

REPORTING DEATHS OR INJURIES ON A FAMILY FARM

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House Bill 4031 as introduced
Sponsor: Rep. Bronna Kahle
Committee: Agriculture
Complete to 2-24-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4031 would amend the Michigan Occupational Safety and Health Act to change the requirements and penalties for an employer report of a death or injury on a family farm.

The Michigan Occupational Safety and Health 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 in a form and in accordance with rules promulgated under the act. A person who knowingly fails to maintain or transmit a record or report as required under the act is guilty of a misdemeanor punishable by imprisonment for up to six months, a fine of up to \$10,000, or both.

Under MIOSHA Safety and Health Standard Part 11, R 408.221201 et seq., an employer must report to MIOSHA all in-patient hospitalizations, amputations, and loss of an eye within 24 hours of a work-related incident. R 408.22139(1) requires an employer, within eight hours after the death of any employee from a work-related incident, to report the fatality to MIOSHA by telephone.¹

The bill would provide that, if a death or injury occurred on a *family farm*, or if a death or injury occurred to a *family member* of an individual required to report the death or injury, the employer would have to report it within seven days. An employer who did not meet the seven-day requirement would be assessed a civil penalty of up to \$500. The Department of Labor and Economic Opportunity (LEO) could not promulgate or enforce a rule that would require an employer to report such a death or injury in less than seven days.

Family farm would mean a farm where the majority of the business is owned by the operator and his or her family members or a farm that is organized as a sole proprietorship, partnership, or family corporation. It would not include a farm that is organized as a nonfamily corporation or cooperation or a farm with a hired manager that is not a family member of the operator.

Family member would mean a member of the family as defined by section 4946(d) of the Internal Revenue Code.²

¹ https://www.michigan.gov/documents/CIS_WSH_part11ad_37844_7.pdf

See also <https://adms.apps.lara.state.mi.us/File/ViewDmsDocument/12956>

² 26 USC 4946: "the family of any individual shall include only his [or her] spouse, ancestors, children, grandchildren, great grandchildren, and the spouses of children, grandchildren, and great grandchildren."
<https://www.govinfo.gov/content/pkg/USCODE-2010-title26/pdf/USCODE-2010-title26-subtitleD-chap42-subchapA-sec4946.pdf>

The bill also would update language to reflect departmental name changes for the Department of Labor and Economic Opportunity (formerly the Department of Labor) and the Department of Health and Human Services (formerly the Department of Public Health).

MCL 408.1035

FISCAL IMPACT:

House Bill 4031 would have an indeterminate fiscal impact on the state's general fund. The bill would add a civil infraction penalty. Under provisions of the Michigan Occupational Safety and Health Act, beginning April 1, 1992, a civil penalty owed under the act is required to be credited to the state's general fund. Because there is no practical way to determine the number of violations that will occur under provisions of the bill, an estimate of the amount of additional revenue the state would collect cannot be made.

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