

SENATE BILL No. 459

August 22, 1991, Introduced by Senators HONIGMAN and
N. SMITH and referred to the Committee on Labor.

A bill to amend sections 14, 14a, 14m, 14n, 24, 35, 36, and
55 of Act No. 154 of the Public Acts of 1974, entitled as amended
"Michigan occupational safety and health act,"
sections 14a and 14m as added by Act No. 80 of the Public Acts of
1986, section 14n as added and section 55 as amended by Act No. 6
of the Public Acts of 1991, and section 36 as amended by Act
No. 24 of the Public Acts of 1986, being sections 408.1014,
408.1014a, 408.1014m, 408.1014n, 408.1024, 408.1035, 408.1036,
and 408.1055 of the Michigan Compiled Laws; to add section 14o;
to repeal certain acts and parts of acts; and to repeal certain
acts and parts of acts on specific dates.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 14, 14a, 14m, 14n, 24, 35, 36, and 55
2 of Act No. 154 of the Public Acts of 1974, sections 14a and 14m
3 as added by Act No. 80 of the Public Acts of 1986, section 14n as

1 added and section 55 as amended by Act No. 6 of the Public Acts
 2 of 1991, and section 36 as amended by Act No. 24 of the Public
 3 Acts of 1986, being sections 408.1014, 408.1014a, 408.1014m,
 4 408.1014n, 408.1024, 408.1035, 408.1036, and 408.1055 of the
 5 Michigan Compiled Laws, are amended and section 14o is added to
 6 read as follows:

7 Sec. 14. (1) The occupational safety and health standards
 8 ~~which~~ THAT have been adopted or promulgated by the United
 9 States department of labor ~~pursuant to 29 U.S.C. sections 651 et~~
 10 ~~seq. and which~~ UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF
 11 1970, PUBLIC LAW 91-596, 84 STAT. 1590 AND THAT are in effect on
 12 ~~the effective date of this act are hereby~~ JANUARY 1, 1975 ARE
 13 incorporated by reference and ~~shall~~ have the same force and
 14 effect as a rule promulgated pursuant to this act. A standard
 15 ~~which~~ THAT is incorporated by reference pursuant to this sub-
 16 section ~~shall remain effective~~ REMAINS IN EFFECT until EITHER
 17 OF THE FOLLOWING CONDITIONS OCCURS:

18 (a) A standard is promulgated pursuant to this act ~~which~~
 19 THAT covers the same or A similar subject. ~~or~~

20 (b) ~~the~~ THE standard is rescinded by rule promulgated pur-
 21 suant to this act.

22 (2) When a rule or standard ~~which~~ THAT is continued pursu-
 23 ant to section ~~24(2) is in conflict~~ 24(3) CONFLICTS with or
 24 covers the same or similar subject as a standard incorporated by
 25 reference pursuant to subsection (1), the federal standard ~~se-~~
 26 incorporated by reference ~~shall govern,~~ GOVERNS and the state

1 rule or standard continued pursuant to section ~~24(2)~~ 24(3) is
2 rescinded.

3 (3) When a rule or standard ~~which~~ THAT is continued in
4 effect under this act pursuant to section 21(1) ~~—~~ covers the
5 same subject as a federal standard, ~~the provisions of~~ subsec-
6 tion (1) ~~shall~~ DOES not apply.

7 (4) ~~Within 30 days after the effective date of this act~~
8 ~~the~~ THE department of labor and the department of public health
9 shall determine which of them ~~shall be~~ IS responsible for
10 administering and enforcing each of the standards incorporated by
11 reference pursuant to subsection (1).

12 (5) The department of labor or the department of public
13 health, whichever is responsible for administering and enforcing
14 a standard incorporated by reference pursuant to subsection (1),
15 shall make copies of the standard available to the public at
16 cost.

