

# SENATE BILL NO. 49

February 04, 2025, Introduced by Senators CHERRY, KLINEFELT, SHINK, GEISS, CAVANAGH, BAYER and CHANG and referred to Committee on Labor.

A bill to amend 1974 PA 154, entitled  
"Michigan occupational safety and health act,"  
by amending the title and sections 4, 13, 14, 14a, 14e, 14f, 14j,  
14n, 24, 27, 28, 29, 30, 31, 33, 35, 36, 37, 41, 45, 46, 52, 54,  
55, 56, 63, 65, and 91 (MCL 408.1004, 408.1013, 408.1014,  
408.1014a, 408.1014e, 408.1014f, 408.1014j, 408.1014n, 408.1024,  
408.1027, 408.1028, 408.1029, 408.1030, 408.1031, 408.1033,  
408.1035, 408.1036, 408.1037, 408.1041, 408.1045, 408.1046,  
408.1052, 408.1054, 408.1055, 408.1056, 408.1063, 408.1065, and  
408.1091), the title as amended by 1986 PA 147, sections 4, 35, and

36 as amended by 2024 PA 17, section 14 as amended by 2020 PA 143, sections 14a, 14e, 14f, 14j, 24, 31, 54, and 63 as amended by 2012 PA 447, section 14n as amended by 1991 PA 105, section 33 as amended by 1996 PA 87, and section 55 as amended by 1993 PA 197; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1 TITLE**

**2** An act to prescribe and regulate working conditions; to  
**3** prescribe the duties of employers and employees as to places and  
**4** conditions of employment; to create certain boards, commissions,  
**5** committees, and divisions relative to occupational and construction  
**6** health and safety; to prescribe ~~their~~**the** powers and duties ~~and~~  
**7** ~~powers and duties of the department of labor and department of~~  
**8** ~~public health; to prescribe certain powers and duties of the~~  
**9** ~~directors of the departments of labor, public health, and~~  
**10** ~~agriculture; of certain state and local governmental officers and~~  
**11** **entities;** to impose an annual levy to provide revenue for ~~the~~  
**12** ~~safety education and training division; certain purposes related to~~  
**13** **occupational safety and health;** to provide remedies and penalties;  
**14** to repeal certain acts and parts of acts; and to repeal certain  
**15** acts and parts of ~~act~~**acts** on specific dates.

**16** Sec. 4. (1) **"Attorney general" means the attorney general or**  
**17 the attorney general's designee.**

**18** (2) "Agricultural operations" means the work activity  
**19** designated in ~~major groups 01 and 02 of the Standard Industrial~~  
**20** ~~Classification Manual, United States Bureau of the Budget, 1972~~  
**21** ~~edition. subsectors 111 and 112 of the North American Industry~~  
**22** **Classification System, United States, 2022.** Agricultural operations  
**23** ~~include any practices~~**includes a practice** performed by a farmer or

1 on a farm as an incident to or in conjunction with farming  
 2 operations including preparation for market or delivery to storage  
 3 or market or to carriers for transportation to market.

4 (3) ~~(2)~~—"Asbestos" means a group of naturally occurring  
 5 minerals that separate into fibers, including chrysotile, amosite,  
 6 crocidolite, anthophyllite, tremolite, and actinolite.

7 (4) ~~(3)~~—"Asbestos-related violation" means a violation of this  
 8 act, an order issued ~~under~~ **in accordance with** this act, or a rule  
 9 or standard promulgated under this act that involves the  
 10 demolition, renovation, encapsulation, removal, or handling of  
 11 friable asbestos material or otherwise involves the exposure of an  
 12 individual to friable asbestos material.

13 (5) ~~(4)~~—"Authorized employee representative" or  
 14 ~~"representative of employee"~~ **"representative of employees"** means a  
 15 **any of the following, as applicable:**

16 (a) A person designated by a labor organization certified by  
 17 the National Labor Relations Board or the employment relations  
 18 commission created under section 3 of 1939 PA 176, MCL 423.3, as  
 19 the bargaining representative for the affected employees. ~~In the~~  
 20 ~~absence of certification, it shall be a~~

21 (b) **If subdivision (a) does not apply, a** person designated by  
 22 the organization having a collective bargaining relationship with  
 23 the employer and designated as having a collective bargaining  
 24 relationship with the employer by the affected employees.

25 (c) ~~If a labor organization has subdivisions (a) and (b) do~~  
 26 ~~not been certified, or if no organization has a collective~~  
 27 ~~bargaining relationship with the employer, "authorized employee~~  
 28 ~~representative" or "representative of employee" means~~ **apply, a**  
 29 person designated by the affected employees to represent them for

the purpose of proceedings under this act.

(6) ~~(5)~~—"Board" means the board of health and safety compliance and appeals created in section 46.

(7) ~~(6)~~—"Construction operations" means the work activity designated in ~~major groups 15, 16, and 17 of the Standard Industrial Classification Manual, United States Bureau of the Budget, 1972 edition.~~ **sector 23 of the North American Industry Classification System, United States, 2022.**

(8) "Department" means, unless the context requires a different meaning, the department of labor and economic opportunity.

(9) ~~(7)~~—"Director" means, unless the context requires a different meaning, the director of the department ~~of labor and economic opportunity.~~ **or the director's designee.**

~~(8) "Department attorney" means the attorney general or the authorized representative of the attorney general.~~

(10) ~~(9)~~—"Domestic employment" means ~~that employment involving~~ **that involves** an employee specifically employed by a householder to engage in work or an activity ~~relating~~ **that relates** to the operation of a household and its surroundings, whether or not the employee resides in the household.

(11) ~~(10)~~—"Friable asbestos material" means any material that contains more than 1% asbestos by weight and that can be, by hand pressure, crumbled, pulverized, or reduced to powder when dry.

(12) ~~(11)~~—"Mines", except as provided in subsection ~~(12),~~ **(13),** means all of the following:

(a) An area of land from which minerals are extracted in nonliquid form, or if in liquid form, are extracted with workers underground.

(b) Private ways and roads appurtenant to an area of land described in subdivision (a).

(c) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools, or other property, including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting minerals from ~~their~~ **the mineral's** natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of minerals, or the work of preparing coal or other minerals, and includes custom coal preparation facilities.

**(13)** ~~(12)~~ "Mines" does not include industrial borrow pits, or sand, gravel, or crushed and dimension stone quarrying operations, or surface construction operations.

Sec. 13. ~~(1)~~ The department ~~of labor~~ shall administer and enforce ~~the provisions of this act. relative to occupational safety.~~

~~(2) The department of public health shall administer and enforce the provisions of this act relative to occupational health.~~

~~(3) The department of labor and department of public health shall report annually by January 31 in writing to the committees on labor and public health of the house of representatives and committees on labor and health, social services and retirement of the senate specifying the provisions of this act where the authority of the departments overlap, and all agreements and administrative procedures to coordinate joint enforcement of the act. Any changes in these agreements or administrative procedures must be reported in writing to the committees on labor and public~~

~~health of the house of representatives and committees on labor and health, social services and retirement of the senate within 15 days of the changes.~~

Sec. 14. (1) Except as otherwise provided in subsection (3), the occupational safety and health standards that have been adopted or promulgated by the United States Department of Labor under the occupational safety and health act of 1970, Public Law 91-596, 84 Stat 1590, and that are in effect on January 1, 1975 are incorporated by reference and have the same force and effect as a rule promulgated ~~pursuant to~~ **under** this act. A standard that is incorporated by reference ~~pursuant to~~ **under** this subsection remains in effect until either of the following conditions occurs:

(a) A standard is promulgated ~~pursuant to~~ **under** this act that covers the same or a similar subject.

(b) The standard is rescinded by rule promulgated ~~pursuant to~~ **under** this act.

(2) If a rule or standard that is continued ~~pursuant to~~ **under** section 24(1) conflicts with or covers the same or similar subject as a standard incorporated by reference ~~pursuant to~~ **under** subsection (1), the federal standard incorporated by reference governs and the state rule or standard continued ~~pursuant to~~ **under** section 24(1) ~~shall be~~ **is** rescinded.

(3) If a rule or standard that is continued in effect ~~under~~ ~~this act pursuant to~~ **under** section 21(1) covers the same subject as a federal standard, subsection (1) does not apply.

(4) The department ~~of licensing and regulatory affairs~~ shall make copies of the standards incorporated by reference ~~pursuant to~~ **under** subsection (1) available to the public at cost.

(5) ~~Beginning April 1, 1992, not~~ **Not** later than 10 working

1 days after the date that the United States Department of Labor  
 2 adopts or promulgates an occupational safety and health standard  
 3 under the occupational safety and health act of 1970, Public Law  
 4 91-596, 84 Stat 1590, the director shall initiate the processing of  
 5 an administrative rule that is substantially similar to the federal  
 6 occupational safety and health standard. The **director shall present**  
 7 **the** proposed administrative rule ~~shall be presented~~ to the joint  
 8 committee on administrative rules unless the director determines  
 9 that the federal standard is clearly inconsistent with the criteria  
 10 ~~set forth in~~ **under** section 9, 16, 19, or 24.

