



Sen. Suzy Glowiak Hilton

Filed: 1/31/2022

10200SB3416sam001

LRB102 23340 SPS 35612 a

1 AMENDMENT TO SENATE BILL 3416

2 AMENDMENT NO. _____. Amend Senate Bill 3416 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Occupational Safety and Health Act is
5 amended by changing Sections 25, 60, 65, 80, 85, 90, 100, and
6 110 as follows:

7 (820 ILCS 219/25)

8 Sec. 25. Occupational safety and health standards.

9 (a) All federal occupational safety and health standards
10 which the United States Secretary of Labor has promulgated or
11 modified in accordance with the federal Occupational Safety
12 and Health Act of 1970 and which are in effect on the effective
13 date of this Act shall be and are hereby made rules of the
14 Department unless the Director promulgates an alternate
15 standard that is at least as effective in providing safe and
16 healthful employment and places of employment as a federal

1 standard. Before developing and adopting an alternate standard
2 or modifying or revoking an existing standard, the Director
3 must consider factual information that includes:

4 (1) Expert technical knowledge.

5 (2) Input from interested persons, including
6 employers, employees, recognized standards-producing
7 organizations, and the public.

8 (b) All federal occupational safety and health standards
9 which the United States Secretary of Labor promulgates or
10 modifies in accordance with the federal Occupational Safety
11 and Health Act of 1970 on or after the effective date of this
12 Act, unless revoked by the Secretary of Labor, shall become
13 rules of the Department within 6 months after their federal
14 promulgation date, unless there has been in effect in this
15 State at the time of the promulgation or modification of the
16 federal standard an alternate State standard that is at least
17 as effective in providing safe and healthful employment and
18 places of employment as a federal standard. The alternate
19 State standard, if not currently contained in the Department's
20 rules, shall not become effective, however, unless the
21 Department, within 45 days after the federal promulgation
22 date, files with the office of the Secretary of State in
23 Springfield, Illinois, a certified copy of the rule as
24 provided in the Illinois Administrative Procedure Act.

25 (Source: P.A. 98-874, eff. 1-1-15.)

1 (820 ILCS 219/60)

2 Sec. 60. Employers' records.

3 (a) The Director shall adopt rules requiring public
4 employers to maintain accurate records of, and to make reports
5 on, work-related deaths, injuries, and illnesses, other than
6 minor injuries requiring only first aid treatment and which do
7 not involve medical treatment, loss of consciousness,
8 restriction of work or motion, or transfer to another job. The
9 rules shall specifically include all of the reporting
10 provisions of Section 6 of the Workers' Compensation Act and
11 Section 6 of the Workers' Occupational Diseases Act. The
12 records shall be available to any State agency requiring such
13 information.

14 (b) The Director shall adopt rules requiring public
15 employers to maintain accurate records of employee exposures
16 to potentially toxic materials or harmful physical agents
17 which are required to be monitored or measured under this Act.
18 The rules shall provide employees or their authorized
19 representative with an opportunity to observe the monitoring
20 or measuring, and to have access to the records of the
21 monitoring or measuring. The rules shall provide appropriate
22 means by which each employee or former employee may have
23 access to such records as will indicate his or her exposure to
24 toxic materials or harmful physical agents.

25 (c) A public employer shall promptly notify any employee
26 who has been or is being exposed to toxic materials or harmful

1 physical agents in concentrations or at levels which exceed
2 those prescribed by an occupational safety and health standard
3 and shall inform the employee who is being thus exposed of the
4 action being taken by the employer to correct such exposure.

5 (Source: P.A. 98-874, eff. 1-1-15.)

6 (820 ILCS 219/65)

7 Sec. 65. Periodic inspection of workplaces.

8 (a) The Director shall enforce the occupational safety and
9 health standards and rules promulgated under this Act and any
10 occupational health and safety regulations relating to
11 inspection of places of employment, and shall visit and
12 inspect, as often as practicable, the places of employment
13 covered by this Act.