17 (6) NOT LATER THAN 10 WORKING DAYS AFTER THE DATE THAT THE
18 UNITED STATES DEPARTMENT OF LABOR ADOPTS OR PROMULGATES AN OCCU-
19 PATIONAL SAFETY AND HEALTH STANDARD UNDER THE OCCUPATIONAL SAFETY
20 AND HEALTH ACT OF 1970, PUBLIC LAW 91-596, 84 STAT. 1590, THE
21 DIRECTOR OF LABOR OR THE DIRECTOR OF PUBLIC HEALTH, OR BOTH,
22 SHALL INITIATE, AS APPROPRIATE, EITHER THE PROMULGATION OF AN
23 ADMINISTRATIVE RULE THAT IS IDENTICAL TO THE FEDERAL OCCUPATIONAL
24 SAFETY AND HEALTH ADMINISTRATION STANDARD OR THE AMENDMENT OF AN
25 EXISTING ADMINISTRATIVE RULE SO THAT IT IS IDENTICAL TO THE FED-
26 ERAL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STANDARD. THE
27 RULE SHALL BE PROMULGATED OR AMENDED PURSUANT TO THE

1 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
2 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
3 COMPILED LAWS. THIS SUBSECTION APPLIES TO ALL FEDERAL STANDARDS
4 ADOPTED OR PROMULGATED AFTER SEPTEMBER 30, 1991.

5 (7) WHEN A STATE ADMINISTRATIVE RULE PROMULGATED PURSUANT TO
6 SUBSECTION (6) CONFLICTS WITH AN EXISTING STATE OCCUPATIONAL
7 SAFETY AND HEALTH ADMINISTRATIVE RULE, THE ADMINISTRATIVE RULE
8 PROMULGATED PURSUANT TO SUBSECTION (6) GOVERNS AND THE ADMINIS-
9 TRATIVE RULE PREVIOUSLY PROMULGATED IS RESCINDED.

10 (8) NOT LATER THAN 10 WORKING DAYS AFTER THE EFFECTIVE DATE
11 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE DIRECTOR OF
12 LABOR OR THE DIRECTOR OF PUBLIC HEALTH, OR BOTH, SHALL INITIATE
13 THE AMENDMENT OF ANY EXISTING OCCUPATIONAL SAFETY AND HEALTH
14 ADMINISTRATIVE RULE THAT IS NOT IDENTICAL TO A FEDERAL OCCUPA-
15 TIONAL SAFETY AND HEALTH ADMINISTRATIVE STANDARD THAT COVERS THE
16 SAME SUBJECT. THE RULE SHALL BE AMENDED PURSUANT TO ACT NO. 306
17 OF THE PUBLIC ACTS OF 1969 SO THAT IT IS IDENTICAL TO THE FEDERAL
18 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STANDARD.

19 Sec. 14a. (1) The occupational safety and health hazard
20 communication standard that has been adopted or promulgated by
21 the United States department of labor and has been codified at 29
22 C.F.R. 1910.1200 ~~as of the effective date of the amendatory act~~
23 ~~that adds this section~~ is incorporated by reference and ~~shall~~
24 ~~have~~ HAS the same force and effect as a rule promulgated pursu-
25 ant to this act. In addition to the standard incorporated by
26 reference in this subsection, sections 14b to 14l ~~shall~~ apply
27 to an employer subject to this act. The applicability of the

1 standard incorporated by reference in this subsection and of
2 sections 14b to 14l is subject to subsections (3), (4), (5), AND
3 (6) ~~—~~ and ~~—(7)—~~ TO SECTION 14o.

4 ~~—(2) When a rule or standard that is continued pursuant to~~
5 ~~section 24(3) is in conflict with or covers the same or similar~~
6 ~~subject as a standard incorporated by reference pursuant to~~
7 ~~subsection (1), the federal standard so incorporated by reference~~
8 ~~shall govern, and the state rule or standard continued pursuant~~
9 ~~to section 24(3) is rescinded.—~~

10 (2) ~~—(3)—~~ The department of labor shall administer and
11 enforce the provisions of the standard incorporated by reference
12 in subsection (1) relative to occupational safety. The depart-
13 ment of public health shall administer and enforce the provisions
14 of the standard incorporated by reference in subsection (1) rela-
15 tive to occupational health. The departments of public health
16 and labor shall administer and enforce the provisions of the
17 standard incorporated by reference in subsection (1) in a manner
18 that is consistent with the administration and enforcement of the
19 standard by the federal occupational safety and health
20 administration.