11 (6) ~~Beginning April 1, 1992, a~~ **A** proposed administrative rule  
 12 that would address a matter not addressed by 1 or more federal  
 13 standards ~~shall~~ **must** not be processed and presented to the joint  
 14 committee on administrative rules unless the director determines  
 15 that there is a clear and convincing need for the standard to meet  
 16 the criteria ~~set forth,~~ **under**, as appropriate, ~~in~~ sections 9, 16,  
 17 19, and 24. The director shall include a statement of the specific  
 18 facts that establish the clear and convincing need when processing  
 19 and presenting the administrative rule. The statement ~~shall either~~  
 20 **must** explain the unique characteristics of industry in this state  
 21 that necessitate the standard or demonstrate that the standard was  
 22 requested by a broad consensus of union and nonunion employers and  
 23 employees in the specific industry affected by the standard.

24 (7) The administrative rules described in subsections (5) and  
 25 (6) ~~shall~~ **must** be promulgated ~~pursuant to~~ **under** the administrative  
 26 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

27 (8) ~~This section~~ **Subsection (6)** does not apply to section 14r.  
 28 Sec. 14a. (1) The occupational safety and health hazard  
 29 communication standard that has been adopted or promulgated by the

1 United States ~~department of labor~~ **Department of Labor** and has been  
 2 codified at 29 CFR 1910.1200 as of May 25, 2012 is incorporated by  
 3 reference and has the same force and effect as a rule promulgated  
 4 under this act. In addition to the standard incorporated by  
 5 reference in this subsection, sections 14b to 14l apply to an  
 6 employer subject to this act. The applicability of the standard  
 7 incorporated by reference in this subsection and of sections 14b to  
 8 14l is subject to subsections (4), (5), (6), and (7).

9 (2) If a rule or standard that is continued ~~pursuant to~~ **under**  
 10 section 24(1) is in conflict with or covers the same or similar  
 11 subject as a standard incorporated by reference ~~pursuant to~~ **under**  
 12 subsection (1), the federal standard ~~so~~ incorporated by reference  
 13 governs and the state rule or standard continued ~~pursuant to~~ **under**  
 14 section 24(1) is rescinded.

15 (3) The department ~~of licensing and regulatory affairs~~ shall  
 16 administer and enforce the provisions of the standard incorporated  
 17 by reference in subsection (1) in a manner that is consistent with  
 18 the administration and enforcement of the standard by the federal  
 19 occupational safety and health administration.

20 (4) ~~Beginning November 25, 1985, employers who are~~ **An employer**  
 21 **that is a** chemical ~~manufacturers~~ **manufacturer** in a classification  
 22 provided by ~~sector 31-33 — manufacturing,~~ **sectors 31 to 33** of the  
 23 North American ~~industry classification system,~~ **Industry**  
 24 **Classification System**, United States, 1997, published by the office  
 25 of management and budget or in a standard industrial classification  
 26 of 20 ~~through~~ **to** 39 of the standard industrial classification code  
 27 published by the federal department of management and budget,  
 28 ~~importers, and distributors~~ **an importer, or a distributor** shall  
 29 label containers of hazardous chemicals leaving ~~their~~ **the**

**employer's** workplaces, provide safety data sheets with initial shipments, and otherwise comply with ~~any~~**an** applicable provision of the standard incorporated by reference ~~pursuant to~~**under** subsection (1) and of sections 14b to 14/. A chemical manufacturer, importer, or distributor subject to this subsection shall provide a safety data sheet and an appropriately labeled container to each employer in this state, regardless of the employer's standard industrial classification in the standard industrial classification code, ~~who~~**that** purchases a hazardous chemical.

(5) ~~Beginning May 25, 1986, an~~**An** employer in a classification provided by ~~sector 31-33 — manufacturing,~~**sectors 31 to 33** of the North American ~~industry classification system,~~**Industry Classification System**, United States, 1997, published by the office of management and budget or in a standard industrial classification of 20 ~~through to~~**to** 39 of the standard industrial classification code published by the federal department of management and budget shall comply with the requirements of the standard incorporated by reference ~~pursuant to~~**under** subsection (1) and with sections 14b to 14/ with respect to the use of hazardous chemicals in the workplace.

(6) ~~Beginning February 25, 1987, an~~**An** employer ~~who~~**that** is subject to this act but ~~who~~ is not otherwise specifically described in subsections (4) or (5) shall comply with the standard incorporated by reference ~~pursuant to~~**under** subsection (1) and with sections 14b to 14/ with respect to the use of hazardous chemicals in the workplace. However, instead of complying with ~~any~~**a** conflicting provision of the standard incorporated by reference in subsection (1), an employer ~~who is~~ described in this subsection shall do both of the following:

(a) Provide information and training to employees who are

1 exposed to hazardous chemicals in the normal course of employment  
 2 or who are likely to be exposed to hazardous chemicals in ~~the event~~  
 3 ~~of an emergency.~~

4 (b) ~~In the case where~~ **If** a hazardous chemical is mixed or  
 5 combined with ~~any other~~ **another** chemical or hazardous chemical by  
 6 the employer, maintain and provide a safety data sheet for each  
 7 constituent hazardous chemical and maintain a material  
 8 identification system that identifies to employees the appropriate  
 9 safety data sheets.

10 (7) The standard incorporated by reference in subsection (1),  
 11 this section, and sections 14b to 14/ ~~shall~~ **must** not be construed to  
 12 require an employer in a classification provided by sector ~~31-33~~  
 13 ~~manufacturing, 31 to 33~~ of the North American ~~industry~~  
 14 ~~classification system, Industry Classification System~~, United  
 15 States, 1997, published by the office of management and budget or  
 16 in a standard industrial classification other than 20 ~~through to~~ 39  
 17 of the standard industrial classification code published by the  
 18 federal department of management and budget to evaluate chemicals,  
 19 to develop labels for containers of hazardous chemicals, or to  
 20 develop safety data sheets.

21 Sec. 14e. ~~In order to~~ **To** educate employers, employees, and the  
 22 public about the hazards of exposure to hazardous chemicals and the  
 23 requirements of the occupational safety and health hazard  
 24 communication standard incorporated by reference in section 14a and  
 25 the requirements of sections 14b to 14/, the department ~~of licensing~~  
 26 ~~and regulatory affairs~~ shall **periodically** distribute ~~periodically~~  
 27 public service announcements to newspapers and television and radio  
 28 stations throughout this state.

29 Sec. 14f. (1) An employer engaged in agricultural operations

1 is not required to comply with the standard incorporated by  
 2 reference in section 14a or sections 14b to 14/ for a hazardous  
 3 chemical that is regulated under **any of the following:**

4 (a) **The** federal insecticide, fungicide, and rodenticide act,  
 5 ~~chapter 125, 86 Stat. 973, 7 USC 136 to 136i and 136j to 136y. 7 or~~  
 6 ~~part~~

7 (b) **Part** 83 ~~(pesticide control)~~ of the natural resources and  
 8 environmental protection act, 1994 PA 451, MCL 324.8301 to  
 9 324.8336. ~~7 and any rules~~

10 (c) **A rule** or ~~regulations~~ **regulation** promulgated under ~~those~~  
 11 ~~acts.~~ **an act described in subdivision (a) or (b).**

12 (2) The director of the department of agriculture and rural  
 13 development at least annually shall certify to the department ~~of~~  
 14 ~~licensing and regulatory affairs~~ a list of chemicals regulated by  
 15 the ~~acts~~ **laws** described in subsection (1).

16 Sec. 14j. An employer subject to the standard incorporated by  
 17 reference in section 14a and to sections 14b to 14/ shall post signs  
 18 throughout the workplace advising employees of all of the  
 19 following:

20 (a) The location of the safety data sheets for the hazardous  
 21 chemicals produced or used in the workplace and the name of the  
 22 person from whom to obtain the sheets.

23 (b) That the employer is prohibited from discharging or  
 24 discriminating against an employee who exercises the rights  
 25 regarding information about hazardous chemicals in the workplace  
 26 afforded by the standard incorporated by reference in section 14a  
 27 and by sections 14b to 14/.

28 (c) That, as an alternative to requesting the employer for a  
 29 safety data sheet for a hazardous chemical in the workplace, the

1 employee may obtain a copy of the safety data sheet from the  
 2 department. ~~of licensing and regulatory affairs.~~ The sign shall  
 3 **must** include the address and telephone number of the division of  
 4 the department ~~of licensing and regulatory affairs~~ that has the  
 5 responsibility of responding to ~~such~~ **these** requests.

6 Sec. 14n. (1) Except as provided in subsections (2) and (3),  
 7 the occupational safety and health field sanitation standard that  
 8 has been adopted or promulgated by the United States ~~department of~~  
 9 ~~labor~~ **Department of Labor** and has been codified at 29 ~~C.F.R.~~ **CFR**  
 10 1928.110 as of April 1, 1991 is incorporated by reference and  
 11 supersedes the occupational health field sanitation standard as  
 12 prescribed in R 325.61751 to R 325.61757 of the Michigan  
 13 ~~administrative code,~~ **Administrative Code**, and has the same force  
 14 and effect as a rule promulgated ~~pursuant to~~ **under** this act.

15 (2) An agricultural employer shall provide, at no cost to ~~the~~  
 16 **an** agricultural employee, potable water in locations that are  
 17 readily accessible to all agricultural employees.

18 (3) An agricultural employer ~~employing less than~~ **employs fewer**  
 19 than 11 agricultural employees shall ensure that an available  
 20 toilet facility and hand-washing facility is ~~either~~ provided by the  
 21 agricultural employer or available to the agricultural employee.

22 (4) The department ~~of public health~~ shall administer and  
 23 enforce the standard incorporated by reference in subsection (1) in  
 24 a manner that is consistent with the administration and enforcement  
 25 of the standard by the federal occupational safety and health  
 26 administration.

