of the final order of the board if a review proceeding before a board is initiated by the employer in good faith and not solely for delay or avoidance of a ~~penalty~~. **FINE.**

(3) An employer who receives a citation for a violation of this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, which violation is specifically determined not to be of a serious nature, may be assessed a civil ~~penalty~~ **FINE** of not more than \$7,000.00 for each violation.

(4) ~~An~~ **EXCEPT AS PROVIDED IN SUBSECTION (5), AN** employer who willfully or repeatedly violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act ~~may~~ **SHALL** be assessed a civil ~~penalty~~ **FINE** of not **LESS THAN \$5,000.00** ~~OR more than \$70,000.00 for each violation, but not less than \$5,000.00 for each willful violation.~~

(5) An employer who willfully violates this act, an order issued pursuant to this act, or a rule or standard promulgated under this act, which **VIOLATION** causes **OR CONTRIBUTES TO** the death of an employee, is guilty of a felony and **MAY BE IMPRISONED FOR NOT MORE THAN 1 YEAR AND** shall be fined not **LESS THAN \$36,000.00** ~~OR more than \$10,000.00, or imprisoned for not more than 1 year, or both. \$100,000.00.~~ If the conviction is the second under this act, **SUBSECTION**, the person ~~shall be fined not more than \$20,000.00, or~~ **MAY BE** imprisoned for not more than 3 years ~~, or both.~~ **AND SHALL BE FINED NOT LESS THAN \$36,000.00 OR MORE THAN \$100,000.00.**

1 (6) An employer who violates a posting requirement prescribed
2 under this act shall be assessed a civil ~~penalty~~**FINE** of not more
3 than \$7,000.00 for each violation.

4 (7) A person who knowingly makes a false statement,
5 representation, or certification in an application, record, report,
6 plan, or other document filed or required to be maintained pursuant
7 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 and
9 ~~shall~~**MAY** be **IMPRISONED FOR NOT MORE THAN 6 MONTHS AND SHALL BE**
10 fined not more than \$10,000.00, ~~or imprisoned for not more than 6~~
11 ~~months, or both.~~

12 (8) A person who gives advance notice of an investigation or
13 an inspection to be conducted under this act without authority from
14 the appropriate director or the designee of the director is guilty
15 of a misdemeanor and ~~shall be~~**MAY BE IMPRISONED FOR NOT MORE THAN 6**
16 **MONTHS AND SHALL BE** fined not more than \$1,000.00. ~~, or imprisoned~~
17 ~~for not more than 6 months, or both.~~

18 (9) The department of ~~labor or the department of public~~
19 ~~health,~~**LICENSING AND REGULATORY AFFAIRS OR THE DEPARTMENT OF**
20 **HEALTH AND HUMAN SERVICES**, if the employer is a public employer,
21 instead of applying a civil ~~penalty~~**FINE** otherwise applicable to an
22 employer under this section, may request that the attorney general
23 seek a writ of mandamus in the appropriate circuit court to compel
24 compliance with a citation, including the terms of abatement.

25 (10) A person ~~shall not assault~~**WHO ASSAULTS** a department
26 representative or other person charged with enforcement of this act
27 in the performance of that person's legal duty to enforce this act

1 ~~. A person who violates this subsection~~ is guilty of a misdemeanor.
2 A prosecuting attorney having jurisdiction of this matter and the
3 attorney general knowing of a violation of this section may
4 prosecute the violator.

5 ~~—— (11) The increases in the civil penalties of subsections (1),~~
6 ~~(2), (3), (4), and (6) made pursuant to the 1991 amendatory act~~
7 ~~that added this subsection shall take effect April 1, 1992.~~

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.