21 (3) ~~—(4) Beginning November 25, 1985, employers—~~ EMPLOYERS
22 who are chemical manufacturers in a standard industrial classifi-
23 cation of 20 through 39 of the standard industrial classification
24 code published by the federal department of management and
25 budget, importers, and distributors shall label containers of
26 hazardous chemicals leaving their workplaces, provide material
27 safety data sheets with initial shipments, and otherwise comply

1 with any applicable provision of the standard incorporated by
2 reference pursuant to subsection (1) and of sections 14b to 14l.
3 A chemical manufacturer, importer, or distributor subject to this
4 subsection shall provide a material safety data sheet and an
5 appropriately labeled container to each employer in this state,
6 regardless of the employer's standard industrial classification
7 in the standard industrial classification code, who purchases a
8 hazardous chemical.

9 (4) ~~-(5) Beginning May 25, 1986, an~~ AN employer in a stan-
10 dard industrial classification of 20 through 39 of the standard
11 industrial classification code published by the federal depart-
12 ment of management and budget shall comply with the requirements
13 of the standard incorporated by reference pursuant to
14 subsection (1) and with sections 14b to 14l with respect to the
15 use of hazardous chemicals in the workplace.

16 (5) ~~-(6) Beginning February 25, 1987, an~~ AN employer who is
17 subject to this act but who is not otherwise specifically
18 described in subsections ~~-(4) and (5)-~~ (3) AND (4) shall comply
19 with the requirements of the standard incorporated by reference
20 pursuant to subsection (1) and with sections 14b to 14l with
21 respect to the use of hazardous chemicals in the workplace.
22 However, instead of complying with any conflicting provision of
23 the standard incorporated by reference in subsection (1), an
24 employer who is described in this subsection is required:

25 (a) To provide information and training only to employees
26 who are exposed to hazardous chemicals in the normal course of

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

3 (b) In the case where a hazardous chemical is mixed or com-
4 bined with any other chemical or hazardous chemical by the
5 employer, to maintain and provide a material safety data sheet
6 for each constituent hazardous chemical and to maintain a mate-
7 rial identification system that identifies to employees the
8 appropriate material safety data sheets.

9 (6) ~~-(7)-~~ The standard incorporated by reference in
10 subsection (1), this section, and sections 14b to 14l shall not
11 be construed to require an employer in a standard industrial
12 classification other than 20 through 39 of the standard indus-
13 trial classification code published by the federal department of
14 management and budget to evaluate chemicals, to develop labels
15 for containers of hazardous chemicals, or to develop material
16 safety data sheets.

17 Sec. 14m. ~~The~~ SUBJECT TO SECTION 14o, THE standard incor-
18 porated by reference in section 14a and sections 14b to 14l
19 occupy the entire field of regulation of occupational safety and
20 health with respect to hazardous chemicals in the workplace.
21 Except as specifically provided in this act, any provision of any
22 ordinance, law, rule, regulation, policy, or practice of a city,
23 township, village, county, governmental authority created by
24 statute, or other political subdivision of the state that imposes
25 any requirement on an employer or expands the rights of an
26 employee with respect to the communication of the hazards of
27 hazardous chemicals in the workplace ~~shall be considered in~~

1 ~~conflict~~ CONFLICTS with this act and ~~shall not be~~ IS NOT
2 enforceable.

