
SENATE BILL 5882

State of Washington

57th Legislature

2001 Regular Session

By Senators T. Sheldon, Hale, Hewitt, Hargrove, Rasmussen, Honeyford, Carlson, Haugen, Shin, Hochstatter, Horn, Stevens, Zarelli, Oke, Deccio, McCaslin, West, Long, Swecker, Sheahan, McDonald, Johnson, Rossi, Morton and Parlette

Read first time 02/06/2001. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to safety and health rules related to
2 musculoskeletal disorders; amending RCW 49.17.040 and 49.17.050;
3 and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The implementation schedule for rules
6 dealing with musculoskeletal disorders, adopted on May 26, 2000,
7 by the director of the department of labor and industries, and
8 codified as WAC 296-62-05101 through 296-62-05176, shall be
9 adjusted to take effect two years later than stated in the rule.
10 Prior to implementation of the rules, the director shall make
11 revisions to the rules necessary to impose only the same
12 requirements as rules adopted by the United States secretary of
13 labor under the authority of the Occupational Safety and Health
14 Act of 1970 (Public Law 91-596; 84 Stat. 1590) including revisions
15 to implement the final judgments for appeals filed prior to July
16 1, 2001, challenging the validity or content of the federal rules,
17 and not adopting provisions which impose requirements which are
18 still the subject of appeals where no final judgment has been

1 entered. For the purposes of this section, "final judgment" means
2 a judgment from which the plaintiffs have no additional appeal
3 rights.

4 **Sec. 2.** RCW 49.17.040 and 1973 c 80 s 4 are each amended to read
5 as follows:

6 Except as provided in section 1 of this act, the director shall
7 make, adopt, modify, and repeal rules and regulations governing
8 safety and health standards for conditions of employment as
9 authorized by this chapter after a public hearing in conformance
10 with the administrative procedure act and the provisions of this
11 chapter. At least thirty days prior to such public hearing, the
12 director shall cause public notice of such hearing to be made in
13 newspapers of general circulation in this state, of the date,
14 time, and place of such public hearing, along with a general
15 description of the subject matter of the proposed rules and
16 information as to where copies of any rules and regulations
17 proposed for adoption may be obtained and with a solicitation for
18 recommendations in writing or suggestions for inclusion or changes
19 in such rules to be submitted not later than five days prior to
20 such public hearing. Any preexisting rules adopted by the
21 department of labor and industries relating to health and safety
22 standards in work places subject to the jurisdiction of the
23 department shall remain effective insofar as such rules are not
24 inconsistent with the provisions of this chapter.

25 **Sec. 3.** RCW 49.17.050 and 1998 c 224 s 1 are each amended to read
26 as follows:

27 Except as provided in RCW 49.17.040, in the adoption of rules
28 and regulations under the authority of this chapter, the director
29 shall:

30 (1) Provide for the preparation, adoption, amendment, or repeal
31 of rules and regulations of safety and health standards governing
32 the conditions of employment of general and special application in
33 all work places;

34 (2) Provide for the adoption of occupational health and safety
35 standards which are at least as effective as those adopted or

1 recognized by the United States secretary of labor under the
2 authority of the Occupational Safety and Health Act of 1970
3 (Public Law 91-596; 84 Stat. 1590);

4 (3) Provide a method of encouraging employers and employees in
5 their efforts to reduce the number of safety and health hazards at
6 their work places and to stimulate employers and employees to
7 institute new and to perfect existing programs for providing safe
8 and healthful working conditions;

9 (4) Provide for the promulgation of health and safety standards
10 and the control of conditions in all work places concerning gases,
11 vapors, dust, or other airborne particles, toxic materials, or
12 harmful physical agents which shall set a standard which most
13 adequately assures, to the extent feasible, on the basis of the
14 best available evidence, that no employee will suffer material
15 impairment of health or functional capacity even if such employee
16 has regular exposure to the hazard dealt with by such standard for
17 the period of his working life; any such standards shall require
18 where appropriate the use of protective devices or equipment and
19 for monitoring or measuring any such gases, vapors, dust, or other
20 airborne particles, toxic materials, or harmful physical agents;

21 (5) Provide for appropriate reporting procedures by employers
22 with respect to such information relating to conditions of
23 employment which will assist in achieving the objectives of this
24 chapter;

25 (6) Provide for the frequency, method, and manner of the making
26 of inspections of work places without advance notice; and,

27 (7) Provide for the publication and dissemination to employers,
28 employees, and labor organizations and the posting where
29 appropriate by employers of informational, education, or training
30 materials calculated to aid and assist in achieving the objectives
31 of this chapter;

32 (8) Provide for the establishment of new and the perfection and
33 expansion of existing programs for occupational safety and health
34 education for employers and employees, and, in addition institute
35 methods and procedures for the establishment of a program for
36 voluntary compliance solely through the use of advice and
37 consultation with employers and employees with recommendations
38 including recommendations of methods to abate violations relating

1 to the requirements of this chapter and all applicable safety and
2 health standards and rules and regulations promulgated pursuant to
3 the authority of this chapter;

4 (9) Provide for the adoption of safety and health standards
5 requiring the use of safeguards in trenches and excavations and
6 around openings of hoistways, hatchways, elevators, stairways, and
7 similar openings;

8 (10) Provide for the promulgation of health and safety
9 standards requiring the use of safeguards for all vats, pans,
10 trimmers, cut off, gang edger, and other saws, planers, presses,
11 formers, cogs, gearing, belting, shafting, coupling, set screws,
12 live rollers, conveyors, mangles in laundries, and machinery of
13 similar description, which can be effectively guarded with due
14 regard to the ordinary use of such machinery and appliances and
15 the danger to employees therefrom, and with which the employees of
16 any such work place may come in contact while in the performance
17 of their duties and prescribe methods, practices, or processes to
18 be followed by employers which will enhance the health and safety
19 of employees in the performance of their duties when in proximity
20 to machinery or appliances mentioned in this subsection;

21 (11) Certify that no later than twenty business days prior to
22 the effective date of any significant legislative rule, as defined
23 by RCW 34.05.328, a meeting of impacted parties is convened to:

24 (a) Identify ambiguities and problem areas in the rule; (b)
25 coordinate education and public relations efforts by all parties;
26 (c) provide comments regarding internal department training and
27 enforcement plans; and (d) provide comments regarding appropriate
28 evaluation mechanisms to determine the effectiveness of the new
29 rule. The meeting shall include a balanced representation of both
30 business and labor from impacted industries, department personnel
31 responsible for the above subject areas, and other agencies or key
32 stakeholder groups as determined by the department. An existing
33 advisory committee may be utilized if appropriate.

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