
SENATE BILL 6416

State of Washington

56th Legislature

2000 Regular Session

By Senators Thibaudeau, Deccio, Wojahn, Rasmussen, Johnson, Franklin, B. Sheldon, Costa, Prentice, Sheahan, Fraser, Swecker, McAuliffe, Winsley, Kohl-Welles, Haugen, Benton, Spanel, McDonald and Oke

Read first time 01/14/2000. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to needlesticks and sharps protections; adding a
2 new section to chapter 49.17 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that opportunities to
5 improve bloodborne pathogens standards arise when product engineering
6 improvements result in safer medical devices.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.17 RCW
8 to read as follows:

9 (1) The department shall, by March 1, 2001, adopt rules revising
10 the bloodborne pathogens standard governing occupational exposure to
11 blood and other potentially infectious materials. The rules must
12 require product evaluation in accordance with subsection (3) of this
13 section, beginning no later than April 1, 2001. The rules must also
14 embody a bloodborne pathogens standard meeting the requirements of
15 subsection (4) of this section.

16 (2) The definitions in this subsection apply to all rules regarding
17 occupational exposure to bloodborne pathogens and other potentially
18 infectious materials.

1 (a) "Bloodborne pathogens" means pathogenic microorganisms that are
2 present in human blood and can cause disease in humans. These
3 pathogens include, but are not limited to, hepatitis B virus, hepatitis
4 C virus, and human immunodeficiency virus.

5 (b) "Engineering controls" means controls including, but not
6 limited to, needleless systems and sharps with engineered sharps injury
7 protection that isolate or remove the bloodborne pathogens hazard from
8 the workplace.

9 (c) "Engineered sharps injury protection" means either:

10 (i) A physical attribute built into a needle device used for
11 withdrawing body fluids, accessing a vein or artery, or administering
12 medications or other fluids, that effectively reduces the risk of an
13 exposure incident by a mechanism such as barrier creation, blunting,
14 encapsulation, withdrawal, retraction, destruction, or other effective
15 mechanisms; or

16 (ii) A physical attribute built into any other type of needle
17 device, or into a nonneedle sharp, that effectively reduces the risk of
18 an exposure incident.

19 (d) "Front-line health care worker" means a nonmanagerial employee
20 responsible for direct patient care with potential occupational
21 exposure to sharps-related injuries.

22 (e) "Needleless system" means a device that does not use needles
23 for:

24 (i) The withdrawal of body fluids after initial venous or arterial
25 access is established;

26 (ii) The administration of medication or fluids; and

27 (iii) Any other procedure involving the potential for an exposure
28 incident.

29 (f) "Sharp" means any object used or encountered in a health care
30 setting that can be reasonably anticipated to penetrate the skin or any
31 other part of the body, and to result in an exposure incident,
32 including, but not limited to, needle devices, scalpels, lancets, and
33 broken capillary tubes.

34 (g) "Sharps injury" means any injury caused by a sharp, including,
35 but not limited to, cuts, abrasions, or needlesticks.

36 (h) "Sharps injury log" means a written or electronic record
37 satisfying the requirements of subsection (4)(b)(iii) of this section.

38 (3)(a) The rules adopted under subsection (1) of this section must
39 require each employer to adopt a methodology for product review and

1 study of available needleless systems and sharps with engineered sharps
2 injury protections, including a study of reliable sources of
3 information from such sources as government agencies, employer
4 organizations, labor organizations, and other sources deemed
5 appropriate, to enable the employer to select the appropriate
6 engineering controls in the categories listed below for implementation
7 no later than the effective date of the rules adopted under subsection
8 (1) of this section. The employer's methodology for study and
9 evaluation must include input from front-line health care workers who
10 will be engaged in the use of the devices in accordance with the
11 provisions of subsection (4)(b) of this section, as well as other
12 appropriate sources in the employer's organization. Product review and
13 study should include, but not be limited to, the following categories
14 of devices as used in the employer's facilities:

- 15 (i) Intravenous catheters;
- 16 (ii) Intravenous access devices and intravenous connectors;
- 17 (iii) Vacuum tube blood collection devices;
- 18 (iv) Blood-drawing devices such as phlebotomy needle/tube holders,
19 butterfly-type devices, and syringes;
- 20 (v) Syringes used for purposes other than blood drawing;
- 21 (vi) Suture needles;
- 22 (vii) Scalpel devices; and
- 23 (viii) Any other category of device used at the employer's facility
24 where there is a sharps injury risk.