3 Sec. 14n. (1) The occupational safety and health field san-
4 itation standard that has been adopted or promulgated by the
5 United States department of labor and has been codified at 29
6 C.F.R. 1928.110 as of April 1, 1991 is incorporated by reference
7 ~~until October 1, 1991~~ and supersedes the occupational health
8 field sanitation standard as prescribed in R 325.61751 to R
9 325.61757 of the Michigan administrative code, ~~until October 1,~~
10 ~~1991,~~ and ~~, until that time,~~ has the same force and effect as
11 a rule promulgated pursuant to this act.

12 (2) The department of public health shall administer and
13 enforce the standard incorporated by reference in subsection (1)
14 in a manner that is consistent with the administration and
15 enforcement of the standard by the federal occupational safety
16 and health administration.

17 (3) The department of public health shall make copies of the
18 standard described in subsection (1) available to the public at
19 cost.

20 SEC. 14o. (1) AN OCCUPATIONAL SAFETY AND HEALTH HAZARD COM-
21 MUNICATION STANDARD PROMULGATED OR AMENDED BY THE DIRECTOR OF
22 LABOR OR THE DIRECTOR OF PUBLIC HEALTH, OR BOTH, PURSUANT TO
23 SECTION 14(6) SUPERSEDES THE STANDARD INCORPORATED BY REFERENCE
24 IN SECTION 14A(1), AND THE STANDARD INCORPORATED BY REFERENCE IN
25 SECTION 14A(1) IS RESCINDED.

26 (2) IF AN OCCUPATIONAL SAFETY AND HEALTH HAZARD
27 COMMUNICATION STANDARD PROMULGATED OR AMENDED PURSUANT TO

1 SECTION 14(6) CONFLICTS WITH SECTION 14B, 14C, 14D, 14E, 14F,
2 14G, 14H, 14I, 14J, 14K, OR 14L, OR A COMBINATION THEREOF, THE
3 STANDARD PROMULGATED OR AMENDED PURSUANT TO SECTION 14(6)
4 GOVERNS.

5 Sec. 24. (1) Before a proposed standard, except an emer-
6 gency standard, ~~may be~~ IS promulgated, the commission shall
7 appoint and consult with an advisory committee which shall be
8 representative of the major interests affected by the proposed
9 standard. The members of the advisory committee shall be
10 selected on the basis of their experience and competence in the
11 subject of the proposed standard. At least 1 member of each
12 advisory committee shall be a person who devotes a major portion
13 of time to occupational health functions.

14 (2) The per diem compensation and the schedule for reim-
15 bursement of expenses for members of the occupational health
16 standards advisory committees shall be established annually by
17 the legislature.

18 (3) Standards governing occupational health promulgated by
19 the director of public health ~~which~~ THAT are in effect on ~~the~~
20 ~~effective date of this act~~ JANUARY 1, 1975 are continued under
21 section 31 of THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act
22 No. 306 of the Public Acts of 1969, as amended, BEING SECTION
23 24.231 OF THE MICHIGAN COMPILED LAWS.

24 (4) The occupational health standards commission may promul-
25 gate an occupational health standard pursuant to Act No. 306 of
26 the Public Acts of 1969, as amended, BEING SECTIONS 24.201 TO
27 24.328 OF THE MICHIGAN COMPILED LAWS, except for standards

1 adopted by reference pursuant to section 14. Adoption of a
2 standard shall be by a majority of the members present if a
3 quorum is present.

4 (5) When promulgating occupational health standards, the
5 occupational health standards commission shall promulgate a stan-
6 dard which most adequately assures, to the extent feasible and on
7 the basis of the best available evidence, that an employee will
8 not suffer material impairment of health or functional capacity,
9 even if the employee has regular exposure to a hazard dealt with
10 by the standard for the period of his or her working life.

11 (6) The director of public health shall promulgate an emer-
12 gency standard pursuant to section 48 of Act No. 306 of the
13 Public Acts of 1969, as amended, BEING SECTION 24.248 OF THE
14 MICHIGAN COMPILED LAWS, when the director finds that employees
15 are exposed to substances or agents determined to be toxic or
16 physically harmful ~~—~~ and the emergency standard is necessary to
17 protect employees from that danger.

