
Commerce & Labor Committee

2SSB 5890

Brief Description: Initiating a pilot project to determine the feasibility and benefits for medical monitoring of agricultural workers.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Rasmussen and Parlette).

Brief Summary of Second Substitute Bill

- Directs the Department of Labor and Industries to initiate a pilot project on mandatory medical monitoring for certain cholinesterase-inhibiting pesticides.

Hearing Date: 4/3/03

Staff: Jill Reinmuth (786-7134).

Background:

Exposure to certain pesticides is known to inhibit levels of cholinesterase, a blood enzyme essential to the proper functioning of the nervous system. Blood tests of certain employees are considered to be an acceptable method for determining the extent and effects of exposure to these pesticides.

In 1986, and again in 1991, farm workers engaged in mixing, loading, and applying pesticides ask the Department of Labor and Industries (Department) to adopt a mandatory blood testing program to monitor their cholinesterase levels.

In 1993 the Department adopted rules recommending voluntary cholinesterase monitoring and mandating personal protective equipment. In 1995, after the farm workers informed the Department that they intend to seek judicial review, the Department established a Technical Advisory Group (TAG) "to assist the Department ... in determining an appropriate response" and "to identify the essential components of a successful monitoring program in Washington State."

The TAG report described cholinesterase monitoring as "the most well developed and feasible method among available worker monitoring approaches for cholinesterase-inhibitor exposure." It recommended cholinesterase monitoring on a voluntary basis for those

working in occupations involved with handling cholinesterase-inhibiting pesticides within the specific trigger levels described in this document. It did not advise mandatory cholinesterase monitoring programs "given the current limitations of various resources vital for the implementation of some of the recommendations described in this document."

In 1997 the farm workers asked the Department to state its intent to adopt mandatory monitoring. The farm workers then filed a class action lawsuit against the Department. The farm workers argued that, when the Department decided not to adopt rules requiring mandatory cholinesterase monitoring for pesticide handlers, the Department violated its statutory duty to promulgate safety and health standards on exposure to toxic materials under the Washington Industrial Safety and Health Act (WISHA).

In 2002 the state Supreme Court issued its decision in Rios v. Department of Labor and Industries. The Court found that the Department's denial of the farm workers request to adopt rules on mandatory cholinesterase monitoring was "unreasoning and taken without regard to the attending factors or circumstances." The Court concluded that the farm workers met their burden of showing that the Department's denial of their 1997 request for rule-making was unreasonable, and ordered the Department "to initiate rule-making on a mandatory cholinesterase monitoring program for agricultural pesticide handlers.

Summary of Bill:

The Department of Labor and Industries (Department) must initiate a pilot project to determine whether mandatory medical monitoring for certain pesticides is practical and effective to promote worker safety. The pilot project must be conducted in accordance with Administrative Procedure Act provisions governing such projects while a rule is being developed or after it is adopted. It must be completed by December 31, 2005.

The Department may adopt emergency rules necessary to protect farmworker health and safety.

Rules Authority: This bill directs the Department of Labor and Industries (Department) to initiate a pilot project on mandatory medical monitoring of certain pesticides, and permits the Department to adopt emergency rules necessary to protect farmworker health and safety.

Appropriation: None.

Fiscal Note: Available.

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