

# SENATE BILL No. 78

January 28, 2003, Introduced by Senators BASHAM, LELAND and CHERRY and referred to the Committee on Commerce and Labor.

A bill to amend 1974 PA 154, entitled  
"Michigan occupational safety and health act,"  
by amending sections 5 and 6 (MCL 408.1005 and 408.1006),  
section 5 as amended by 1986 PA 80.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5. (1) "Employee" means a person **who is receiving**  
2 **vocational training from an employer or who is** permitted to work  
3 by an employer.

4       (2) "Employer" means an individual or organization, including  
5 ~~the~~ **this** state or a political subdivision, ~~which~~ **that** employs  
6 1 or more persons **or that provides vocational training to 1 or**  
7 **more persons.**

8       (3) "Imminent danger" means a condition or practice in a  
9 place of employment ~~which is such that a danger exists which~~  
10 **that is dangerous and that** could reasonably be expected to cause

1 death or serious physical harm either immediately or before the  
2 imminence of the danger can be eliminated through the enforcement  
3 procedures otherwise provided. A container of an unknown and  
4 unlabeled chemical or a container of hazardous chemicals that is  
5 not labeled or for which a material safety data sheet is not  
6 available as required by the standard incorporated by reference  
7 in section 14a shall be considered an imminent danger after  
8 meeting the provisions of section 31.

9 (4) "Inspection" means the examination or survey of a place  
10 of employment to detect the presence of an existing or potential  
11 occupational safety or health hazard or to determine compliance  
12 with this act, rules or standards promulgated **under this act**, or  
13 orders issued ~~pursuant to~~ **under** this act.

14 (5) "Investigation" means the detailed evaluation or study of  
15 working conditions, including equipment, processes, substances,  
16 air contaminants, or physical agents with respect to the actual  
17 or potential occurrence of occupational accidents, illnesses, or  
18 diseases.

19 Sec. 6. (1) "Place of employment" means a factory, plant,  
20 establishment, construction site or other similar area,  
21 workplace, or environment where an employee is permitted to work  
22 **or receive vocational training.**

23 (2) "Political subdivision" means a city, village, township,  
24 county, school district, intermediate school district, or state  
25 or local government authorized or supported agency, authority, or  
26 institution.

27 (3) "Rule" means a rule as defined by section 7 of ~~Act No.~~

1 ~~306 of the Public Acts of 1969, being section 24.207 of the~~  
2 ~~Michigan Compiled Laws~~ **the administrative procedures act of**  
3 **1969, 1969 PA 306, MCL 24.207.** A rule may only be promulgated by  
4 the director of ~~labor~~ **the department of consumer and industry**  
5 **services** or the director of **the department of community health**  
6 except as otherwise specifically prescribed in this act.

7 (4) "Serious violation" means a violation of this act, an  
8 order issued ~~pursuant to~~ **under** this act, or a rule or standard  
9 promulgated under this act or adopted by reference ~~pursuant to~~  
10 **in accordance with** this act for which a substantial probability  
11 exists that death or serious physical harm could result from the  
12 violation or from a practice, means, method, operation, or  
13 process ~~which~~ **that** is in use, unless the employer did not and  
14 could not, with the exercise of reasonable diligence, know of the  
15 presence of the violation.

16 (5) "Standard" means a health or safety standard ~~which~~ **that**  
17 specifies conditions, or the adoption or use of 1 or more  
18 practices, means, methods, operations, or processes necessary to  
19 provide safe and healthful employment **or vocational training** in  
20 places of employment. Except as otherwise specifically  
21 prescribed in this act, only the:

22 (a) General industry safety standards commission may  
23 promulgate a standard relative to occupational safety.

24 (b) Construction safety standards commission may promulgate a  
25 standard relative to construction safety.

26 (c) Occupational health standards commission may promulgate a  
27 standard relative to occupational health.

1       (6) "Standards promulgation commission" means the general  
2 industry safety standards commission, the construction safety  
3 standards commission, or the occupational health standards  
4 commission.

5       (7) "Trade secret" means a confidential process, formula,  
6 pattern, device, or compilation of information ~~which~~ **that** is  
7 used in the employer's business and ~~which~~ **that** gives him **or her**  
8 an opportunity to obtain an advantage over competitors who do not  
9 know or use it.

10       (8) "Vocational training" means instruction under a program  
11 designed to prepare individuals for gainful employment as  
12 semiskilled or skilled workers or technicians. Vocational  
13 training includes instruction described in this subsection that  
14 is provided by a secondary or postsecondary educational  
15 institution.

16       (9) ~~(8) "Wilful"~~ **"Willful"**, for the purpose of criminal  
17 prosecutions, means the intent to do an act knowingly and  
18 purposely by an individual who, having a free will and choice,  
19 either intentionally disregards a requirement of this act, or a  
20 rule or standard promulgated ~~pursuant to~~ **under** this act, or is  
21 knowingly and purposely indifferent to a requirement of this act,  
22 or a rule or standard promulgated ~~pursuant to~~ **under** this act.  
23 An omission or failure to act is ~~wilful~~ **willful** if it is done  
24 knowingly and purposely. ~~Wilful~~ **Willful** does not require a  
25 showing of moral turpitude, evil purpose, or criminal intent  
26 ~~provided~~ **if** the individual is shown to have acted or to have  
27 failed to act knowingly and purposely.

1       **(10)** ~~—(9)—~~ "Working day" means any day other than a Saturday,  
2 Sunday, or state legal holiday.