27 (5) The department ~~of public health~~ shall make copies of the  
 28 standard described in subsection (1) and the requirements of  
 29 subsections (2) and (3) available to the public at cost.

1       Sec. 24. (1) Standards ~~governing~~ **that govern** occupational  
 2 health promulgated by the director ~~of public health~~ that are in  
 3 effect on ~~the effective date of the amendatory act that repealed~~  
 4 ~~section 23 of this act~~ **December 27, 2012** are continued under  
 5 section 31 of the administrative procedures act of 1969, 1969 PA  
 6 306, MCL 24.231.

7       (2) The director shall promulgate an occupational health  
 8 standard ~~pursuant to~~ **under** the administrative procedures act of  
 9 1969, 1969 PA 306, MCL 24.201 to 24.328, except for standards  
 10 adopted by reference ~~pursuant to~~ **under** section 14.

11       (3) When ~~promulgating~~ **the director promulgates an** occupational  
 12 health ~~standards,~~ **standard,** the director shall promulgate a  
 13 standard that most adequately ~~assures,~~ **ensures,** to the extent  
 14 feasible and on the basis of the best available evidence, that an  
 15 employee will not suffer material impairment of health or  
 16 functional capacity, even if the employee has regular exposure to a  
 17 hazard ~~dealt with~~ **addressed** by the standard for the period of ~~his~~  
 18 ~~or her~~ **the employee's** working life.

19       (4) The director shall promulgate an emergency standard  
 20 ~~pursuant to~~ **in accordance with** section 48 of the administrative  
 21 procedures act of 1969, 1969 PA 306, MCL 24.248, if the director  
 22 finds that employees are exposed to substances or agents determined  
 23 to be toxic or physically harmful and the emergency standard is  
 24 necessary to protect employees from that danger. If the director  
 25 promulgates an emergency standard on a matter addressed by a  
 26 federal standard, the director shall promulgate a standard that is  
 27 substantially similar to the federal standard unless ~~he or she~~ **the**  
 28 **director** determines and certifies that the federal standard is  
 29 clearly inconsistent with the criteria ~~set forth~~ **provided** in

1 section 9 or 24.

2 (5) An occupational health standard ~~shall~~**must** prescribe  
3 appropriate forms of warning that are necessary to ~~insure~~**ensure**  
4 that employees are apprised of health hazards to which ~~they~~**the**  
5 **employees** are exposed, relevant symptoms, and the conditions and  
6 precautions for safe use or exposure, including appropriate  
7 emergency treatment. If appropriate, a standard ~~shall~~**must**  
8 prescribe suitable protective equipment, control, or technological  
9 procedures to be used and ~~shall~~**require** an employer to monitor or  
10 measure employee exposure, to allow employees or ~~their~~**the**  
11 **employees'** representatives to observe the monitoring and have  
12 access to the records of the monitoring, and to conduct the  
13 monitoring in a manner that is necessary for the protection of the  
14 employees' health. ~~Former employees shall~~**A former employee must**  
15 have access to the records indicating ~~their~~**the employee's** exposure  
16 to toxic materials and harmful physical agents.

17 (6) If appropriate, the director shall prescribe by standard  
18 that medical examinations or tests are made available, at the  
19 employer's cost, to employees to determine if ~~they~~**the employees**  
20 are adversely affected by exposure to health hazards. If the  
21 examination is performed by a physician other than a physician who  
22 is retained for that purpose by the employer, the employer is  
23 responsible only for the reasonable costs of the examination, and  
24 only for costs related to the performance of the examination  
25 required by the standard. The results of the examinations or tests  
26 ~~shall~~**must** be furnished to the employer, the employee, and, ~~upon~~  
27 ~~request of~~**if requested by** the employee, ~~to~~ the employee's personal  
28 physician. ~~Upon request of the director, the~~**The** employer shall  
29 furnish **the** results of the examinations or tests to the director **if**

1 **the director requests the results.** However, this act does not  
 2 authorize or require medical examinations, immunizations, or  
 3 treatments for those **individuals** who object to ~~them~~ **the medical**  
 4 **examinations, immunizations, or treatments** on religious grounds,  
 5 except if necessary for the protection of the health or safety of  
 6 others.

7 Sec. 27. (1) An employer may apply to the department ~~of labor~~  
 8 ~~or the department of public health~~ for a temporary order granting a  
 9 variance from a standard or a provision ~~thereof.~~ **A of a standard.**  
 10 **The department shall not grant a** temporary order ~~shall be granted~~  
 11 ~~only if~~ **unless** the employer files an application ~~which~~ **that** meets  
 12 the requirements of subsection (2) and establishes that the  
 13 employer is unable to comply with a standard by its effective date  
 14 because of unavailability of professional or technical personnel or  
 15 of materials and equipment needed to come into compliance with the  
 16 standard or because necessary construction or alteration of  
 17 facilities cannot be completed by the effective date, that the  
 18 employer is taking all available steps to safeguard ~~his~~ **its**  
 19 employees against the hazards covered by the standard, and that the  
 20 employer has an effective program for complying with the standard  
 21 as quickly as practicable. A temporary order issued under this  
 22 subsection ~~shall~~ **must** prescribe the practices, means, methods,  
 23 operations, and processes ~~which~~ **that** the employer ~~shall~~ **must** adopt  
 24 and use while the order is in effect, and state in detail the  
 25 employer's program for complying with the standard. A temporary  
 26 order may be granted only after notice to employees and an  
 27 opportunity for a hearing. However, the department ~~of labor or the~~  
 28 ~~department of public health~~ may issue an interim order ~~to be~~ **that**  
 29 **is** effective until a decision is made on the basis of the hearing.

1 A temporary order may not be in effect for longer than the period  
 2 needed by the employer to achieve compliance with the standard or 1  
 3 year, whichever is ~~lesser, except that~~ **sooner. However,** the order  
 4 may be renewed not more than twice ~~so long as if~~ the requirements  
 5 of this subsection are met and if an application for renewal is  
 6 filed not less than 90 days before the expiration date of the  
 7 order. An interim renewal of an order may not remain in effect for  
 8 longer than 180 days.

9 (2) An application for a temporary order under this section  
 10 ~~shall~~ **must** contain **all of the following:**

11 (a) A specification of the standard or portion ~~thereof~~ **of the**  
 12 **standard** from which the employer seeks a variance.

13 (b) A statement by the employer that ~~he~~ **the employer** is unable  
 14 to comply with the standard or portion ~~thereof~~ **of the standard** and  
 15 a detailed statement of the reasons ~~therefor~~ **why.**

16 (c) A statement of the steps the employer has taken and will  
 17 take, with specific dates, to protect employees against the hazard  
 18 covered by the standard.

19 (d) A statement of when the employer ~~shall~~ **will** comply with  
 20 the standard and what steps the employer has taken and will take,  
 21 with dates specified, to comply with the standard.

22 (e) A certification that the employer has informed ~~his~~ **its**  
 23 employees of the application by giving a copy ~~thereof~~ **of the**  
 24 **application** to ~~their~~ **the** authorized **employee** representative,  
 25 posting a statement giving a summary of the application, and  
 26 specifying where a copy may be examined at the place or places  
 27 where notices to employees are normally posted and by other  
 28 appropriate means. ~~A~~ **The certification must include a** description  
 29 of how employees were informed. ~~shall be contained in the~~

~~certification.~~ The information to employees ~~shall~~**must** also inform the employees of ~~their~~**an employee's** right to petition the department ~~of labor or the department of public health~~ for a hearing.

(3) The department ~~of labor or the department of public health~~ may grant a variance from a standard or a portion ~~thereof when it~~**of a standard if the department** determines that the variance is necessary to ~~permit~~**allow** an employer to participate in an experiment approved by ~~it~~**the department that is** designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

(4) An affected employer may apply to the ~~appropriate~~ department for a rule or an order for a variance from a standard. ~~Affected employees~~**An affected employee** or ~~their representatives~~**the employee's representative must** be given notice of each application and an opportunity to participate in a hearing. The ~~appropriate~~ department shall issue a rule or an order if ~~it~~**the department** determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to ~~his~~**the employer's** employees ~~which~~**that** are as safe and healthful as those ~~which~~**that** would prevail if ~~he~~**the employer** complied with the standard. The rule or order issued ~~shall~~**must** prescribe the conditions the employer ~~shall~~**must** maintain and the practices, means, methods, operations, and processes ~~which he shall~~**that the employer must** adopt and utilize to the extent they differ from the standard in question. The

~~department may modify or revoke a rule or the order may be modified or revoked upon application by an employer, employees, their representatives, or by the appropriate department on its own motion under this subsection at any time after 6 months from its issuance.~~ **after the date the rule or order is issued if 1 of the following applies:**

(a) **The employer, employees, or representative of the employees requests that the rule be modified or rescinded.**

(b) **The department makes its own motion to modify or rescind the rule or order.**

Sec. 28. (1) An employee or employee representative ~~who~~ believes that a violation of a standard exists that threatens physical harm to an employee ~~may~~ request an inspection by giving written notice of the condition to the ~~appropriate~~ department. The notice ~~shall set forth~~ **must**, with reasonable detail, **state** the grounds for the request and ~~shall be~~ signed by the employee or employee representative giving the notice. ~~Upon~~ **On** receipt of a complaint, and if the department determines there are reasonable grounds for the complaint, the department shall conduct an inspection. A copy of the request ~~shall~~ **must** be provided **to** the employer or the employer's agent not later than the time of the inspection. ~~Upon~~ **On** the request of the person giving the notice, ~~his or her~~ **the person's** name and the names of employees referred to in the notice ~~shall~~ **must** not appear in the copy or on a record ~~which~~ **that** is published, released, or made available. If the department determines that there are not reasonable grounds to believe that an inspection should be conducted, ~~it~~ **the department** shall notify, in writing, the complainant of ~~its~~ **the department's** determination.

