

HOUSE BILL REPORT

ESSB 5594

As Passed House:
April 1, 2011

Title: An act relating to handling of hazardous drugs.

Brief Description: Regulating the handling of hazardous drugs.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Keiser, Prentice, Conway, Kline and Murray).

Brief History:

Committee Activity:

Labor & Workforce Development: 3/9/11, 3/16/11 [DP].

Floor Activity:

Passed House: 4/1/11, 92-0.

Brief Summary of Engrossed Substitute Bill

- Requires the Director of the Department of Labor and Industries to adopt rules for handling certain hazardous drugs in health care facilities.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass. Signed by 13 members: Representatives Sells, Chair; Reykdal, Vice Chair; Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Green, Kenney, Miloscia, Moeller, Ormsby, Roberts, Taylor and Warnick.

Staff: Jill Reinmuth (786-7134).

Background:

The federal Occupational Safety and Health Act established the national occupational safety and health program. The federal law created both the National Institute for Occupational Safety and Health (NIOSH) and the Occupational Safety and Health Administration (OSHA). The NIOSH conducts research and provides information, education, and training related to occupational safety and health. The OSHA develops and enforces various occupational safety and health standards. However, the federal law also permits a state to develop and

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operate its own program, subject to approval by the federal agency. A state plan must set occupational safety and health standards that are "at least as effective as" comparable federal standards. A state plan may set standards covering hazards not addressed by federal standards.

The Washington Industrial Safety and Health Act established the state's industrial safety and health program. The state law directs the Department of Labor and Industries (L&I) to adopt rules governing safety and health standards that require the adoption of practices or processes reasonably necessary or appropriate to provide safe or healthful employment. There are general standards that apply to most industries, as well as specific standards that apply only to specific industries. Washington's standards have been found to be "at least as effective as" federal standards. As a result, Washington is a "state plan state" under federal law and L&I is responsible for administering and enforcing state standards.

The NIOSH issued an alert entitled "Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs" in 2004 and an update in 2010. The alert contains a warning that "working with or near hazardous drugs in health care settings may cause skin rashes, infertility, miscarriage, birth defects, and possibly leukemia or other cancers." The alert states that health care workers who work with or near hazardous drugs may be exposed to these agents in various ways, contains a list of hazardous drugs, and includes recommendations for protecting health care workers from hazardous drugs.

Neither the OSHA nor the L&I has adopted specific standards for the control of hazardous drugs. Instead, these agencies have relied on general standards for the control of recognized hazards, the use of personal protective equipment, and hazard communication.

Summary of Bill:

The Legislature declares that health care personnel who work with or near hazardous drugs in health care settings may be exposed to these agents. The Legislature intends to require health care facilities to follow rules requiring compliance with a National Institute for Occupational Safety and Health (NIOSH) alert on preventing occupational exposures to antineoplastic and other hazardous drugs in health care settings.

An antineoplastic drug is a chemotherapeutic agent that controls or kills cancer cells. A hazardous drug is any drug identified by NIOSH, as well as any drug that meets certain criteria (e.g., one that causes cancer, developmental or reproductive toxicity, or harm to organs).

The Director of the Department of Labor and Industries must adopt rules for handling antineoplastic and other hazardous drugs in health care facilities. The rulemaking must consider input from hospitals, organizations representing health care personnel, and other stakeholders. It also must consider reasonable time for facilities to implement new requirements. The rules must be consistent with and not exceed provisions adopted by the NIOSH alert. The rules may incorporate updates and changes to the NIOSH guidelines. The rules will be enforced as provided in the Washington Industrial Safety and Health Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill passed the Senate unanimously. There were amendments made on the Senate floor to accommodate the concerns of stakeholders.

The bill came about after an investigative report was published in *The Seattle Times*. The report outlined several cases in which health care workers who handled chemotherapy and other drugs experienced cancer and other grave illnesses. There are guidelines for handling these drugs, but not requirements. The purpose of the bill is to ensure that there are requirements in place. The health and safety of health care workers, housekeeping staff, and others must be addressed. They should not be contracting very serious illnesses or dying when there are ways to protect them.

The Washington State Hospital Association asks that you keep the bill in its current form. The National Institute for Occupational Safety and Health (NIOSH) standards are the gold standard, and were worked out at the national level with experts. There is no need to deviate from that standard. The bill provides enforcement authority.

The Department of Labor and Industries (L&I) supports this bill. There is substantial agreement within the medical community that there is significant risk to health care workers who are exposed to chemotherapy and other hazardous drugs. The same properties that enable these drugs to kill cancer cells mean they can damage normal cells in healthy workers. There is widespread agreement that the NIOSH guidelines can reduce or eliminate these risks. The bill is very narrowly constrained, and limits the L&I to adopting into rule the provisions in the NIOSH alert.

This bill seeks rulemaking to protect nurses and other health care workers from hazardous drugs. It is similar to past legislation on proper equipment for needle sticks and standards for safe patient handling. The bill is fine the way it came out of the Senate.

In the 1970s and 1980s, it was common for nurses to mix their patients' medications. There was powder everywhere, but there was no personal protective equipment. While it was known that the drugs would help patients, it was not known that they were toxic to workers. While working in a dialysis unit and being exposed to formaldehyde, two of us became pregnant and both our boys were born with hypogammaglobulinemia. While working on a neurotrauma unit, 10 of us had Pap smear changes and some of us contracted cancer.

Now, pharmacists mix drugs under safety hoods with negative air pressure. Nurses are more aware of the need for personal protective equipment. Even with guidelines, however, nurses and other health care workers are still exposed to a multitude of hazardous drugs.

Research shows that better control measures are still needed. One recent study found that, even in some of the nation's leading cancer hospitals, there continue to be: (1) chromosomal

abnormalities of exposed workers; and (2) gross contamination of workplaces where drugs are used and prepared.

Workers are scared to mix cancer drugs because the long-term risks are unknown. The odds of getting sick seem higher than normal. This puts a burden on folks who are willing to mix drugs. With the protections in this bill, it will be possible for people to feel safe doing a very important job.

(Opposed) There is nothing in the bill that indicates a reason for the bill to take the place of the NIOSH recommendations and alerts. Those provisions adequately cover workers in the State of Washington. This effort is not necessary.

There is concern that there is no fiscal note. It is very unusual to have rulemaking and inspection with no fiscal note and no indication of how expenses would be covered.

There is also concern because of prior experience with the Clinical Laboratory Improvement Act. It was adopted with the support of the Washington State Medical Association because there were problems with the types of laboratory work that were being done. It also said that nothing would exceed federal standards. However, what came about was extremely excessive. Regulatory costs were high, laboratories were forced to close, and laboratory work was turned upside down by a bill that looked pretty simple.

Persons Testifying: (In support) Senator Kohl-Welles, prime sponsor; Lisa Thatcher, Washington State Hospital Association; Michael Silverstein, Department of Labor and Industries; Karen Bowman, Washington State Nurses Association; Sharon Ness, United Food and Commercial Workers-Washington State Council; and Ellie Menzies, Service Employees International Union Healthcare 1199 Northwest.

(Opposed) Susie Tracy, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.