



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4501 (as passed by the House)
Sponsor: Representative Timothy Beson
House Committee: Government Operations
Senate Committee: Economic and Small Business Development

Date Completed: 6-3-21

CONTENT

The bill would amend the Michigan Occupational Safety and Health Act to do the following:

- Prohibit the Department of Labor and Economic Opportunity (LEO) from assessing an employer a civil penalty for violating an emergency standard if the emergency standard addressed COVID-19, the violation was the employer's first violation of the emergency standard, and the employer took action to correct the violation.**
- Require LEO to reimburse an employer the amount of a civil penalty if LEO assessed an employer a civil penalty for violating an executive order issued by the Governor that dealt with COVID-19 and that was determined to be unconstitutional or otherwise void by the Supreme Court.**

Generally, the Act governs working conditions and the duties of employers and employees concerning places and conditions of employment. The Act specifies that an employer who receives a citation for a serious violation of the Act, an order issued under the Act, or a rule or standard promulgated under the Act, must be assessed a civil penalty. The Act requires LEO and the Department of Health and Human Services (DHHS) to administer and enforce the assessment of civil penalties in a manner consistent with the administration and enforcement of civil penalties by the Federal Occupational Safety and Health Administration. A civil penalty must be paid to LEO or the DHHS and be credited to the General Fund.

The bill would prohibit LEO from assessing an employer a civil penalty for violating an emergency standard if the emergency standard addressed COVID-19, the violation was the employer's first violation of the emergency standard, and the employer took action to correct the violation.

In addition, if LEO assessed an employer a civil penalty for violating an executive order issued by the Governor that dealt with COVID-19 and that was determined to be unconstitutional or otherwise void by the Supreme Court, LEO would have to reimburse the employer the amount of the civil penalty. The reimbursement would have to be made within 30 days after the later of the bill's effective date or the effective date of the Supreme Court's order. The bill specifies that this provision would be retroactive and would apply regardless of whether the civil penalty was assessed before the bill's effective date.

Proposed MCL 408.1038

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have a negative fiscal impact on the State and no fiscal impact on local units of government. The Michigan Occupational Safety and Health Administration (MIOSHA) would experience a decrease in restricted revenue by limiting the ability of the MIOSHA to assess penalties on an employer. Also, the bill would require MIOSHA to reimburse civil penalties assessed on an employer for violations related to COVID-19 emergency standards. The loss in revenue would be limited to the number of civil penalties meeting the bill's criteria that have been assessed against employers. The total impact would include reimbursement of approximately \$250,000 in fines received by MIOSHA and an inability to collect an additional \$500,000 in fines that have been assessed against employers but has not yet been received.

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.