1           (2) If an employee or employee representative believes that a  
 2 condition exists ~~which~~**that** may present an imminent danger to a  
 3 person, the employee or employee representative may notify either  
 4 the department ~~of labor or the department of public health~~ in the  
 5 most expedient manner without regard to a written notice. ~~Upon~~**On**  
 6 notification of an alleged imminent danger, the department shall  
 7 cause an immediate inspection to be made or take other action that  
 8 ~~it~~**the department** finds necessary to abate the danger.

9           (3) Before or during an inspection of a place of employment,  
 10 an employee ~~or a~~ representative of employees ~~may~~ notify the  
 11 department representative responsible for conducting the  
 12 inspection, in writing, of a violation of this act or of a rule  
 13 promulgated under this act ~~which~~**that** the employee or ~~employee~~  
 14 representative **of employees** believes exists in the place of  
 15 employment. If the department determines, after an inspection or  
 16 investigation conducted ~~upon~~**based on** a written notification from  
 17 an employee or ~~employee~~ representative **of employees** of an alleged  
 18 violation, that there are not reasonable grounds to believe that  
 19 the alleged violation exists, ~~it~~**the department** shall notify, in  
 20 writing, the complainant and the employer of its determination.  
 21 ~~Upon~~**On the** request of the person giving the notice, ~~that~~**the**  
 22 person's name and the names of employees referred to in the notice  
 23 ~~shall~~**must** not appear in the copy or on a record ~~which~~**that** is  
 24 published, released, or made available to the employer or ~~any other~~  
 25 ~~person~~**another person**.

26           (4) The department ~~of labor and the department of public~~  
 27 ~~health~~ shall establish procedures for informal review of ~~any a~~  
 28 decision ~~resulting~~**that results** from a request or notice, **made**  
 29 under this section, to inspect for an alleged violation. The

1 ~~appropriate~~ department shall furnish the employees or  
2 representative of employees requesting a review a written statement  
3 of the final disposition of the notice or complaint and reasons for  
4 the disposition.

5 (5) An employee or the representative of the employee ~~shall~~  
6 **must** be afforded an opportunity, with or without compensation, to  
7 attend all meetings between the department ~~of labor or the~~  
8 ~~department of public health~~ and an employer relative to ~~that the~~  
9 department's decision concerning a citation, abatement period, or  
10 proposed penalty.

11 Sec. 29. (1) To implement this act, a department  
12 representative, ~~upon~~ **after** presenting appropriate credentials, may  
13 enter without delay, and at reasonable times, a place of employment  
14 to physically inspect or investigate conditions of employment and  
15 all pertinent conditions, equipment, and materials in the place of  
16 employment, and to question privately the employer, owner,  
17 operator, agent, or an employee with respect to safety or health.  
18 The **department representative shall conduct the** inspection or  
19 investigation ~~shall be conducted~~ without unreasonably disrupting  
20 the employer's operations.

21 (2) If permission to enter a place of employment is denied,  
22 the department may apply to the proper judicial officer for a  
23 warrant commanding the sheriff or a peace officer to aid the  
24 department in the conduct of an inspection or investigation to  
25 determine if there is a violation of this act or a rule promulgated  
26 under this act.

27 (3) In the conduct of inspections and investigations, the  
28 ~~appropriate~~ department may require the attendance and testimony of  
29 witnesses and the production of evidence under oath. Witnesses

1 ~~shall~~**must** be paid the same fees and mileage that are paid  
2 witnesses in the circuit courts. ~~In case of~~**If there is** a  
3 contumacy, failure, or a refusal of a person to obey an order, the  
4 circuit court within the jurisdiction of which the investigation is  
5 conducted, or where the person is found or resides or transacts  
6 business, or the circuit court ~~for the county of~~ Ingham **County**,  
7 ~~upon~~**on** application of the appropriate department, may issue an  
8 order ~~requiring~~**that requires** the person to appear and produce  
9 evidence or give testimony relating to the matter under  
10 investigation or in question. ~~and a~~**A** failure to obey the order  
11 of the court may be punished as a contempt.

12 (4) A representative of the employer and ~~a~~**an authorized**  
13 **employee** representative ~~authorized by the employees~~ ~~shall~~**must** be  
14 given the opportunity to accompany the department representative  
15 during the inspection or investigation of a place of employment to  
16 aid the inspection or investigation, subject to rules promulgated  
17 by the department. ~~In case of~~**If there is a** controversy, the  
18 department representative, ~~at the time he or she~~ **when the**  
19 **department representative** goes into an establishment, shall  
20 determine who may walk around as employer and employee  
21 representatives. If ~~a~~**an authorized employee** representative  
22 ~~authorized by the employee~~ does not participate, the department  
23 representative shall consult with a reasonable number of employees  
24 concerning matters of safety or health in the place of employment.  
25 The **department representative may deny the** right of accompaniment  
26 ~~may be denied by the department representative to a person whose~~  
27 conduct interferes with a fair and orderly inspection or  
28 investigation.

29 (5) In conducting or preparing to conduct an inspection or

1 investigation, advance notice of the inspection or investigation  
 2 ~~shall~~**must** not be given except in **each of** the following situations:

3 (a) In cases of apparent imminent danger, to enable the  
 4 employer to abate the danger as quickly as possible.

5 (b) In circumstances where the inspection most effectively can  
 6 be conducted after regular business hours or where special  
 7 preparations are necessary for an inspection.

8 (c) If necessary to ~~assure~~**ensure** the presence of  
 9 representatives of the employer and employees, ~~or~~ the appropriate  
 10 personnel needed to aid in the inspection.

11 (d) In other circumstances where the department determines  
 12 that ~~the giving of~~ advance notice would enhance the probability of  
 13 an effective and thorough inspection.

14 (6) Advance notice in ~~any of the situations~~**a situation**  
 15 described in subsection (5) ~~shall~~**must** not be given more than 24  
 16 hours before the inspection or investigation is scheduled to be  
 17 conducted, except in apparent imminent danger situations and in  
 18 other unusual circumstances.

19 (7) During the conduct of an inspection or an investigation,  
 20 the department representative may conduct tests and gather samples  
 21 of materials and substances ~~as that~~ are necessary to aid in the  
 22 evaluation of the place of employment. In implementing this  
 23 subsection, the confidentiality of trade secrets ~~shall~~**must** be  
 24 protected as prescribed in this act.

25 (8) Subject to rules promulgated by the ~~departments,~~  
 26 **department**, following the completion of an inspection or  
 27 investigation, an opportunity for a conference ~~shall~~**must** be  
 28 afforded the employer, ~~the employee or employee-representative of~~  
 29 **the employee, and, if a joint conference is requested,** the

1 employer and the employee or ~~employee~~ representative ~~if a joint~~  
 2 ~~conference is requested.~~ **of the employee.**

3 (9) In the performance of duties in the administration and  
 4 enforcement of this act, a department representative or an employee  
 5 of the ~~appropriate department shall~~ **is** not be personally liable for  
 6 damages sustained by an action on ~~his or her~~ **the representative's**  
 7 **or employee's** part, except for wanton and ~~wilful~~ **willful**  
 8 negligence.

9 (10) An employee or the authorized **employee** representative ~~of~~  
 10 ~~an employee~~ who participates in an inspection or investigation, as  
 11 provided in subsection (4), or the conference provided in  
 12 subsection (8), as provided in this section, or the rules  
 13 promulgated under this section, ~~shall~~ **must** not suffer a loss of  
 14 wages or fringe benefits, or be discriminated against in any  
 15 manner, for time spent participating in the inspection,  
 16 investigation, or conference. An employee or the authorized  
 17 **employee** representative ~~of an employee~~ who suffers a loss of wages  
 18 or fringe benefits, or is discriminated against in any manner, for  
 19 participation in an inspection, investigation, or conference, may  
 20 file a discrimination complaint **with the department**, and the  
 21 department ~~of labor~~ may order appropriate relief ~~, as provided in~~  
 22 section 65. As used in this subsection and section 31(2), "wages  
 23 and fringe benefits" means those terms as defined in section 1 of  
 24 ~~Act No. 390 of the Public Acts of 1978, being section 408.471 of~~  
 25 ~~the Michigan Compiled Laws. 1978 PA 390, MCL 408.471.~~

26 Sec. 30. (1) The department ~~of labor~~ shall provide a full-time  
 27 safety and health inspector at the site where a tunnel, shaft,  
 28 caisson, or cofferdam is constructed or repaired under pressurized  
 29 conditions. ~~The~~ **Both of the following apply to an inspector**

1 ~~shall~~**described in this subsection:**

2       **(a) The inspector must meet all of the following requirements:**

3       **(i)** ~~(a)~~Have training and experience in, and knowledge of,  
4 pressurized tunnel construction.

5       **(ii)** ~~(b)~~Have training and experience in, and an understanding  
6 of, ventilation systems.

7       **(iii)** ~~(c)~~Have training and experience in, and knowledge of, the  
8 safety and health standards relating to pressurized tunnel  
9 construction.

10       **(b) The inspector shall do all of the following:**

11       **(i)** ~~(d)~~Maintain a complete and detailed log of construction  
12 activity.

