

HOUSE BILL REPORT

SHB 1779

As Passed Legislature

Title: An act relating to requiring policies addressing surgical smoke.

Brief Description: Requiring policies addressing surgical smoke.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Callan, Bronoske, Sells, Dolan and Ramos).

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/12/22, 1/21/22 [DPS].

Floor Activity:

Passed House: 2/9/22, 80-16.

Senate Amended.

Passed Senate: 3/1/22, 44-5.

House Concurred.

Passed House: 3/7/22, 81-17.

Passed Legislature.

Brief Summary of Substitute Bill

- Requires hospitals and ambulatory surgical facilities to adopt policies requiring the use of smoke evacuation systems for planned surgical procedures.
- Creates an account to provide limited reimbursement to certain hospitals for the costs of purchasing and installing smoke evacuation systems.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 7 members: Representatives Sells, Chair; Berry, Vice Chair; Hoff, Ranking

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Member; Mosbrucker, Assistant Ranking Minority Member; Bronoske, Harris and Ortiz-Self.

Staff: Trudes Tango (786-7384).

Background:

Washington is a "state-plan state" for purposes of the federal Occupational Safety and Health Administration (OSHA), which means Washington administers its own workplace health and safety program. The state's program, the Washington Industrial Safety and Health Act (WISHA), must be at least as effective as the OSHA standards. The WISHA covers nearly all employers and employees in the state, including state, county, and city employees. The Department of Labor and Industries (Department), through the Division of Occupational Safety and Health (DOSH), administers and enforces the WISHA.

The use of lasers or other electrosurgical equipment used on tissue during surgery can create a smoke byproduct. Although the DOSH and OSHA have educational bulletins regarding surgical smoke, there are currently no specific OSHA or WISHA standards governing surgical smoke.

Summary of Substitute Bill:

Hospitals and ambulatory surgical facilities must adopt policies that require the use of a smoke evacuation system during any planned surgical procedure that is likely to generate surgical smoke which would otherwise make contact with the eyes or respiratory tract of occupants in the room. The hospital or ambulatory surgical facility may select any smoke evacuation system that accounts for surgical techniques and procedures vital to patient safety and that takes into account employee safety.

"Smoke evacuation system" is defined as equipment designed to capture and neutralize surgical smoke at the point of origin before the smoke makes contact with the eyes or the respiratory tract of occupants in the room. Smoke evacuation systems may be integrated with, or separate from, the surgical tool.

The Department must ensure compliance with this requirement during any on-site inspection and may adopt rules to implement the provision.

The act takes effect January 1, 2024, for most hospitals and ambulatory surgical facilities. For critical access hospitals, hospitals with fewer than 25 acute care beds in operation, hospitals certified by Centers for Medicare and Medicaid Services as sole community hospitals, and hospitals that qualify as a Medicare dependent hospital, the act takes effect January 1, 2025.

The Surgical Smoke Evacuation Account is created as a nonappropriated account in the

custody of the State Treasurer. The Director of the Department may make expenditures from the account. Subject to funds available in the account and beginning January 2, 2025, critical access hospitals, hospitals with fewer than 25 acute care beds in operation, hospitals certified by Centers for Medicare and Medicaid Services as sole community hospitals, and hospitals that qualify as a Medicare dependent hospital, may apply to the Department for reimbursement for costs incurred to purchase and install smoke evacuation systems. The reimbursement may not exceed \$1,000 for each operation room in the hospital and reimbursements are available until moneys in the account are exhausted.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2024, except that for certain specified hospitals, the bill takes effect January 1, 2025, as provided in section 2 of the act.

Staff Summary of Public Testimony:

(In support) Smoke caused when human tissue is vaporized during a surgical procedure is hazardous. Studies show that surgical smoke contains many toxic compounds. Some hospitals use smoke evacuation systems, but not all do, and hospitals do not use them consistently. Regular suctioning does not filter the smoke and hazardous vapor is still in the room. This bill will make operating rooms safer. The bill gives hospitals time to implement these policies. Federal and state health and safety agencies have had recommendations on addressing surgical smoke but there are no requirements.

(Opposed) Smaller critical access hospitals will not have the resources to purchase the different types of equipment required. The bill needs to be narrowed to address only smoke outside the patient's body. The use of personal protective equipment should be allowed as an option. There should not be financial penalties. The bill should be tied to the energy performance standards applicable to hospital's heating, ventilation, and air conditioning systems.

(Other) Physicians need flexibility and should be able to use their discretion when determining what equipment to use.

Persons Testifying: (In support) Representative Lisa Callan, prime sponsor; Christopher Peredney; Peter Neligan; Melanie Burton; Vanessa Giles; Jennifer Pennock, Association of periOperative Registered Nurses; and Dane Austreng, Service Employees International Union Healthcare 1199NW.

(Opposed) Amy Krogstadt, Kittitas Valley Healthcare; and Katie Kolan, Washington State Hospital Association.

(Other) Tammy Fellin, Department of Labor and Industries; Mika Sinanan, Washington

State Medical Association; and Roman Daniels-Brown, Washington Ambulatory Surgery Center Association.

Persons Signed In To Testify But Not Testifying: None.