

SENATE BILL REPORT

ESSB 5121

As Passed Senate, March 7, 1995

Title: An act relating to agricultural safety standards.

Brief Description: Providing for agricultural safety standards.

Sponsors: Senate Committee on Agriculture & Agricultural Trade & Development (originally sponsored by Senators Rasmussen, Morton, Snyder, Newhouse, Loveland, A. Anderson, Hochstatter, Haugen and Deccio).

Brief History:

Committee Activity: Agriculture & Agricultural Trade & Development: 1/19/95, 2/21/95 [DPS].

Passed Senate, 3/7/95, 49-0.

SENATE COMMITTEE ON AGRICULTURE & AGRICULTURAL TRADE & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5121 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rasmussen, Chair; Loveland, Vice Chair; Bauer and Snyder.

Staff: Bob Lee (786-7404)

Background: The Department of Labor and Industries has broad rulemaking authority to adopt rules providing for the safety of workers.

Prior to 1994, there was a separate set of regulations, known as vertical standards, that applied specifically to the agricultural sector. There are also general safety and health standards, known as horizontal standards, that apply to other industries. Over the years, the agricultural sector was not subject to many of these general safety and health standards.

In February 1994, the Department of Labor and Industries adopted rules that placed agriculture under the general safety and health standards, with an effective date of March 1, 1995.

Disagreements continue as to the need and benefit of bringing the agricultural sector under the general safety and health rules.

Summary of Bill: The Department of Labor and Industries is directed to delay the effective date of agricultural safety rules adopted after January 1, 1995, until January 15, 1996. This delay covers both changes to agricultural-specific standards and application of any additional parts of the general industry safety standards to the agricultural industry.

The department is required to develop a separate manual that contains the agricultural safety standards. The separate manual may contain specific references to general industry safety standards. Otherwise, agricultural employers are exempt from the general industry safety manual.

The department must publish in one volume all of the occupational safety rules that apply to agricultural employers and to make this volume available to all agricultural employers before January 15, 1996. This volume is made available in both English and in Spanish.

The department provides training, education and consultation services to agricultural employers prior to the effective date of the rules. These training and education programs are provided throughout the state and are coordinated with agricultural associations to meet their members needs.

Other than the rules described above, the Department of Labor and Industries may adopt rules concerning agricultural safety, other than temporary emergency rules, only if: (1) required by federal law, or (2) subsequently authorized by the Legislature.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill passed.

Testimony For: For rules to be adhered to, persons that are supposed to comply must be willing and able to pick up and understand the rule book. The proposed extension of the general industry standards to agriculture is over 650 pages and is not comprehensible to either agricultural employers or to agricultural employees. What is needed is a single readable book that applies to agriculture.

The reason that additions are being proposed to the current agricultural worker safety manual is not based upon reducing documented risks in the workplace, but rather is in response to a threat of a lawsuit.

Most other states do not cover agricultural workers under the general industry safety standards.

Testimony Against: Agricultural workers should be provided the same protections that all other workers receive.

An informal Attorney General's Opinion concluded the state would likely lose a case in court that alleged that agricultural workers were not receiving equal protection as other workers.

Testified: Mark Brown, Suzanne Mager, Gail Hughes, Steve Cant, L&I; PRO: Mike Gempler, Leo Say, Pat Boss, WA Growers League; Bernard Gamache, grower; Kevin Bouchey, grower; Robert Peterson, grower; Norman Reid, grower; Tom Frick, Grant County Assn. of Wheat Growers; Don Phillips, WAWG; Chuck Graaff, Greg Richardson, Potato Growers of WA; CON: Daniel Ford, Evergreen Legal Services; Sandra Fancher Garcia, United Farmworkers of America, AFL-CIO; Jose Cuevas, farmworker; Alfredo

Sanchez, farmworker; Bridigo Zacarias, farmworker; Jeff Johnson, WA State Labor Council, AFL-CIO.

House Amendment(s): The delayed effective date of January 15, 1996 for agricultural safety rules effective after January 1, 1995 does not apply to: (a) emergency rules adopted by the Department of Labor and Industries; and (b) rules requiring rollover protective structures for pre-1976 tractors.

The rules requiring rollover protection structures for pre-1976 tractors effective on March 1, 1995 remains in effect. The department is to provide a list of tractor rollover protective structures for pre-1976 tractors. Employers may request a variance from the rules from the department on a case by case basis. The list is to be prepared before the department may take action to enforce the requirement.