

Commerce & Labor Committee

HB 1127

Brief Description: *Postponing the implementation of safety and health rules related to musculoskeletal disorders.*

Sponsors: *Representatives Clements and Schoesler.*

Brief Summary of Bill

- *Requires that, before implementation, the state ergonomics standards be made the same as the federal ergonomics standards.*
- *Requires that state ergonomics standards take effect two years later than stated in rule.*

Hearing Date: *2/7/01*

Staff: *Jill Reinmuth (786-7134).*

Background:

Washington is a state plan state— under the federal Occupational Safety and Health Act (OSHA—). As a state plan state, Washington is authorized to assume responsibility for occupational safety and health in the state. To maintain its status, Washington’s safety and health standards must be at least as effective as those standards adopted or recognized under OSHA. Washington may enforce new and revised state standards, however, prior to federal review and approval.

The Department of Labor and Industries administers the state’s industrial safety and health program. The department adopts safety and health standards that require employers to adopt practices or operations reasonably necessary or appropriate to provide safe and healthful working conditions. The department also provides informal guidance and consultation as to whether workplace conditions comply with the standards.

Both the state Department of Labor and Industries and the federal Occupational Safety and Health Administration recently adopted ergonomics standards dealing with work-related

musculoskeletal disorders. At this time, no lawsuits have been filed challenging the state standards. Thirty-one lawsuits have been filed challenging the federal standards.

Among the differences between the state standards and the federal standards are the following:

***Applicability:** The state standards apply to all employers in all industries. The federal standards apply to all employers in all industries except agriculture, construction, maritime, and railroad operations. Employers with 10 or fewer employees are exempt from federal record keeping requirements.*

***Hazard Analysis and Reduction:** The state standards are prevention-based. Employers must identify ergonomic hazards and reduce them to the degree feasible. The federal standards are injury-based. When an employee suffers an ergonomic injury, employers must reduce the hazard below the hazard level or to the extent feasible, or, in some circumstances, implement a quick fix.–*

***Work Restriction/Removal Protection:** The state standards do not provide for wage replacement as a form of work restriction/removal protection. The federal standards provide for wage replacement. When an employee receives temporary work restrictions, the employer must pay full pay and full benefits if the employee is assigned light duty, and 90 percent of pay and full benefits if the employee is removed from work.*

***Implementation:** Implementation of the state standards is phased by industry group, beginning July 1, 2002, and continuing each year thereafter through July 1, 2006. Implementation of one provision of the federal standards begins October 14, 2001. Implementation of other provisions depends on when an ergonomic injury is reported.*

Summary of Bill:

The content of the state ergonomics standards is modified. Before implementing the state standards, the director of the state Department of Labor and Industries must revise them to make the state standards the same as the federal standards. The revised state standards must reflect the federal standards as revised to implement final judgments in federal appeals challenging their validity or content. The revised state standards must not include parts of the federal standards that are still the subject of federal appeals.

The implementation schedule for the state standards is also modified. The implementation schedule is adjusted to make the state standards take effect two years later than stated in the rule.

***Rules Authority:** The bill contains provisions requiring the exercise of rule-making powers by the Department of Labor and Industries.*

***Appropriation:** None.*

***Fiscal Note:** Requested on January 29, 2001.*

***Effective Date:** Ninety days after adjournment of session in which bill is passed.*