14 (b) The Director or his or her authorized representative,
15 upon presenting appropriate credentials to a public employer's
16 agent in charge, has the right to enter and inspect all places
17 of employment covered by this Act as follows:

18 (1) An inspector may enter without delay and at
19 reasonable times any establishment, construction site, or
20 other area, workplace, or environment where work is
21 performed by an employee of a public employer in order to
22 enforce the occupational safety and health standards
23 adopted under this Act.

24 (2) If a public employer refuses entry to an inspector
25 upon being presented with proper credentials or allows

1 entry but then refuses to permit or hinders the inspection
2 in any way, the inspector shall leave the premises and
3 immediately report the refusal to authorized management
4 within the Division. Authorized management shall notify
5 the Director to initiate the compulsory legal process to
6 obtain entry or obtain a warrant for entry, or both.

7 (3) An inspector may inspect and investigate during
8 regular working hours and at other reasonable times, and
9 within reasonable limits and in a reasonable manner, any
10 workplace described in paragraph (1) and all pertinent
11 conditions, structures, machines, apparatus, devices,
12 equipment, and materials therein, and to question
13 privately the employer or any agent or employee of the
14 employer.

15 (4) The owner, operator, manager, or lessee of any
16 workplace covered by this Act, and his or her agent or
17 employee, and any employer affected by this Act shall,
18 when requested by the Division of Occupational Safety and
19 Health or any duly authorized agent of that Division: (i)
20 furnish any information in his or her possession or under
21 his or her control which the Department is authorized to
22 require, (ii) answer truthfully all questions required to
23 be put to him or her, and (iii) cooperate in the making of
24 a proper inspection.

25 (c) In making his or her inspection and investigations
26 under this Act, the Director ~~of Labor~~ has the power to require

1 the attendance and testimony of witnesses and the production
2 of evidence under oath.

3 (Source: P.A. 98-874, eff. 1-1-15; 99-336, eff. 8-10-15.)

4 (820 ILCS 219/80)

5 Sec. 80. Violation of Act or standard; citation.

6 (a) Upon inspection or investigation of a workplace, if
7 the Director or his or her authorized representative believes
8 that a public employer has violated a requirement of this Act
9 or a standard, rule, or regulation promulgated under this Act,
10 he or she shall with reasonable promptness issue a citation to
11 the employer. A citation shall: (i) be in writing, (ii)
12 describe with particularity the nature of the violation and
13 include a reference to the provision of the Act, standard,
14 rule, or regulation alleged to have been violated, and (iii)
15 fix a reasonable time for the abatement of the violation.

16 (b) Each citation issued under this Section, or a copy or
17 copies thereof, shall be prominently posted at or near the
18 place at which the violation occurred as prescribed in rules
19 adopted by the Director.

20 (c) A citation shall be served on the employer or the
21 employer's agent by delivering a copy to the person upon whom
22 the service is to be had, or by leaving a copy at his or her
23 usual place of business or abode, or by sending a copy by
24 certified mail to his or her place of business, or by sending a
25 copy by email to an email address previously designated by the

1 employer for purposes of receiving notice under this Act.

2 (d) A citation may not be issued under this Section after
3 the expiration of 6 months following the occurrence of any
4 violation.

5 (Source: P.A. 98-874, eff. 1-1-15.)

6 (820 ILCS 219/85)

7 Sec. 85. Civil penalties.

8 (a) After an inspection of a workplace under this Act, if
9 the Director issues a citation, he or she shall, within 5 days
10 after issuing the citation, notify the employer by certified
11 mail, or by email to an email address previously designated by
12 the employer for purposes of receiving notice under this Act,
13 of any civil penalty proposed to be assessed for the violation
14 set forth in the citation.

