

CHAPTER 182

OCCUPATIONAL SAFETY AND HEALTH

182.651 Definitions.
 182.659 Inspections.
 182.661 Enforcement.

182.666 Penalties.
 182.669 Discrimination.

182.651 DEFINITIONS.

[For text of subs 1 to 17, see M.S.1986]

Subd. 18. The following substances or mixtures are not hazardous substances if they are:

- (a) products intended for personal consumption by employees in the workplace;
- (b) consumer products packaged for distribution to, and used by, the general public, including any product used by an employer or the employer's employees in the same form, concentration, and manner as it is sold to consumers, and to the employer's knowledge, employee exposure is not significantly greater than the consumer exposure occurring during principal consumer use of the product;
- (c) any article, including but not limited to, an item of equipment or hardware, which contains a hazardous substance, if the substance is present in a solid form which does not create a health hazard as a result of being handled by an employee;
- (d) any hazardous substance that is bound and not released under normal conditions of work or in a reasonably foreseeable occurrence resulting from workplace operations;
- (e) products sold or used in retail food sale establishments and all other retail trade establishments, exclusive of processing and repair work areas;
- (f) "intoxicating liquor" as defined in section 340A.101, subdivision 14, or "non-intoxicating malt liquor" as defined in section 340A.101, subdivision 19;
- (g) "food" as defined in the federal Food, Drug, and Cosmetic Act, United States Code, title 27, section 321, et seq.; or
- (h) any waste material regulated pursuant to the federal Resource Conservation and Recovery Act, Public Law Number 94-580, but only with respect to any employer in a business which provides a service of collection, processing, or disposal of such waste.

The commissioner may, by inclusion in the standards adopted pursuant to section 182.655, determine whether any of the following may be excluded from the definitions of hazardous substance or harmful physical agent:

- (a) waste products labeled pursuant to the Resource Conservation and Recovery Act;
- (b) any substance received by an employee in a sealed package and subsequently sold or transferred in that package, if the seal remains intact while the substance is in the employer's workplace; or
- (c) any substance, mixture, or product if present in a physical state, volume, or concentration for which there is no valid and substantial evidence that a significant risk to human health may occur from exposure.

[For text of subd 19, see M.S.1986]

History: 1987 c 384 art 2 s 47

182.659 INSPECTIONS.

[For text of subs 1 to 5, see M.S.1986]

Subd. 6. Upon the refusal or anticipated refusal, based on an employer's refusal to permit entrance on a prior occasion, of an owner, operator, or agent in charge to permit entry as specified in this chapter, the commissioner may apply for an order in the district court in the county in which a workplace is located, which compels the employer to permit the commissioner to enter and inspect the workplace.

[For text of subd 7, see M.S.1986]

Subd. 8. Neither the commissioner nor any employee of the department, including those employees of the department of health providing services to the department of labor and industry, pursuant to section 182.67, subdivision 1, is subject to subpoena for purposes of inquiry into any occupational safety and health inspection except in enforcement proceedings brought under this chapter. All written information, documentation and reports gathered or prepared by the department pursuant to an occupational safety and health inspection are public information once the departmental inspection file is closed.

History: 1987 c 46 s 1,2

182.661 ENFORCEMENT.

[For text of subs 1 to 3, see M.S.1986]

Subd. 3a. As prescribed in rules issued by the board, each notice of intent to contest the citation, proposed assessment of penalty, or period of time fixed in the citation for correction of the violation shall be prominently posted at or near each place a violation referred to in the citation occurred or served on affected employers, employees, and employee representatives. If the contesting employer, employee, or employee representation fails to post or serve the notice of intent to contest the citation, the proposed assessment of penalty, or the period of time fixed for correction of the violation within the time prescribed in rules issued by the board, the board may render a default judgment in favor of the commissioner.

[For text of subd 4, see M.S.1986]

History: 1987 c 46 s 3

182.666 PENALTIES.

Subdivision 1. Any employer who willfully or repeatedly violates the requirements of section 182.653, or any standard, rule, or order promulgated under the authority of the commissioner as provided in this chapter, may be assessed a fine not to exceed \$10,000 for each violation.

Subd. 2. Any employer who has received a citation for a serious violation of its duties under section 182.653, or any standard, rule, or order promulgated under the authority of the commissioner as provided in this chapter, shall be assessed a fine not to exceed \$1,000 for each such violation.

[For text of subd 3, see M.S.1986]

Subd. 4. Any employer who fails to correct a violation for which a citation has been issued under section 182.66 within the period permitted for its correction, which period shall not begin to run until the date of the final order of the board in the case of any review proceedings under this chapter initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a fine of not more than \$1,000 for each day during which such failure or violation continues.

Subd. 5. Any employer who violates any of the posting requirements, as prescribed under this chapter, except those prescribed under section 182.661, subdivision 3a, shall be assessed a fine of up to \$1,000 for each violation.

[For text of subd 5a, see M.S.1986]

Subd. 6. Only the commissioner shall have authority to assess all proposed fines provided in this section, giving due consideration to the appropriateness of the fine with respect to the size of the business of the employer, the gravity of the violation, the good faith of the employer, and the history of previous violations.

[For text of subd 7, see M.S.1986]

History: 1987 c 46 s 4-8

182.669 DISCRIMINATION.

Subdivision 1. Any employee believed to have been discharged or otherwise discriminated against by any person because such employee has exercised any right authorized under the provisions of sections 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the commissioner alleging the discriminatory act. Upon receipt of such complaint, the commissioner shall cause such investigation to be made as the commissioner deems appropriate. If upon such investigation the commissioner determines that a discriminatory act was committed against an employee the commissioner shall refer the matter to the office of administrative hearings for a hearing before an administrative law judge pursuant to the provisions of chapter 14. The administrative law judge may order rehiring of the employee, reinstatement of the employee's former position, fringe benefits, seniority rights, back pay, recovery of compensatory damages, and reasonable attorney fees, or other appropriate relief. An employee may bring a private action in the district court for relief under this section.

History: 1987 c 46 s 9