13       **(ii)** ~~(e)~~Test, monitor, and record the air quality in all work  
14 areas and unoccupied areas of the completed work.

15       **(iii)** ~~(f)~~Report immediately to the employer and affected  
16 employees the existence of an imminent danger or serious violation.

17       **(iv)** ~~(g)~~Conduct investigations and enforce this act and rules  
18 promulgated and orders issued under this act.

19       (2) The contracting party for whom a tunnel is constructed or  
20 repaired under pressurized conditions shall pay the cost of the  
21 safety and health inspector's wages and fringe benefits. The cost  
22 ~~shall must~~ be paid to the department ~~of labor~~ to the credit of the  
23 general fund. ~~of the state.~~ The department ~~of labor~~ shall advise  
24 contracting parties, ~~upon~~**on** request, and publish regularly the  
25 regular and overtime rates for ~~the a~~ safety and health inspector  
26 required by this section.

27       (3) If the tunnel construction activity exceeds 60 hours per  
28 week, the department shall provide a full-time safety and health  
29 inspector for each 60 hours of tunnel construction activity or

1 portion thereof. **of tunnel construction activity.**

2 (4) This section ~~shall~~ **does** not diminish ~~the~~ **an** employer's  
3 responsibility under this act.

4 Sec. 31. (1) When and as soon as a department representative  
5 determines that an imminent danger exists in a place of employment,  
6 the department representative shall inform the employer and the  
7 affected employees of a determination of the imminent danger. The  
8 department representative ~~immediately~~ shall **immediately** recommend  
9 to the director that an order be issued to require that steps be  
10 taken as may be necessary to avoid, correct, or remove the imminent  
11 danger. After receiving authorization for the issuance of an order  
12 from the director, the department representative shall apply a tag  
13 to the equipment or process that is the source of the imminent  
14 danger identifying that an imminent danger exists. ~~The tag shall be~~  
15 ~~removed only by~~ **Only** the department representative **may remove the**  
16 **tag.** At **the** request of the employer, an area supervisor shall,  
17 ~~within not later than~~ 24 hours after a request, make an ~~on-site on-~~  
18 **site** review of ~~any~~ tagging and recommend continuance or removal.  
19 The order ~~shall~~ **must** prohibit the employment or presence of an  
20 individual in locations or under conditions where imminent danger  
21 exists, except individuals whose presence is necessary to avoid,  
22 correct, or remove the imminent danger in a safe and orderly  
23 manner. In tagging the equipment or process that is the source of  
24 imminent danger and in issuing the order, consideration ~~shall~~ **must**  
25 be given to ~~any~~ **the** necessity to maintain the capacity of a  
26 continuous process operation and to the reestablishment of normal  
27 operations without a complete cessation of operations.

28 (2) An employer shall not ~~permit~~ **allow** an employee, other than  
29 an employee whose presence is necessary to avoid, correct, or

1 remove the imminent danger, to operate equipment or engage in a  
 2 process that has been tagged by the department and that is the  
 3 subject of an order issued by the department identifying that an  
 4 imminent danger exists. An employee who suffers a loss of wages or  
 5 fringe benefits or is in any manner discriminated against for  
 6 refusing to operate equipment or engage in a process that has been  
 7 tagged by the department and that is the subject of an order issued  
 8 by the department, as provided in this section, may file a  
 9 discrimination complaint ~~with the department~~ and the department  
 10 ~~of licensing and regulatory affairs~~ may order appropriate relief as  
 11 provided in section 65. This section does not prohibit an employer  
 12 from assigning an employee to an operation not affected by the  
 13 imminent danger situation, subject to ~~any~~ **a** collective bargaining  
 14 agreement.

15 (3) ~~Upon failure of the~~ **If the** employer ~~to~~ **does not** promptly  
 16 comply with a department order ~~as described in subsection (1),~~  
 17 the department shall petition the circuit court ~~having~~ **that has**  
 18 jurisdiction to restrain a condition or practice in a place of  
 19 employment that the department has determined to cause the imminent  
 20 danger.

21 (4) If the department arbitrarily or capriciously fails to  
 22 seek relief under this section, an employee who may be injured by  
 23 reason of the failure, or the representative of those employees,  
 24 may bring action against the department in the circuit court ~~having~~  
 25 **that has** jurisdiction for a writ of mandamus to compel the  
 26 department to seek an order and for further relief, as may be  
 27 appropriate.

28 (5) The department ~~of licensing and regulatory affairs~~ shall  
 29 respond ~~within~~ **not later than** 24 hours after receipt of an imminent

1 danger complaint concerning an unknown and unlabeled container of  
 2 chemicals or an imminent danger complaint concerning a container of  
 3 hazardous chemicals that is not labeled or for which a safety data  
 4 sheet is not available as required by the standard incorporated by  
 5 reference in section 14a and by sections 14b to 14l.

6 (6) Before a department representative seeks authorization to  
 7 issue an order ~~pursuant to the procedures prescribed in~~ **under**  
 8 subsection (1), an employer ~~shall~~ **must** be given a reasonable  
 9 opportunity to identify, label, or provide the safety data sheet  
 10 for the container that is the subject of the imminent danger  
 11 determination.

12 Sec. 33. (1) If, as the result of an inspection or  
 13 investigation, the department representative believes that an  
 14 employer has violated this act, an order issued ~~pursuant to in~~  
 15 **accordance with** this act, or a rule or standard promulgated  
 16 ~~pursuant to under~~ this act, ~~he or she~~ **the department representative**  
 17 shall issue a citation immediately or ~~within~~ **not later than** 90 days  
 18 after the completion of the **conference for the** physical inspection  
 19 or investigation **described in section 29(8)**. The citation ~~shall~~  
 20 **must** be in writing and ~~shall~~ **must** describe with particularity the  
 21 nature of the violation, including a reference to the provision of  
 22 this act ~~, or an order issued~~ **in accordance with this act**, or a  
 23 rule or standard promulgated ~~pursuant to under~~ this act, alleged to  
 24 have been violated. The citation ~~shall~~ **must** state a reasonable time  
 25 by which the violation is to be abated. The citation ~~shall~~ **must**  
 26 state on its face that it is an allegation of a violation. The date  
 27 ~~shall~~ **must** be set with ~~due~~ regard to the seriousness of the hazard  
 28 and the difficulty of abating it. The citation and the proposed  
 29 penalty, if any, may be presented to and ~~shall~~ **must**, in each case,

1 be sent by ~~registered~~**certified** mail to the employer, and a copy  
 2 ~~shall~~**must** be filed at the time of issuance with the ~~appropriate~~  
 3 department.

4 (2) The employer shall post a copy of the citation at or near  
 5 the place of the violation, and the citation copy ~~shall~~**must** remain  
 6 posted at that site until compliance is achieved or for 3 working  
 7 days, whichever is later.

8 (3) The employer ~~upon~~**on** whom a citation is served shall  
 9 notify the ~~appropriate~~ department of compliance with this act, an  
 10 order issued ~~pursuant to~~**in accordance with** this act, or a rule or  
 11 standard promulgated ~~pursuant to~~**under** this act.

12 (4) If an employer fails to correct a violation for which a  
 13 citation was issued within the period permitted for its correction,  
 14 the department shall notify the employer by ~~registered~~**certified**  
 15 mail of that failure and of the penalty proposed to be assessed  
 16 under section 35 for the failure.

17 (5) If ~~it is determined upon~~**the department determines, after**  
 18 **conducting an** inspection or investigation, that a violation of this  
 19 act, an order issued ~~pursuant to~~**in accordance with** this act, or a  
 20 rule or standard promulgated ~~pursuant to~~**under** this act exists, but  
 21 that the conditions that constitute the violation have no direct or  
 22 immediate relationship to the safety or health of workers, the  
 23 department may issue a notice in place of a citation. A notice  
 24 issued under this subsection ~~shall~~**must** be referred to as a "de  
 25 minimis notice of violation". The employer shall post a copy of the  
 26 de minimis notice of violation at or near the place of violation  
 27 for 3 working days. The department shall promulgate all necessary  
 28 rules for administering the de minimis notice of violation.

29 (6) ~~A~~**The department shall vacate a** citation for an alleged

1 violation of this act, an order issued ~~pursuant to~~ **in accordance**  
 2 **with** this act, or a rule or standard promulgated ~~pursuant to~~ **under**  
 3 this act ~~shall be vacated~~ if it is shown that the employer has  
 4 provided the equipment or training, educated employees regarding  
 5 use of the equipment or implementation of the training, and taken  
 6 reasonable steps including, ~~where~~ **if** appropriate, disciplinary  
 7 action to ~~assure~~ **ensure** that employees utilize the equipment and  
 8 comply with the training as referenced in this section.

9       Sec. 35. (1) If an employer receives a citation for a serious  
 10 violation of this act, an order issued ~~pursuant to~~ **in accordance**  
 11 **with** this act, or a rule or standard promulgated under this act,  
 12 the board shall assess the employer a civil penalty of not more  
 13 than ~~\$7,000.00~~ **the equivalent federal penalty as the equivalent**  
 14 **federal penalty existed on the effective date of the amendatory act**  
 15 **that added subsection (12) or the penalty established under**  
 16 **subsection (11), as applicable,** for each violation.