15 (b) If the Director has reason to believe that an employer
16 has failed to correct a violation for which a citation has been
17 issued within the period permitted for its correction, the
18 Director shall notify the employer by certified mail, or by
19 email to an email address previously designated by the
20 employer for purposes of receiving notice under this Act, of
21 that failure and of the civil penalty proposed to be assessed
22 for that failure.

23 (c) Civil penalties authorized under this Section are as
24 follows:

25 (1) A public employer that repeatedly violates this

1 Act, the Safety Inspection and Education Act, or the
2 Health and Safety Act, or any combination of those Acts,
3 or any standard, rule, regulation, or order under any of
4 those Acts, may be assessed a civil penalty of not more
5 than \$10,000 per violation.

6 (2) A public employer that intentionally violates this
7 Act, the Safety Inspection and Education Act, or the
8 Health and Safety Act, or any standard, rule, regulation,
9 or order under any of those Acts, or who demonstrates
10 plain indifference to any provision of any of those Acts
11 or any such standard, rule, regulation, or order, may be
12 assessed a civil penalty of not more than \$10,000 per
13 violation.

14 (3) A public employer that has received a citation for
15 a serious violation of this Act, the Safety Inspection and
16 Education Act, or the Health and Safety Act, or any
17 standard, rule, regulation, or order under any of those
18 Acts, may be assessed a civil penalty up to \$1,000 for each
19 such violation.

20 (4) A public employer that has received a citation for
21 a violation of this Act, the Safety Inspection and
22 Education Act, or the Health and Safety Act, or any
23 standard, rule, regulation, or order under any of those
24 Acts, which is not a serious violation, may be assessed a
25 civil penalty of up to \$1,000 for each such violation.

26 (5) A public employer that violates a posting

1 requirement is subject to the following citations and
2 proposed penalty structure:

3 (A) Job Safety and Health Poster: an other than
4 serious citation and a proposed penalty of \$1,000.

5 (B) Annual Summary of Work-Related Injuries and
6 Illnesses (OSHA Form 300A): an other than serious
7 citation and a proposed penalty of \$1,000, even if
8 there are no recordable injuries or illnesses.

9 (C) Citation: an other than serious citation and a
10 proposed penalty of \$1,000.

11 (6) A public employer that fails to correct a
12 violation for which a citation has been issued within the
13 time period permitted may be assessed a civil penalty of
14 up to \$1,000 for each day the violation continues.

15 (d) For purposes of this Section, a "serious violation"
16 shall be deemed to exist in a workplace if there is a
17 substantial probability that death or serious physical harm
18 could result from (i) a condition which exists or (ii) one or
19 more practices, means, methods, operations, or processes which
20 have been adopted or are in use in the workplace, unless the
21 employer did not know and could not, with the exercise of
22 reasonable diligence, have known of the presence of the
23 violation.

24 (e) The Director may assess civil penalties as provided in
25 this Section, giving due consideration to the appropriateness
26 of the penalty. A penalty may be reduced by the Director or the

1 Director's authorized representative based on the public
2 employer's good faith, size of business, and history of
3 previous violations.

4 (f) The Attorney General may bring an action in the
5 circuit court to enforce the collection of any civil penalty
6 assessed under this Act.

7 (g) All civil penalties collected under this Act shall be
8 deposited into the General Revenue Fund of the State of
9 Illinois.

10 (Source: P.A. 98-874, eff. 1-1-15.)

11 (820 ILCS 219/90)

12 Sec. 90. Informal review.

13 (a) A public employer may submit in writing data relating
14 to the abatement of a hazard to be considered by an authorized
15 representative of the Director. The authorized representative
16 shall notify the interested parties if such data will be used
17 to modify an abatement order.