18 (7) A standard shall prescribe appropriate forms of warning
19 which are necessary to insure that employees are apprised of
20 health hazards to which they are exposed, relevant symptoms, and
21 the conditions and precautions for safe use or exposure, includ-
22 ing appropriate emergency treatment. ~~—Where—~~ IF appropriate, a
23 standard shall prescribe suitable protective equipment, control,
24 or technological procedures to be used and shall require an
25 employer to monitor or measure employee exposure, to allow
26 employees or their representatives to observe the monitoring and
27 have access to the records of the monitoring, and to conduct the

1 monitoring in a manner ~~which~~ THAT is necessary for the
2 protection of the employees' health. Former employees shall have
3 access to the records indicating their exposure to toxic materi-
4 als and harmful physical agents.

5 (8) ~~Where~~ IF appropriate, the occupational health stan-
6 dards commission shall prescribe by standard that medical exami-
7 nations or tests ~~shall be~~ ARE made available, at the employer's
8 cost, to employees to determine if they are adversely affected by
9 exposure to health hazards. If the examination is performed by a
10 physician other than a physician who is retained for that purpose
11 by the employer, the employer ~~shall be~~ IS responsible only for
12 the reasonable costs of the examination, and only for costs
13 related to the performance of the examination required by the
14 standard. The results of the examinations or tests shall be fur-
15 nished to the employer, the employee, and upon request of the
16 employee, to the employee's personal physician, and upon request
17 of the director of public health, to the director of public
18 health by the employer. However, ~~nothing in this or any other~~
19 ~~provision of this act shall be considered to~~ DOES NOT autho-
20 rize or require medical examinations, immunizations, or treat-
21 ments for those who object to them on religious grounds, except
22 where necessary for the protection of the health or safety of
23 others.

24 ~~(9) An employer shall, in accordance with the standards~~
25 ~~established by sections 3 and 4 of the Bullard Plawecki employee~~
26 ~~right to know act, Act No. 397 of the Public Acts of 1978, being~~
27 ~~sections 423.503 and 423.504 of the Michigan Compiled Laws, make~~

~~1 available to employees, for inspection and copying, any general
2 health surveys of conditions in the employee's place of employ-
3 ment which may affect adversely the employee's health. General
4 health surveys shall be narrowly defined and interpreted by the
5 departments to mean only those studies or reports conducted by an
6 employer which as a result determines 1 or more potential adverse
7 effects of employee exposure to toxic materials or harmful physi-
8 cal agents. A specific log of all general health surveys of con-
9 ditions in the employee's place of employment which may affect
10 adversely the employee's health shall be kept by the employer and
11 shall be made available to employees to aid in information
12 requests.~~

~~13 (10) Upon an employee's request, an employer shall in
14 accordance with the standards established by sections 3 and 4 of
15 the Bullard Plawecki employee right to know act, Act No. 397 of
16 the Public Acts of 1978, make available to the employee for
17 inspection and copying all medical records and health data in the
18 employer's possession pertaining to that employee.~~

19 Sec. 35. (1) An employer who receives a citation for a
20 serious violation of this act, an order issued pursuant to this
21 act, or a rule or standard promulgated ~~pursuant to~~ UNDER this
22 act shall be assessed a civil penalty of not more than
23 ~~-\$1,000.00~~ \$7,000.00 for each violation.

24 (2) An employer who fails to correct a violation for which a
25 citation was issued within the period permitted for its correc-
26 tion may be assessed a civil penalty of not more than ~~-\$1,000.00~~
27 \$7,000.00 for each day during which the failure or violation

1 continues. A period permitted for corrections ~~shall~~ DOES not
2 begin to run until the date of the final order of the board ~~—~~
3 if a review proceeding before a board is initiated by the
4 employer in good faith and not solely for delay or avoidance of a
5 penalty.

