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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3471

02/18/2020 Authored by Fischer, Wazlawik, Becker-Finn, Jordan and Lee
The bill was read for the first time and referred to the Committee on Labor

1.1 A bill for an act
1.2 relating to occupational safety and health; establishing a language requirement;
1.3 authorizing expedited rulemaking; adding penalties for certain violations; amending
1.4 Minnesota Statutes 2018, sections 182.651, subdivision 12, by adding a subdivision;
1.5 182.653, subdivision 4b; 182.666, subdivision 2a.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2018, section 182.651, subdivision 12, is amended to read:

1.8 Subd. 12. Serious violation. "Serious violation" means a violation of any standard, rule,
1.9 or order other than a de minimis violation which is the proximate cause of the death of or
1.10 serious physical harm to an employee or a household member. It also means a violation of
1.11 any standard, rule, or order which creates a substantial probability that death or serious
1.12 physical harm could result from a condition which exists, or from one or more practices,
1.13 means, methods, operations, or processes which have been adopted or are in use, in such a
1.14 place of employment, unless the employer did not, and could not with the exercise of
1.15 reasonable diligence, know of the presence of the violation.

1.16 Sec. 2. Minnesota Statutes 2018, section 182.651, is amended by adding a subdivision to
1.17 read:

1.18 Subd. 24. Household member. "Household member" means a person who presently
1.19 resides with or previously resided with an employee.

1.20 Sec. 3. Minnesota Statutes 2018, section 182.653, subdivision 4b, is amended to read:

1.21 Subd. 4b. Hazardous substance training. (a) Prior to an employee's initial assignment
1.22 to a workplace where the employee may be routinely exposed to a hazardous substance or

2.1 harmful physical agent, the employer shall provide training concerning the hazardous
2.2 substance or harmful physical agent. The employer shall provide additional instruction
2.3 whenever the employee may be routinely exposed to any additional hazardous substance
2.4 or harmful physical agent. The term "routinely exposed" includes the exposure of an
2.5 employee to a hazardous substance when assigned to work in an area where a hazardous
2.6 substance has been spilled.

2.7 (b) For each hazardous substance to which the employee may be routinely exposed, the
2.8 employer's training program shall include:

2.9 (1) the name or names of the substance including any generic or chemical name, trade
2.10 name, and commonly used name;

2.11 (2) the level, if any and if known, at which exposure to the substance has been restricted
2.12 according to standards adopted by the commissioner, or, if no standard has been adopted,
2.13 according to guidelines established by competent professional groups including but not
2.14 limited to the American Industrial Hygiene Association, the American Conference of
2.15 Governmental Industrial Hygienists, the Center for Disease Control, the Bureau of
2.16 Radiological Health, and the American National Standards Institute;

2.17 (3) the primary routes of entry and the known acute and chronic effects of exposure at
2.18 hazardous levels;

2.19 (4) the known symptoms of the effects;

2.20 (5) any potential for flammability, explosion, or reactivity of the substance;

2.21 (6) appropriate emergency treatment;

2.22 (7) the known proper conditions for safe use of and exposure to the substance;

2.23 (8) procedures for cleanup of leaks and spills;

2.24 (9) the name, phone number and address of the manufacturer of the hazardous substance;

2.25 and

2.26 (10) a written copy of all of the above information which shall be readily accessible in
2.27 the area or areas in which the hazardous substance is used or handled.

2.28 (c) Employees who have been routinely exposed to a hazardous substance prior to the
2.29 effective date of Laws 1983, chapter 316, and who continue to be routinely exposed to that
2.30 hazardous substance after the effective date of Laws 1983, chapter 316, shall be trained
2.31 with respect to that hazardous substance within six months of the effective date of Laws
2.32 1983, chapter 316.

3.1 (d) Training to update the information required to be provided under this subdivision
3.2 shall be repeated at intervals no greater than one year.

3.3 (e) Every employer shall maintain current information for training under this subdivision
3.4 or for information requests by employees under section 182.654, subdivision 10.

3.5 (f) This subdivision does not apply to any employer engaged in a farming operation.

3.6 (g) This subdivision does not apply to any nonpublic school or any school district before
3.7 January 1, 1985.

3.8 (h) Any technically qualified individual shall be notified of and may elect to participate
3.9 in any training or update programs required to be provided under this subdivision to
3.10 employees who are not technically qualified individuals. The employer shall make a
3.11 reasonable attempt to allow technically qualified individuals to attend training or update
3.12 programs which may be held during the employee's scheduled work hours.

3.13 (i) Training for employees who may be routinely exposed to a hazardous substance must
3.14 be provided in a language of the employee's choice that the employee understands.

3.15 Sec. 4. Minnesota Statutes 2018, section 182.666, subdivision 2a, is amended to read:

3.16 Subd. 2a. **Citations connected to the death of or serious physical harm to an employee**
3.17 **or a household member.** (a) Notwithstanding any other provision of this section, if any
3.18 (1) serious, willful, or repeated violation other than a violation of section 182.653, subdivision
3.19 2; or (2) failure to correct a violation pursuant to subdivision 4 causes or contributes to the
3.20 death of or serious physical harm to an employee or a household member, the minimum
3.21 total nonnegotiable fine which shall be assessed for all citations connected to the death of
3.22 an employee or a household member is \$50,000 if there is a willful or repeated violation or
3.23 \$25,000 if there is no willful or repeated violation, except as provided in paragraph (b); the
3.24 minimum total nonnegotiable fine which shall be assessed for all citations connected to
3.25 serious physical harm to an employee or a household member is \$25,000 if there is a willful
3.26 or repeated violation or \$12,500 if there is no willful or repeated violation, except as provided
3.27 in paragraph (b).

3.28 (b) If there is no willful or repeated violation and the employer has fewer than 50
3.29 employees, the employer shall be assessed an initial fine of \$5,000 and an additional fine
3.30 of \$5,000 for each of the following four years for citations connected to the death of an
3.31 employee or a household member; the employer shall be assessed an initial fine of \$2,500
3.32 and an additional fine of \$2,500 for each of the following four years for citations connected
3.33 to serious physical harm to an employee or a household member. The commissioner may

4.1 elect to waive the \$5,000 or \$2,500 fine for any of the following four years if the employer
4.2 received no citations in the preceding calendar year.

4.3 (c) If the business or enterprise employs fewer than 50 employees, this subdivision does
4.4 not apply to the death of or serious physical harm to an employee or a household member
4.5 of an employee who owns a controlling interest in the business or enterprise, except if the
4.6 commissioner determines that a fine shall be assessed.

4.7 Sec. 5. **EXPEDITED RULEMAKING AUTHORITY FOR LEAD STANDARDS.**

4.8 The commissioner of labor and industry shall utilize the expedited rulemaking process
4.9 established in Minnesota Statutes, section 14.389, to issue a rule adopting increased
4.10 occupational safety and health standards for lead consistent with the standards established
4.11 in Minnesota Statutes, section 182.655, subdivision 4.