18 (b) Within 15 business ~~working~~ days after receiving a
19 citation, proposed assessment of a civil penalty, or notice of
20 failure to correct a violation, a public employer or the
21 employer's agent may request that an authorized representative
22 of the Director review abatement dates, reclassify violations
23 (such as willful to serious, serious to other than serious),
24 or modify or withdraw a penalty, a citation, or a citation
25 item, or any combination of those, if the employer presents

1 evidence during the informal conference which convinces the
2 authorized representative that the changes are justified.

3 (Source: P.A. 98-874, eff. 1-1-15.)

4 (820 ILCS 219/100)

5 Sec. 100. Hearing.

6 (a) If a public employer or the employer's representative
7 notifies the Director that the employer intends to contest a
8 citation and notice of penalty or if, within 15 business
9 ~~working~~ days after the issuance of the citation, an employee
10 or representative of employees files a notice with the
11 Director alleging that the period of time fixed in the
12 citation for the abatement of the violation is unreasonable,
13 the Director shall afford an opportunity for a hearing before
14 an Administrative Law Judge designated by the Director.

15 (b) At the hearing, the employer or employee shall state
16 his or her objections to the citation and provide evidence why
17 the citation should not stand as issued. The Director or his or
18 her representative shall be given the opportunity to state his
19 or her reasons for issuing the citation. Affected employees
20 shall be provided an opportunity to participate as parties to
21 hearings under the rules of procedure prescribed by the
22 Director (56 Ill. Admin. Code, Part 120).

23 (c) The Director, or the Administrative Law Judge on
24 behalf of the Director, has the power to do the following:

25 (1) Issue subpoenas for and compel the attendance of

1 witnesses.

2 (2) Hear testimony and receive evidence.

3 (3) Order testimony of a witness residing within or
4 without this State to be taken by deposition in the manner
5 prescribed by law for depositions in civil cases in the
6 circuit court in any proceeding pending before him or her
7 at any stage of such proceeding.

8 (d) Subpoenas and commissions to take testimony shall be
9 issued by ~~under seal of~~ the Director. Service of subpoenas may
10 be made by a sheriff or any other person.

11 (e) The circuit court for the county where any hearing is
12 pending may compel the attendance of witnesses, the production
13 of pertinent books, papers, records, or documents, and the
14 giving of testimony before the Director or an Administrative
15 Law Judge by an attachment proceeding, as for contempt, in the
16 same manner as the production of evidence may be compelled
17 before the court.

18 (f) The Administrative Law Judge on behalf of the
19 Director, after considering the evidence presented at the
20 formal hearing, in accordance with the Director's rules, shall
21 enter a final decision and order within a reasonable time
22 affirming, modifying, or vacating the citation or proposed
23 assessment of a civil penalty, or directing other appropriate
24 relief.

25 (Source: P.A. 98-874, eff. 1-1-15.)

1 (820 ILCS 219/110)

2 Sec. 110. Discrimination against employee prohibited.

3 (a) A person may not discharge or in any way discriminate
4 against an employee because the employee has: (i) filed a
5 complaint or instituted or caused to be instituted any
6 proceeding under this Act, (ii) testified or is about to
7 testify in any such proceeding, or (iii) exercised, on his or
8 her own behalf or on behalf of another person, any right
9 afforded by this Act, including reporting potential violations
10 of this Act to a member of management with authority to address
11 the concerns.

12 (b) An employee who believes that he or she has been
13 discharged or otherwise discriminated against by an employer
14 in violation of this Section may, within 30 calendar days
15 after the violation occurs, file a complaint with the Director
16 alleging the discrimination.

17 (c) Upon receipt of the complaint, the Director shall
18 cause an investigation to be made as the Director deems
19 appropriate. After the investigation, if the Director
20 determines that the employer has violated this Section, the
21 Director shall bring an action in the circuit court for
22 appropriate relief, including rehiring or reinstatement of the
23 employee to his or her former position with back pay, after
24 taking into account any interim earnings of the employee. In
25 such matters the Director shall be represented by the Attorney
26 General.

1 (Source: P.A. 98-874, eff. 1-1-15.)".