25 (b) For each category of device, product review and study must be
26 conducted with meaningful input from front-line health care workers
27 representing areas in which they will be used, as well as infection
28 control professionals and representatives of other disciplines as
29 appropriate. In addition, the department, in consultation with the
30 Washington state hospital association, shall determine means by which
31 the Washington state hospital association can help employers meet the
32 requirements of this subsection. The product evaluation period should
33 continue for not less than six months from the date of commencement.

34 (4) The rules adopted under subsection (1) of this section must
35 require each employer to develop a written exposure control plan to be
36 completed no later than three months following the effective date of
37 the rules, establish sharps injury logs no later than three months
38 following the effective date of the rules, and implement engineering
39 controls as soon as possible but no later than nine months after the

1 effective date of the rules. The rules must include, but are not
2 limited to, the following:

3 (a) A requirement that needleless systems and sharps with
4 engineered sharps injury protection be included as engineering and work
5 practice controls. However, needleless systems and sharps with
6 engineered sharps injury protection are not required if:

7 (i) Such devices are not available in the marketplace;

8 (ii) The employer, with input from the evaluation committee,
9 described in (b)(v) of this subsection, determines by means of
10 objective product evaluation criteria that use of such devices may
11 jeopardize patient safety if utilized for a class or type of procedure,
12 or for a class or type of procedure when performed on a certain type of
13 patient;

14 (iii) A certified or licensed health care worker directly involved
15 in the patient's care determines, in the reasonable exercise of
16 clinical judgment, that use of such devices will jeopardize the
17 patient's safety or the success of the particular medical procedure
18 involving the patient. A health care worker who makes such a
19 determination must report, in accordance with the requirements of
20 (b)(vi) of this subsection, the reasons for failing to use an approved
21 needleless system or sharp with engineered sharps injury protection;

22 (iv) The employer can demonstrate by means of objective product
23 evaluation criteria that use of such devices are not more effective in
24 preventing exposure incidents than the alternative used by the
25 employer; or

26 (v) The employer can demonstrate, with respect to an engineering
27 control which has not been available in the marketplace for twelve
28 months, that reasonably specific and reliable information is not
29 available regarding the safety performance of the engineering control
30 for the employer's procedures, and that the employer is actively
31 determining by means of objective product evaluation criteria whether
32 the use of the engineering control will reduce the risk of exposure
33 incidents occurring in the employer's workplace;

34 (b) A requirement that each employer develop and implement an
35 effective written exposure control plan that includes, but is not
36 limited to, procedures for:

37 (i) Identifying and selecting needleless systems and sharps with
38 engineered sharps injury protection. Any procedure adopted should
39 provide that the evaluation committee described in (b)(v) of this

1 subsection will have meaningful input into the identification and
2 evaluation of such devices;

3 (ii) Updating the written exposure control plan when necessary to
4 reflect progress in implementing needleless systems and sharps with
5 engineered sharps injury protection as determined by the evaluation
6 committee described in (b)(v) of this subsection, but in no event less
7 than once every year;

8 (iii) Recording information concerning exposure incidents in a
9 sharps injury log, including, but not limited to, the following
10 information, if known:

11 (A) The date and time of the exposure incident;

12 (B) The type and brand of sharp involved in the exposure incident;
13 and

14 (C) The description of the exposure incident that includes:

15 (I) The job classification of the exposed employee;

16 (II) The department or work area where the exposure incident
17 occurred;