6 (3) An employer who receives a citation for a violation of
7 this act, an order issued pursuant to this act, or a rule or
8 standard promulgated ~~pursuant to~~ UNDER this act, which viola-
9 tion is specifically determined not to be of a serious nature,
10 may be assessed a civil penalty of not more than ~~\$1,000.00~~
11 \$7,000.00 for each violation.

12 (4) An employer who ~~wilfully~~ WILLFULLY or repeatedly vio-
13 lates this act, an order issued pursuant to this act, or a rule
14 or standard promulgated ~~pursuant to~~ UNDER this act may be
15 assessed a civil penalty of not more than ~~\$10,000.00~~ \$70,000.00
16 for each violation, BUT NOT LESS THAN \$5,000.00 FOR EACH WILLFUL
17 VIOLATION.

18 (5) An employer who ~~wilfully~~ WILLFULLY violates this act,
19 an order issued PURSUANT TO THIS ACT, or A rule or standard
20 promulgated ~~pursuant to~~ UNDER this act ~~—~~ which causes the
21 death of an employee ~~—~~ is guilty of a felony and shall be fined
22 not more than \$10,000.00, or imprisoned FOR not more than 1 year,
23 or both. If the conviction is the second under this act, the
24 person shall be fined not more than \$20,000.00, or imprisoned FOR
25 not more than 3 years, or both.

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

4 (7) A person who knowingly makes a false statement,
5 representation, or certification in an application, record,
6 report, plan, or other document filed or required to be main-
7 tained pursuant to this act, or WHO fails to maintain or transmit
8 ~~records or reports~~ A RECORD OR REPORT as required under section
9 61, ~~shall be~~ IS guilty of a misdemeanor and shall be fined not
10 more than \$10,000.00, or imprisoned FOR not more than 6 months,
11 or both.

12 (8) A person who gives advance notice of an investigation or
13 an inspection to be conducted under this act ~~—~~ without author-
14 ity from the appropriate director or the designee of the director
15 ~~—~~ is guilty of a misdemeanor and shall be ~~punished by a fine~~
16 ~~of~~ FINED not more than \$1,000.00, or imprisoned FOR not more
17 than 6 months, or both.

18 (9) The department of labor or the department of public
19 health, if the employer is a public employer THAT IS INSOLVENT OR
20 IN RECEIVERSHIP, instead of applying a civil penalty otherwise
21 applicable to an employer under this section, may request that
22 the attorney general seek a writ of mandamus in the appropriate
23 circuit court to compel compliance with a citation, including the
24 terms of abatement.

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

1 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 pros-
4 ecute the violator.

5 (11) THE INCREASES IN THE CIVIL PENALTIES OF SUBSECTIONS
6 (1), (2), (3), (4), AND (6) MADE PURSUANT TO THE 1991 AMENDATORY
7 ACT THAT ADDED THIS SUBSECTION SHALL TAKE EFFECT APRIL 1, 1992.

8 Sec. 36. (1) The board shall assess civil penalties, con-
9 sidering the size of the business, the seriousness of the viola-
10 tion, THE GOOD FAITH EFFORTS OF THE EMPLOYER, and the history of
11 previous citations, and may establish a schedule of civil
12 penalties.

13 (2) BEGINNING APRIL 1, 1992, THE DEPARTMENT OF LABOR AND THE
14 DEPARTMENT OF PUBLIC HEALTH SHALL ADMINISTER AND ENFORCE THE
15 ASSESSMENT OF CIVIL PENALTIES IN A MANNER THAT IS CONSISTENT WITH
16 THE ADMINISTRATION AND ENFORCEMENT OF CIVIL PENALTIES BY THE FED-
17 ERAL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.

18 (3) AN EMPLOYER MAY CONTEST BOTH THE AMOUNT OF THE PENALTY
19 AND THE ISSUANCE OF THE CITATION. A DEPARTMENT REPRESENTATIVE
20 MAY NEGOTIATE WITH THE EMPLOYER TO SETTLE FOR A REDUCED OR ELIMI-
21 NATED PENALTY IF THIS WILL LEAD TO A SPEEDY ABATEMENT OF THE
22 HAZARD OR VIOLATION.

