

HOUSE BILL REPORT

ESHB 1065

As Passed House:

March 8, 1995

Title: An act relating to safety standards for agriculture.

Brief Description: Providing that safety and health standards for agriculture shall be those in effect on January 1, 1993.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Chandler, Lisk, Mastin, Schoesler, McMorris, Robertson, Chappell, Delvin, Honeyford, Koster, Clements, Boldt, Foreman and Kremen).

Brief History:

Committee Activity:

Agriculture & Ecology: 1/19/95, 2/9/95 [DPS];

Commerce & Labor: 1/19/95, 2/21/95 [DPS(AG)].

Floor Activity:

Passed House: 3/8/95, 70-27.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Mastin, Ranking Minority Member; Chappell, Assistant Ranking Minority Member; Boldt; Clements; Delvin; Honeyford; Johnson; Kremen; Robertson and Schoesler.

Minority Report: Do not pass. Signed by 4 members: Representatives R. Fisher; Poulsen; Regala and Rust.

Staff: Kenneth Hirst (786-7105).

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill by Committee on Agriculture & Ecology be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Cairnes; Fuhrman and Goldsmith.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cody and Cole.

Staff: Chris Cordes (786-7117).

Background: The Washington Industrial Safety and Health Act authorizes the Department of Labor and Industries to adopt safety and health rules, of general or specific applicability, for all covered industries and employments in the state. This authority includes a direction to adopt rules that are at least as effective as those rules adopted or recognized under the federal Occupational Safety and Health Act of 1970.

Pursuant to this authority, the department has adopted safety standards specifically applicable to agriculture. As originally adopted, these standards addressed such issues as first-aid requirements, personal protective equipment, handling of materials and tools, safety requirements for ladders, platforms, trenches, welding and electrical activities, equipment and vehicles, and field sanitation. These standards also exempted agriculture from other general safety standards that apply to most industries. In early 1994, the department filed revised standards for agriculture that will become effective on March 1, 1995. The new standards remove the exemptions from the general safety standards for the agricultural industry and provide that the specific agriculture safety standard will augment the general safety standard applicable to all industries. However, if there is a conflict between the two standards, the agriculture safety standards will apply.

Summary of Bill: For the purposes of the Washington Industrial Safety and Health Act, the safety standards that apply to the agricultural industry are, in general, the standards that were in effect in Washington on January 1, 1993, including the exemptions for the agricultural industry from other safety and health standards that were in effect on that date. These standards are modified to include: (1) certain standards regarding personal protective equipment, pesticide posting and records, and general requirements for agricultural equipment that were filed by the Department of Labor and Industries as rules in March 1993; (2) certain standards regarding electrical protection filed as emergency rules in February 1994; (3) certain standards regarding machine guarding filed as rules in September 1994; (4) certain standards regarding fire extinguishers, aerial manlift equipment, auger conveying equipment, liquefied petroleum gases installations, and the storage and handling of anhydrous ammonia filed as rules in October 1994; and (5) requirements specified for the storage and labelling of hazardous materials, the visual inspection of compressed gas cylinders, refueling of equipment, use of aerial manlifts near high voltage conductors, and the care and use, and training in the use, of ladders. The Department is not prohibited from adopting rules that are specifically required, and only to the extent specifically required, for the safety standards to be as effective as the standards adopted under the federal Occupational Safety and Health Act.

The Director of Agriculture is directed to adopt as rules the U.S. Environmental Protection Agency's worker protection standard for agricultural workers and handlers of agricultural pesticides, as it exists in 40 C.F.R., part 170, on the effective date of this act. This requirement does not limit the director's authority to adopt rules under the state's Pesticide Application Act, including rules amending this standard.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Agriculture) (1) The agricultural vertical standard without the new rules provides practical protection for workers. It is more like a field manual that can be understood by the small businesses that must adhere to it. (2) The sheer volume of the new rules is overwhelming. A safer workplace will not be provided if employers cannot determine what applies to their own situations. (3) There is no evidence that the voluminous new rules will be more effective in providing worker protection. The state should return to the pre-1993 rules with their stand-alone vertical standard for agriculture. (4) Accident rates in the agricultural industry are dropping without the new rules. The declining rates are due to the efforts of employers, not the efforts of the department. (5) The pre-1993 agricultural vertical standard, with references to other rules where necessary, and emphasis on education, training and enforcement of that standard will provide better protection than the new rules. This is not a constitutional issue. (6) The new rules impose equipment design standards; they do not provide a usable workplace manual. (7) The EPA's worker protection rules regarding pesticide use and handling apply with or without the L&I rules. They are part of the enforceable label directions for using and handling pesticides. (8) State rules should not be more stringent than federal rules. (9) When additional costs are imposed on farmers, they have no one to pass those costs on to.

(Commerce & Labor) (Joint hearing with previous committee, see above.)

Testimony Against: (Agriculture) (1) The rules adopted by the Department of Labor and Industries end decades of disparity between agricultural workers and other workers. Treating these groups differently is not constitutionally defensible. (2) The department worked with affected parties to integrate the horizontal standards and the vertical standards for agriculture in a reasonable manner; at the industry's request, portions of Oregon's standards were used in the interim. Returning to the old rules will reintroduce confusion regarding the relationship of the horizontal and vertical standards. (3) The rules are designed to prevent accidents, incidents, and fatalities. Agricultural workers want the same protection provided other workers. (4) Nationally, the injury rate in the agricultural industry is much greater than it is in

other industries, as are the number of instances of chemical poisoning, the number of ladder accidents, and the number of compensation claims. The rules are needed to provide protection. (5) Ladders should be well constructed and workers should not be required to stand on the top two rungs. (6) The new rules already reflect compromises made for the agricultural industry. (7) When an agricultural worker complained to his employer of exposure to pesticides and visited the doctor, he was fired. (8) Small businesses in other industries must adhere to the horizontal standard to protect their workers. (9) Repealing the new rules prevents an equalization of worker protection rules.

(Commerce & Labor) (Joint hearing with previous committee, see above.)

Testified: (Agriculture) Leo Sax, Washington Growers Clearinghouse (pro); Pat Boss, Hop Growers of Washington (pro); Doug Zahn (pro); Kevin Bouchey (pro); Bernard Gamache (pro); Mike Gempler, Washington Growers League (pro); Greg Richardson, Potato Growers of Washington (pro); Janelle Keller, Washington State Grange (pro); Bob Peterson (pro); Dennis Evans (pro); Norman Reid (pro); Dan Cox (pro); Don Phillips, Washington Association of Wheatgrowers (pro); Sean Benson (pro); Rocky DeVon, Agricultural Communities Alliance (pro); Tom Frick, Grant County Association of Wheatgrowers (pro); Mark Brown, Department of Labor & Industries (con); Daniel Ford, Evergreen Legal Counsel, (con); Bridigo Zacharias (con); Jose Cuevas (con); Jeff Johnson, Washington State Labor Council, AFL-CIO (con); and Sandra Fancher Garcia, United Farmworkers of America, AFL-CIO (con).

(Commerce & Labor) (Joint hearing with previous committee, see above.)