18 (III) The procedure that the exposed employee was performing at the
19 time of the incident;

20 (IV) How the incident occurred;

21 (V) The body part involved in the exposure incident;

22 (VI) If the sharp had engineered sharps injury protection, whether
23 the protective mechanism was activated, and whether the injury occurred
24 before the protective mechanism was activated, during activation of the
25 mechanism, or after activation of the mechanism;

26 (VII) If the sharp had no engineered sharps injury protection,
27 whether and how such a mechanism could have prevented the injury, as
28 well as the basis for the assessment; and

29 (VIII) An assessment of whether any other engineering,
30 administrative, or work practice control could have prevented the
31 injury, as well as the basis for the assessment;

32 (iv) Ensuring that all front-line health care workers are trained
33 in, and demonstrate their ability to use, engineering controls before
34 they are introduced into the clinical setting;

35 (v) Establishment by the employer of an evaluation committee to
36 advise the employer on the implementation of the requirements of this
37 section. At least half the members of the committee must be either
38 front-line health care workers or representatives of employee
39 organizations which represent front-line health care workers in job

1 classifications impacted by the requirements of this section, including
2 but not limited to nurses, medical assistants or nurses aides,
3 technicians who handle or process sharps, phlebotomists, and
4 physicians. An employer that is affiliated with, or affiliated for
5 certain purposes with, a multistate or multilocation health care
6 organization is in compliance with this section if it relies on an
7 evaluation committee established by the organization centrally, so long
8 as implementation of the advice of the centralized evaluation committee
9 is accomplished in a manner that ensures communication with, training
10 of, and feedback from affected staff of the local employer. Members of
11 the evaluation committee must be provided demonstrations of the use of
12 engineering controls and must be trained in product evaluation criteria
13 prior to the commencement of any product evaluation; and

14 (vi) Ensuring all determinations pursuant to (a)(iii) of this
15 subsection are reported in writing, including the date, time, patient,
16 and procedure involved, and a statement of why the employee failed to
17 use an approved needleless system or sharp with engineered sharps
18 injury protections.

19 (5) In complying with this section, an employer with no more than
20 ten employees at any time during the calendar year immediately
21 preceding the current calendar year may:

22 (a) Evaluate new technology through its own evaluation committee,
23 as defined in subsection (4)(b)(v) of this section, a joint evaluation
24 committee, established by multiple small business employers, that meets
25 the requirements of subsection (4)(b)(v) of this section; or an
26 evaluation committee that meets the requirements of subsection
27 (4)(b)(v) of this section;

28 (b) Use a joint evaluation committee to develop and update the
29 written procedure for identifying and selecting devices as required by
30 subsection (4)(b)(i) and (ii) of this section; and

31 (c) Comply with the provisions of subsection (4)(b)(iii) of this
32 section by recording the required sharps injury data in its OSHA 200
33 log.

34 (6) The department shall promulgate additional amendments to the
35 bloodborne pathogens standard necessary to implement this section; and,
36 to the extent that funds are available, evaluate the impact of this
37 section on the reduction of needlestick and sharps injuries and costs
38 of employer operations.

1 (7) To assist employers in complying with the requirements of the
2 bloodborne pathogens standard adopted under this section, the
3 department of health shall compile and maintain a list of needleless
4 systems and sharps with engineered sharps injury protection. The list
5 may be developed from existing sources of information including, but
6 not limited to, the federal food and drug administration, the federal
7 centers for disease control, the national institute of occupational
8 safety and health, and the United States department of veterans
9 affairs.

10 (8) Nothing in this section provides an exemption or other basis of
11 appeal in relation to the existing requirements of the bloodborne
12 pathogens standard and any other requirements adopted under the
13 authority of RCW 49.17.040 and 49.17.050.

14 (9) To the extent they exceed the existing bloodborne pathogens
15 standard and any other requirements adopted under the authority of RCW
16 49.17.040 and 49.17.050, the requirements of this section do not apply
17 to the practice of dentistry.

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