17       (2) If an employer fails to correct a violation for which a  
 18 citation was issued within the period permitted for its correction,  
 19 the board may assess the employer a civil penalty of not more than  
 20 ~~\$7,000.00~~ **the equivalent federal penalty as the equivalent federal**  
 21 **penalty existed on the effective date of the amendatory act that**  
 22 **added subsection (12) or the penalty established under subsection**  
 23 **(11), as applicable,** for each day during which the failure or  
 24 violation continues. A period permitted for corrections does not  
 25 begin to run until the date of the final order of the board if a  
 26 review proceeding before the board is initiated by the employer in  
 27 good faith and not solely ~~for to~~ delay or ~~avoidance of~~ **avoid** a  
 28 penalty.

29       (3) If an employer receives a citation for a violation of this

act, an order issued ~~pursuant to~~ **in accordance with** this act, or a rule or standard promulgated under this act, the board may assess the employer a civil penalty of not more than ~~\$7,000.00~~ **the equivalent federal penalty as the equivalent federal penalty existed on the effective date of the amendatory act that added subsection (12) or the penalty established under subsection (11), as applicable**, for each violation that is specifically determined not to be of a serious nature.

(4) If an employer willfully or repeatedly violates this act, an order issued ~~pursuant to~~ **in accordance with** this act, or a rule or standard promulgated under this act, the board may assess the employer a civil penalty of not more than ~~\$70,000.00~~ **for each violation, but not less than \$5,000.00** **the equivalent federal penalty as the equivalent federal penalty existed on the effective date of the amendatory act that added subsection (12) or the penalty established under subsection (11), as applicable**, for each willful **or repeated** violation. As used in this subsection:

(a) "Case closing date", with respect to an asbestos-related violation, means the first date that all of the following conditions are met:

(i) The citation for the violation is a final order.

(ii) Satisfactory abatement documentation for the violation is received by the board.

(iii) All civil penalties related to the violation are timely paid, or the department ~~of labor and economic opportunity~~ complies with section 36(6).

(b) "Repeatedly violates", with respect to an asbestos-related violation, means commits an asbestos related violation not later than 5 years after the case closing date of an asbestos-related

1 violation.

2 (5) If an employer willfully violates this act, an order  
3 issued ~~pursuant to~~ **in accordance with** this act, or a rule or  
4 standard promulgated under this act and the violation causes the  
5 death of an employee, the employer is guilty of a felony punishable  
6 by imprisonment for not more than 1 year, a fine of not more than  
7 \$10,000.00, or both. A second and any subsequent violation under  
8 this subsection is punishable by imprisonment for not more than 3  
9 years, a fine of \$20,000.00, or both.

10 (6) If an employer violates a posting requirement prescribed  
11 under this act, the board shall assess the employer a civil penalty  
12 of not more than ~~\$7,000.00~~ **the equivalent federal penalty as the**  
13 **equivalent federal penalty existed on the effective date of the**  
14 **amendatory act that added subsection (12) or the penalty**  
15 **established under subsection (11), as applicable,** for each  
16 violation.

17 (7) If a person knowingly makes a false statement,  
18 representation, or certification in an application, record, report,  
19 plan, or other document filed or required to be maintained ~~pursuant~~  
20 ~~to~~ **under** this act, or fails to maintain or transmit a record or  
21 report as required under section 61, the person is guilty of a  
22 misdemeanor punishable by imprisonment for not more than 6 months,  
23 a fine of not more than \$10,000.00, or both.

24 (8) If a person gives advance notice of an investigation or an  
25 inspection to be conducted under this act without authority from  
26 the ~~appropriate director, or the designee of the director,~~ the  
27 person is guilty of a misdemeanor punishable by imprisonment for  
28 not more than 6 months, a fine of not more than \$1,000.00, or both.

29 (9) For a public employer, the department, ~~of labor and~~

~~economic opportunity~~, instead of applying a civil penalty otherwise applicable to an employer under this section, may request that the attorney general seek a writ of mandamus in the appropriate circuit court to compel compliance with a citation, including the terms of abatement.

(10) A person shall not assault a department representative or other person charged with enforcement of this act in the performance of that person's legal duty to enforce this act. A person ~~who~~ **that** violates this subsection is guilty of a misdemeanor. A prosecuting attorney having jurisdiction of the matter or the attorney general may prosecute the violator.

**(11) Beginning on the effective date of the amendatory act that added subsection (12), the director shall, not later than 10 working days after the date that a federal penalty is changed, initiate the processing of an administrative rule that changes a penalty under this section to be equal to the equivalent federal penalty.**

(12) As used in this section:

(a) "Equivalent federal penalty" means the federal penalty for the federal violation that is the equivalent of or most equivalent to a violation of this act or a rule or standard promulgated under this act.

(b) "Federal penalty" means the penalty for a federal violation.

(c) "Federal violation" means a violation of either of the following:

(i) The occupational safety and health act of 1970, Public Law 91-596.

(ii) An occupational safety and health standard adopted or

1 promulgated by the United States Department of Labor under the  
2 occupational safety and health act of 1970, Public Law 91-596.

3 Sec. 36. (1) The board shall assess civil penalties,  
4 considering the size of the business, the seriousness of the  
5 violation, the good-faith efforts of the employer, and the history  
6 of previous citations, and may establish a schedule of civil  
7 penalties. Subject to subsection (2), for a civil penalty that was  
8 assessed as the result of an asbestos-related violation, the board  
9 shall not reduce the civil penalty by more than a total of 95% or  
10 by more than the corresponding percentage for each of the  
11 following:

12 (a) In considering the size of the business, 70%.

13 (b) In considering the good-faith efforts of the employer,  
14 25%.

15 (c) In considering the history of previous citations, 10%.

16 (2) The board may issue an order for a reduction of a civil  
17 penalty if the order is consistent with a dismissal or  
18 reclassification of an asbestos-related violation included in a  
19 hearing officer's report submitted to the board following an  
20 administrative hearing held under section 42 or 44. For an  
21 asbestos-related violation that has been reclassified by a hearing  
22 officer, the board shall not reduce the civil penalty that  
23 corresponds to the reclassified violation by more than is  
24 prescribed under subsection (1).

25 ~~(3) The department of labor and economic opportunity shall~~  
26 administer and enforce the assessment of civil penalties in a  
27 manner that is consistent with the administration and enforcement  
28 of civil penalties by the federal Occupational Safety and Health  
29 Administration.

(4) A civil penalty owed under this act must be paid to the department ~~of labor and economic opportunity~~ not later than 15 working days after the date the penalty becomes a final order of the board, not subject to further agency or judicial review. A civil penalty must be credited to the state general fund.

(5) If a civil penalty remains unpaid beyond the period of time specified in subsection (4), the department ~~of labor and economic opportunity~~ shall issue a letter to the employer ~~demanding that demands the employer to, not later than 20 days after the date of the letter, make the~~ payment. ~~not later than 20 days after the date of the letter.~~

(6) If the penalty remains unpaid following the period specified in subsection (5), the department ~~of labor and economic opportunity~~ shall transmit information on the amount of the penalty and the name and address of the employer owing the penalty to the department of treasury.

(7) The department of treasury shall institute proceedings to collect the amount assessed as a civil penalty. The department of treasury shall offset the amount of the penalty against money owed by ~~the~~ **this** state to the employer. The department of treasury shall request that the attorney general recover the amount of the penalty remaining unpaid, after offsets, by instituting a civil action in the circuit court for the county in which the violation occurred or in the circuit court for the county in which the employer ~~owing~~ **that owes** the penalty has its principal place of business.

Sec. 37. The department shall turn over evidence of a criminal violation of this act to the ~~department~~ attorney **general** and shall assist in the investigation of a criminal violation.

Sec. 41. ~~Within~~ **Not later than** 15 working days after receipt

1 of a citation and proposed penalty, if any, an employer may  
2 petition the ~~appropriate~~ department for a grant of additional time  
3 for compliance, modification, or dismissal of the citation and a  
4 proposed penalty. ~~Within~~ **Not later than** 15 working days after the  
5 employer has received a citation, an employee or employee  
6 representative may petition the department ~~of labor or the~~  
7 ~~department of public health, whichever is appropriate,~~ alleging the  
8 period of time fixed in the citation for the abatement of the  
9 violation is unreasonable. ~~When~~ **If** a petition is submitted to the  
10 department by the employer, the employer shall transmit a copy  
11 immediately to the affected employees or the employee  
12 representative. ~~When~~ **If** a petition is submitted to the department  
13 by an employee or employee representative, the department shall  
14 submit a copy of the petition immediately to the employer after  
15 deleting the name of the employee or employee representative, if ~~so~~  
16 requested by the employee or employee representative. If the  
17 employer, employee, or employee representative does not petition  
18 the department ~~within~~ **not later than** the 15 working days after  
19 receipt of the citation and proposed penalty, if any, the citation  
20 or proposed penalty ~~shall be~~ **is** considered a final order of the  
21 board. ~~Upon~~ **On** receipt of a petition, ~~the department of public~~  
22 ~~health or the department of labor, whichever is appropriate,~~ may  
23 modify the time schedule for compliance, modify the citation,  
24 dismiss the citation, or dismiss or modify ~~any~~ **a** proposed penalty.  
25 The ~~appropriate~~ department shall notify the employer of its  
26 decision ~~within~~ **not later than** 15 working days after receipt of the  
27 petition. If the department meets with the employer regarding the  
28 employer's petition, the department shall notify the employee or  
29 employee representative that a meeting will be held and allow the

attendance of the employee or employee representative. The employer shall promptly post the notice of the department's decision ~~together with~~ **and** the appropriate citation. The decision of the department ~~of labor or the department of public health shall become~~ **becomes** final 15 working days after receipt of the decision. ~~Within~~ **Not later than** 15 working days after receipt of the ~~department of labor's or the department of public health's decision,~~ **department's decision,** an employer may appeal the decision to the board. ~~Within~~ **Not later than** 15 working days after the employer ~~has received~~ **receives** the decision of the director, ~~of labor or the director of public health, whichever is appropriate,~~ an employee or employee representative may appeal the decision to the board with respect to the violation abatement period, classification of citation, or proposed penalty.