23 (4) ~~-(2)-~~ A civil penalty owed under this act shall be paid
24 to the department of labor or the department of public health,
25 whichever is appropriate, within 15 working days after the date
26 the penalty becomes a final order of the board, not subject to
27 further agency or judicial review. A civil penalty shall be

1 credited to the ~~safety education and training~~ STATE GENERAL
2 fund.

3 (5) BEGINNING WITH THE 1992-93 FISCAL YEAR, THE AMOUNT OF
4 CIVIL PENALTIES CREDITED TO THE STATE GENERAL FUND PURSUANT TO
5 SUBSECTION (4) SHALL BE CALCULATED FOR EACH FISCAL YEAR NOT LATER
6 THAN 90 DAYS AFTER THE END OF THE IMMEDIATELY PRECEDING FISCAL
7 YEAR. THE AMOUNT OF CIVIL PENALTIES CREDITED TO THE GENERAL FUND
8 IN EXCESS OF THE GENERAL FUND EXPENDITURES DURING THAT FISCAL
9 YEAR FOR THE STATE OCCUPATIONAL SAFETY AND HEALTH PROGRAM SHALL
10 BE TRANSFERRED TO THE SAFETY EDUCATION AND TRAINING FUND CREATED
11 BY SECTION 55(1).

12 (6) ~~-(3)-~~ If a civil penalty remains unpaid beyond the
13 period of time specified in subsection ~~-(2)-~~ (4), the department
14 of labor or the department of public health, whichever is appro-
15 priate, shall issue a letter to the employer demanding payment
16 within 20 days after the date of the letter.

17 (7) ~~-(4)-~~ If the penalty remains unpaid following the period
18 specified in subsection ~~-(3)-~~ (6), the appropriate department
19 shall transmit information on the amount of the penalty and the
20 name and address of the employer owing the penalty to the depart-
21 ment of treasury.

22 (8) ~~-(5)-~~ The department of treasury shall institute pro-
23 ceedings to collect the amount assessed as a civil penalty. The
24 department of treasury shall offset the amount of the penalty
25 against money owed by the state to the employer. The department
26 of treasury shall request that the attorney general recover the
27 amount of the penalty remaining unpaid, after offsets, by

1 instituting a civil action in the circuit court for the county in
2 which the violation occurred or in the circuit court for the
3 county in which the employer owing the penalty has its principal
4 place of business.

5 Sec. 55. (1) A safety education and training fund is
6 created. Except as provided in subsection (2), the fund shall be
7 used to accomplish the objectives outlined in sections 54 and
8 56. The state treasurer shall be custodian of the fund and may
9 invest the surplus of the fund in investments as in the state
10 treasurer's judgment are in the best interest of the state.
11 Earnings from those investments shall be credited to the fund.
12 The state treasurer shall notify the director of labor, the
13 director of public health, and the legislature of interest cred-
14 ited and the balance of the safety education and training fund as
15 of December 31 of each year.

16 (2) On April 1, 1991, \$1,300,000.00 is transferred from the
17 safety education and training fund to the state general fund,
18 thus allowing the programs to operate through September 30, 1991,
19 the remainder of the fiscal year.

20 (3) The director of labor shall supervise and administer the
21 fund. Except as provided in subsection (4), the director shall
22 annually assess a levy based on the total annual worker's dis-
23 ability compensation losses, excluding medical payments, paid in
24 the immediately preceding calendar year by employers under the
25 worker's disability compensation act of 1969, Act No. 317 of the
26 Public Acts of 1969, as amended, being sections 418.101 to
27 418.941 of the Michigan Compiled Laws. ~~As soon as practicable~~