Sec. 45. If an employer ~~fails to~~ **does not** comply with a final order of the board, the department may issue an order directing the employer to cease operating or render inoperable, in accordance with the order of the department, so much of ~~his~~ **the employer's** operation as is necessary to eliminate the hazard ~~which~~ **that** is the subject of the order. ~~When~~ **If** a cease operation order is not appropriate or not obeyed, the department shall refer the matter to the ~~department attorney~~ **general.** ~~who~~ **The attorney general** shall promptly institute proceedings in the circuit court for the county in which the violation exists to enforce the department's orders.

Sec. 46. (1) A board of health and safety compliance and appeals is created within the department. ~~of labor.~~ The board of health and safety compliance and appeals consists of 7 members appointed by the governor by and with the advice and consent of the senate for terms of 4 years or until ~~their successors are a~~

1 **member's successor is** appointed and qualified. Of the members first  
 2 appointed ~~2 shall~~**must** be appointed for 1 year, ~~2 shall~~**must** be  
 3 appointed for 2 years, ~~2 shall~~**must** be appointed for 3 years, and 1  
 4 ~~shall~~**must** be appointed for 4 years. The first ~~chairman~~**chairperson**  
 5 of the board of health and safety compliance and appeals ~~shall have~~  
 6 **has** a 4-year term. Vacancies ~~shall~~**must** be filled in the same  
 7 manner as the original appointments except that a vacancy ~~occurring~~  
 8 **that occurs** during a term of office ~~shall~~**must** be filled by  
 9 appointment for the unexpired term. ~~Of those appointed to the~~**The**  
 10 ~~board of health and safety compliance and appeals~~**must consist of**  
 11 **the following members:**

12 (a) Three ~~shall~~**that** represent labor and, ~~shall,~~ individually  
 13 or jointly, represent each of the following areas in which ~~they~~  
 14 ~~shall~~**the members must** be actively engaged: ~~(i) general industry;~~  
 15 ~~(ii) construction; and (iii) health.~~

16 (i) **General industry.**

17 (ii) **Construction.**

18 (iii) **Health.**

19 (b) Three ~~shall~~**that** represent management and ~~shall,~~**that,**  
 20 individually or jointly, represent each of the following areas in  
 21 which ~~they shall~~**the members must** be actively engaged: ~~(i) general~~  
 22 ~~industry; (ii) construction; and (iii) health.~~

23 (i) **General industry.**

24 (ii) **Construction.**

25 (iii) **Health.**

26 (c) One ~~shall represent~~**that represents** the general public and  
 27 ~~serve~~**that serves** as ~~chairman~~**the chairperson.**

28 (2) The board's authority ~~shall apply~~**applies** to all safety  
 29 and health citations, orders, and appeals.

1           (3) The board shall meet as necessary to discharge its duties  
 2 under this act and shall hold regular quarterly meetings. ~~in~~  
 3 ~~Lansing.~~ Interim meetings may be called at any time by the  
 4 chairman, **chairperson**, the director, ~~of labor, the director of~~  
 5 ~~public health, or by~~ **4 or more** members thereof. **of the board.** A  
 6 majority of the members of the board constitutes a quorum and  
 7 official action can be taken only on the affirmative vote of a  
 8 majority of the members. The **legislature shall, annually, establish**  
 9 **the** per diem compensation of the board and the schedule for  
 10 reimbursement of expenses. ~~shall be established annually by the~~  
 11 ~~legislature.~~

12           (4) The board may order testimony to be taken at a hearing or  
 13 by deposition in proceedings pending before ~~it~~ **the board** at any  
 14 stage of the proceedings. A person may be compelled to appear and  
 15 depose, and to produce books, papers, or documents in a proceeding  
 16 under consideration by the board. Witnesses ordered to appear in  
 17 ~~any~~ **a** proceeding pending before the board or whose depositions are  
 18 taken under this subsection ~~and~~ and the person taking the depositions  
 19 ~~shall be~~ **are** entitled to the same fees as paid for like services in  
 20 circuit court.

21           (5) The board shall promulgate rules of procedure for the  
 22 conduct of hearings or in response to appeals. ~~which~~ **The** rules  
 23 ~~shall provide for~~ **must require** a hearing officer to make a  
 24 determination ~~upon~~ **on** a proceeding before the board.

25           (6) In construing or applying ~~any~~ **a** state occupational safety  
 26 or health standard which is identical to a federal occupational  
 27 safety and health standard promulgated ~~pursuant to 29 U.S.C.~~  
 28 ~~section 651 et seq.,~~ **under 29 USC 651 to 678,** the board shall  
 29 construe and apply the state standard in a manner ~~which~~ **that** is

1 consistent with ~~any~~ a federal construction or application by the  
 2 occupational safety and health review commission created pursuant  
 3 to ~~29 U.S.C. section 661.~~ **under 29 USC 661.**

4 Sec. 52. (1) The ~~department~~ attorney **general** shall represent  
 5 the department ~~of labor, the department of public health,~~ and the  
 6 board and commissions established under this act in ~~any~~ litigation  
 7 under this act.

8 (2) The board shall not be considered to be a party in a  
 9 judicial review proceeding brought ~~pursuant to~~ **under** this act.

10 Sec. 54. (1) A ~~safety~~ **consultation** education and training  
 11 division is created within the department. ~~of licensing and~~  
 12 ~~regulatory affairs.~~

13 (2) The functions of the ~~safety~~ **consultation** education and  
 14 training division ~~shall~~ include **all of the following:**

15 (a) The development and application of a statewide ~~safety~~  
 16 **consultation** education and training program to familiarize  
 17 employers, supervisors, employees, and union leaders with  
 18 techniques of accident investigation and prevention.

19 (b) The development and utilization of consultative  
 20 educational techniques to achieve long-range solutions to  
 21 occupational safety problems.

22 (c) The development of training programs for the department  
 23 safety compliance staff.

24 (d) The acquisition, development, and distribution of  
 25 occupational safety pamphlets, booklets, brochures, and other  
 26 appropriate safety media as may be useful to accomplish the  
 27 objectives of the ~~safety~~ **consultation** education and training  
 28 division.

29 (e) The conduct of other activities as necessary for the

1 implementation of an effective ~~safety~~**consultation** education and  
2 training program.

3 (f) The development and administration of a program for  
4 employers, with special emphasis on small business employers,  
5 providing technical and educational assistance.

6 (g) The development and implementation of a training and  
7 education program for department staff engaged in the  
8 administration and enforcement of this act.

9 (3) The department shall publish a newsletter at least  
10 quarterly.

11 (4) ~~When~~**If** the director promulgates a standard or a rule or  
12 issues an order, **the director shall include** a brief statement ~~shall~~  
13 ~~be included indicating that indicates~~ the reasons for the action. ~~7~~  
14 ~~which shall be published~~**The director shall include the statement**  
15 in the newsletter published under subsection (3).

16 Sec. 55. (1) A ~~safety~~**consultation** education and training fund  
17 is created. Except as provided in subsection ~~(2), (3)~~, the fund  
18 ~~shall~~**must** be used to accomplish the objectives ~~outlined~~**described**  
19 in sections 54 and 56. The state treasurer ~~shall be~~**is** custodian of  
20 the fund and may invest the surplus of the fund in investments ~~as~~  
21 **that**, in the state treasurer's judgment, are in the best interest  
22 of ~~the~~**this** state. Earnings from those investments ~~shall~~**must** be  
23 credited to the fund. The state treasurer shall notify the director  
24 ~~of labor, the director of public health, and the legislature of~~  
25 interest credited and the balance of the ~~safety education and~~  
26 ~~training fund as of December 31 of each year.~~

27 ~~(2) On October 1, 1991, \$2,300,000.00 is transferred from the~~  
28 ~~safety education and training fund to the state general fund for~~  
29 ~~the operation of the programs specified in this act.~~

1       (2) ~~(3)~~ The director ~~of labor~~ shall supervise and administer  
 2 the fund. Except as provided in this section, the director shall  
 3 annually assess a levy based on the total annual worker's  
 4 disability compensation losses, excluding medical payments, paid in  
 5 the immediately preceding calendar year by employers under the  
 6 worker's disability compensation act of 1969, ~~Act No. 317 of the~~  
 7 ~~Public Acts of 1969, as amended, being sections~~ **1969 PA 317, MCL**  
 8 ~~418.101 to 418.941. of the Michigan Compiled Laws.~~ Except as  
 9 provided in this section, each year the director shall assess ~~upon~~  
 10 and collect from each carrier and self-insured employer a sum equal  
 11 to that proportion of 50% of the current fiscal year appropriation  
 12 of ~~safety-consultation~~ education and training funds ~~which-that~~ the  
 13 total worker's disability compensation benefits, exclusive of  
 14 medical payments, paid by each carrier or each self-insured  
 15 employer bears to the total of the compensation benefits paid by  
 16 all carriers and self-insured employers during the immediately  
 17 preceding calendar year. However, the total amount levied annually  
 18 ~~shall-must~~ not exceed ~~3/4 of 1%~~ **0.75%** of the total of the  
 19 compensation benefits paid by all carriers and self-insured  
 20 employers during the immediately preceding calendar year. Funds  
 21 that are unexpended at the end of each fiscal year ~~shall-must~~ be  
 22 returned to the ~~safety education and training~~ fund.

23       (3) ~~(4)~~ If, at any time during the fiscal year in which the  
 24 assessment required by subsection ~~(3)~~ **(2)** is made, the balance of  
 25 ~~money in the safety education and training fund~~ is less than  
 26 \$1,500,000.00, the assessment ~~shall-must~~ equal the total fiscal  
 27 year appropriation of ~~safety-consultation~~ education and training  
 28 funds.

29       (4) ~~(5)~~ ~~Notice~~ **The director shall send notice** of the

1 assessments ~~shall be sent by the director of labor~~ by mail to each  
 2 carrier. Payment of assessments ~~shall~~ **must** be received in the  
 3 principal office of the department ~~of labor~~ before a date specified  
 4 uniformly in the notice, but not less than 90 days after the date  
 5 of mailing.

6 (5) ~~(6)~~ The levy assessments ~~shall constitute~~ **are** an element  
 7 of loss for the purpose of establishing rates for worker's  
 8 disability compensation insurance. Funds derived from this levy  
 9 ~~shall~~ **must** be deposited in the ~~safety~~ **consultation** education and  
 10 training fund and ~~shall~~ **must** be appropriated by the legislature for  
 11 the operation of this program.

12 (6) ~~(7)~~ To enable full and complete legislative review of the  
 13 assessment process, the department, ~~of labor,~~ not later than  
 14 September 30 of each year, shall submit to the regulatory  
 15 subcommittees of the house **of representatives** and senate  
 16 appropriations committees and the house **of representatives** and  
 17 senate committees that consider labor matters a written report on  
 18 the status of the ~~safety~~ **consultation** education and training  
 19 assessment required by this section. The report ~~shall~~ **must** include,  
 20 but is not limited to, information on the amount of the assessment,  
 21 the percentage of the assessment as compared to losses, an  
 22 explanation of all expenditures from the ~~safety education and~~  
 23 ~~training fund,~~ and the balance of ~~money in the safety education and~~  
 24 ~~training fund.~~

25 Sec. 56. The department ~~of public health~~ shall conduct an  
 26 occupational health education and training program with employees  
 27 and employers for the prevention of occupational health hazards, to  
 28 achieve long-range solutions to occupational health problems, and  
 29 to train persons in the recognition and control of occupational

1 health hazards.

2       Sec. 63. (1) Information reported to or otherwise obtained by  
3 the department ~~of licensing and regulatory affairs~~ in connection  
4 with an inspection, investigation, or proceeding under this act  
5 that contains or that might reveal a trade secret, including  
6 information required to be made available under sections 14a  
7 ~~through to 14l~~ and section 24(5) and (6) ~~shall be~~ **is** considered  
8 confidential. In a proceeding under this act, the director shall  
9 promulgate rules ~~for the purpose of protecting to protect~~ trade  
10 secrets regarding information required to be made available under  
11 sections 14a ~~through to 14l~~ and section 24(5) and (6), and the  
12 department, the board, or the court shall issue orders as may be  
13 appropriate to protect the confidentiality of trade secrets and to  
14 carry out the objectives of this act.

15       (2) Except as otherwise provided by this subsection, ~~and~~  
16 ~~subsection (1),~~ information reported to or otherwise obtained by a  
17 department from an employee in connection with an inspection,  
18 investigation, or proceeding under this act ~~shall~~ **must** be made  
19 available to the public ~~pursuant to~~ **in accordance with** the freedom  
20 of information act, 1976 PA 442, MCL 15.231 to 15.246. ~~The~~ **All of**  
21 **the following are exempt from disclosure under the freedom of**  
22 **information act, 1976 PA 442, MCL 15.231 to 15.246:**

23       (a) **The information described in subsection (1).**

24       (b) **The** identity of an employee, or ~~any~~ information that may  
25 lead to the identification of an employee, who provides information  
26 pertaining to a possible violation ~~or violations~~ of this act. ~~is~~  
27 ~~exempt from disclosure.~~

28       (c) **Reports that the department creates and information**  
29 **reported to or otherwise obtained by the department regarding an**

1 employer's request for consultation from the department. As used in  
 2 this subdivision, "consultation" means that term as defined in 29  
 3 CFR 1908.2.

4 Sec. 65. (1) A person shall not discharge an employee or in  
 5 any manner discriminate against an employee because the employee  
 6 filed a complaint, ~~or~~ instituted or caused to be instituted a  
 7 proceeding under or regulated by this act, ~~or~~ has testified or is  
 8 about to testify in ~~such a~~ proceeding **regulated by this act**, or  
 9 because ~~of the exercise by~~ the employee **exercises a right afforded**  
 10 **by this act** on behalf of ~~himself or herself~~ **the employee** or others  
 11 ~~of a right afforded by this act.~~ **another person.**

12 (2) ~~An~~ **If an** employee ~~who~~ believes that ~~he or she~~ **the employee**  
 13 was discharged or otherwise discriminated against by a person in  
 14 violation of this section, **the employee** may, **not later than 30 days**  
 15 **after the date of the alleged violation**, file a complaint with the  
 16 department ~~of labor~~ alleging the discrimination. ~~within 30 days~~  
 17 ~~after the violation occurs. Upon~~ **On** receipt of the complaint, the  
 18 department ~~of labor~~ shall ~~cause an investigation to be made~~  
 19 **investigate the complaint** as ~~it~~ **the department** considers  
 20 appropriate. ~~If, upon the investigation,~~ **After the investigation,**  
 21 **if** the department determines that this section was violated, the  
 22 department shall order all appropriate relief, including ~~rehiring~~  
 23 **the rehire** or reinstatement of an employee to ~~his or her~~ **the**  
 24 **employee's** former position with back pay.

25 (3) The director, ~~of labor,~~ **within not later than** 90 days  
 26 after the receipt of a complaint filed under this section, shall  
 27 notify the complainant of the determination under subsection (2).

28 (4) The employer or employee may, **not later than 15 working**  
 29 **days after the notification is issued**, request a review of the

1 department's determination ~~within 15 working days after~~  
 2 ~~notification is issued. in accordance with the procedures~~  
 3 **prescribed in the notification.** If the department does not receive  
 4 a request for a review by either the employer or employee ~~is not~~  
 5 ~~received by the department within 15 working days, in the absence~~  
 6 ~~of in this time period, absent~~ a showing of good cause for a late  
 7 request, the department's determination is final. The employee,  
 8 employer, and the department ~~shall must~~ be parties to a proceeding  
 9 before a hearings officer brought ~~pursuant to under~~ this section.

10 (5) The director shall appoint hearings officers to make  
 11 determinations in proceedings brought ~~pursuant to under~~ this  
 12 section. All proceedings in a hearing ~~shall must~~ be conducted  
 13 ~~pursuant to in accordance with~~ the procedures applicable to the  
 14 trial of contested cases under ~~Act No. 306 of the Public Acts of~~  
 15 ~~1969, as amended. the administrative procedures act of 1969, 1969~~  
 16 **PA 306, MCL 24.201 to 24.328.** The hearings officer shall affirm,  
 17 modify, or rescind the order of the department and may order an  
 18 employer ~~who that~~ violates this section to pay attorney costs,  
 19 hearing costs, and transcript costs. The hearings officer shall  
 20 issue a determination ~~which constitutes a final disposition of the~~  
 21 ~~proceedings to each party within not later than~~ 30 working days  
 22 after the conclusion of the hearing. The determination of the  
 23 hearings officer ~~shall become is the final disposition of the~~  
 24 **proceedings and becomes** the final agency order ~~upon on~~ receipt by  
 25 the parties.

26 (6) A party to the proceeding may, **not later than 60 days**  
 27 **after receipt of the determination of the hearings officer,** obtain  
 28 judicial review ~~within 60 days after receipt of the determination~~  
 29 ~~of the hearings officer pursuant to Act No. 306 of the Public Acts~~

~~of 1969, as amended.~~ **of the determination as provided for in the**  
**administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**  
**24.328.** Venue for an appeal under this act ~~shall be~~ **is** only in the  
 circuit where the employee is a resident, where the employment  
 occurred, or where the employer has a principal place of business.

(7) In absence of an appeal by an employer ~~who~~ **that** has not  
 complied with the determination of the hearings officer, the  
 director ~~of labor~~ shall initiate, in the county where the violation  
 occurred, in ~~the county of~~ **Ingham County**, or in the county where  
 the employer has its principal office, the civil action necessary  
 to enforce an order of the department ~~which~~ **that** has become a final  
 agency order as prescribed in this act.

(8) For the purpose of an investigation or proceeding under  
 this section, the director ~~of labor or an authorized representative~~  
~~of the director~~ may administer oaths and affirmations, subpoena  
 witnesses, compel ~~their~~ **a witness's** attendance, take evidence, and  
 require the production of records or other documents ~~which~~ **that** the  
 department considers relevant or material to the inquiry.

Sec. 91. ~~Any~~ **A** proceeding pending before the department ~~of~~  
~~labor or the department of health shall~~ **must** be continued, and be  
 conducted, and determined by the ~~appropriate~~ department ~~in~~  
~~accordance with~~ **according to** the statutes governing the  
 proceedings.

Enacting section 1. Section 1035a of the Michigan occupational  
 safety and health act, 1974 PA 154, MCL 408.1035a, is repealed.