1 ~~after January 1, 1986, and each year thereafter, the director,~~
2 ~~except~~ EXCEPT as provided in this section, EACH YEAR THE
3 DIRECTOR shall assess upon and collect from each carrier,
4 self-insured employer, and the state accident fund a sum equal to
5 that proportion of 50% of the current fiscal year appropriation
6 of safety education and training funds which the total worker's
7 disability compensation benefits, exclusive of medical payments,
8 paid by each carrier, the state accident fund, or each
9 self-insured employer bears to the total of the compensation ben-
10 efits paid by all carriers, self-insured employers, and the state
11 accident fund during the immediately preceding calendar year. —
12 ~~except~~ HOWEVER, the total amount levied annually shall not
13 exceed 3/4 of 1% of the total of the compensation benefits paid
14 by all carriers, self-insured employers, and the state accident
15 fund during the immediately preceding calendar year. Funds that
16 are unexpended at the end of each fiscal year shall be returned
17 to the safety education and training fund.

18 (4) ~~The~~ BEGINNING WITH THE 1990-91 FISCAL YEAR, THE direc-
19 tor of labor shall not assess a levy as described in subsection
20 (3) upon any carrier, self-insured employer, or the state acci-
21 dent fund ~~for the 1990-91 fiscal year~~ UNTIL THE SURPLUS IN THE
22 FUND IS DEPLETED.

23 (5) If at any time during the fiscal year in which the
24 assessment required by subsection (3) 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 equal the total fiscal year
27 appropriation of safety education and training funds.

1 (6) BEGINNING WITH THE 1992-93 FISCAL YEAR, IF THE BALANCE
2 OF THE SAFETY EDUCATION AND TRAINING FUND AT THE BEGINNING OF THE
3 FISCAL YEAR IS AT LEAST 150% OF THE SAFETY EDUCATION AND TRAINING
4 FUND APPROPRIATION FOR THE STATE OCCUPATIONAL SAFETY AND HEALTH
5 PROGRAM FOR THAT FISCAL YEAR, THEN THE DIRECTOR OF LABOR SHALL
6 NOT ASSESS A LEVY AS DESCRIBED IN SUBSECTION (3) UPON ANY CARRI-
7 ER, SELF-INSURED EMPLOYER, OR THE STATE ACCIDENT FUND FOR THAT
8 FISCAL YEAR.

9 (7) ~~-(6)-~~ Notice of the assessments shall be sent by the
10 director of labor by mail to each carrier. Payment of assess-
11 ments shall be received in the principal office of the department
12 of labor before a date specified uniformly in the notice, but not
13 less than 90 days after the date of mailing.

14 (8) ~~-(7)-~~ The levy assessments shall constitute an element
15 of loss for the purpose of establishing rates for worker's dis-
16 ability compensation insurance. Funds derived from this levy
17 shall be deposited in the safety education and training fund and
18 shall be appropriated by the legislature for the operation of
19 this program.

20 (9) ~~-(8)-~~ To enable full and complete legislative review of
21 the assessment process, the department of labor, not later than
22 September 30, 1991, shall submit to the legislature and the house
23 and senate committees that consider labor matters a written
24 report on the status of the safety education and training assess-
25 ment required by this section. The report shall include, but is
26 not limited to, information on the amount of the assessment, the

1 percentage of the assessment as compared to losses, and the
2 balance of money in the safety education and training fund.

3 Section 2. Sections 57, 57a, 58, 58e, 59, 59a, 59c, 59d,
4 59e, 60, 60a, 60b, 60c, and 60d of Act No. 154 of the Public Acts
5 of 1974, being sections 408.1057, 408.1057a, 408.1058, 408.1058e,
6 408.1059, 408.1059a, 408.1059c, 408.1059d, 408.1059e, 408.1060,
7 408.1060a, 408.1060b, 408.1060c, and 408.1060d of the Michigan
8 Compiled Laws, are repealed on the effective date of rules estab-
9 lishing a state asbestos construction standard that are promul-
10 gated pursuant to section 14(6) and (8).

11 Section 3. Sections 60e and 60f of Act No. 154 of the
12 Public Acts of 1974, being sections 408.1060e and 408.1060f of
13 the Michigan Compiled Laws, are repealed.