

HOUSE BILL REPORT

HB 2261

As Reported By House Committee On:

Agriculture & Ecology

Title: An act relating to extending the dates related to safety standards for agriculture.

Brief Description: Extending the dates related to safety standards for agriculture.

Sponsors: Representatives Thompson, Chandler, McMorris, Mulliken, Sheahan, Buck, McMahan, Schoesler, Pelesky, Mastin, Goldsmith and Johnson.

Brief History:

Committee Activity:

Agriculture & Ecology: 1/15/96, 1/24/96, 1/31/96 [DPS].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Chandler, Chairman; Koster, Vice Chairman; Chappell, Ranking Minority Member; Linville, Assistant Ranking Minority Member; Boldt; Clements; Delvin; Honeyford; Johnson; Mastin; Robertson and Schoesler.

Minority Report: Do not pass. Signed by 5 members: Representatives R. Fisher; Murray; Ogden; Regala and Rust.

Staff: Kenneth Hirst (786-7105).

Background: The Washington Industrial Safety and Health Act (WISHA) authorizes the Department of Labor and Industries to adopt safety and health rules, of general or specific applicability, for all covered industries and employments in the state.

Under this authority, the department adopted safety standards specifically applicable to agriculture. Standards adopted before 1994 addressed such issues as first-aid requirements; personal protective equipment; handling of materials and tools; safety requirements for ladders, platforms, trenches, welding and electrical activities, equipment and vehicles; and field sanitation. These standards also exempted agriculture from other general safety standards that apply to most industries. In early 1994, the department filed revised standards for agriculture with an effective date of March 1, 1995. The new standards remove the exemptions from the general safety

standards for the agricultural industry and provide that the specific agriculture safety standard augments the general safety standard applicable to all industries. However, if there is a conflict between the two standards, the agriculture safety standards apply. Rules were also proposed in late 1994 for adoption in January 1995. They were to be effective in March 1995.

During the 1995 Regular Session, legislation was enacted that prohibited rules adopted under WISHA amending or establishing agricultural safety standards from taking effect during the period beginning January 1, 1995, and ending January 15, 1996.

The 1995 legislation established new requirements for rules adopted under WISHA for agricultural safety. Such rules must (1) establish for employers a safety standard that includes agriculture-specific standards and specific references to the general industry standard; and (2) exempt agricultural employers from the general industry safety standard requirements not specifically referenced in the agriculture standard. The 1995 legislation also instructed the department to publish in one volume all the occupational safety standards that apply to agricultural employers and to make this volume available to employers before February 15, 1996. It must be available in both English and Spanish. The department was instructed to provide training and enhanced consultation services concerning the standards before their effective date.

A revised safety standard for agriculture has been published by the department. The revised standard took effect January 16, 1996.

Summary of Substitute Bill: The period during which, under current law, certain new rules adopted under WISHA amending or establishing agricultural safety standards are prohibited from taking effect is extended to February 15, 1997. The effective date of rules that were to take effect this year is postponed until after February 15, 1997. The deadline by which the single volume of agricultural safety rules must be made available to all agricultural employers is also postponed to February 15, 1997. A requirement that the department's training, education, and consultation regarding these rules continue throughout the winter of 1995-96 is repealed.

No penalty may be levied for an employer's first citation for a violation of a requirement for rollover protective structures for tractors built on or before October 25, 1976, if compliance is achieved within 90 days of the citation. In addition, such a corrected violation is not to be considered as part of the employer's history of violations.

Substitute Bill Compared to Original Bill: The original bill extends the time during which rules cannot become effective; the substitute bill also postpones the effectiveness of 1996 rules that have already taken effect. Added by the substitute bill are the emergency clause and the provisions for waiving the penalty for a person's

first citation regarding certain rollover protective structures if compliance is achieved within 90 days, and for clarifying that requirements for new agricultural rules apply to those whose adoption or effectiveness has been postponed by the bill.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (1) With the passage of ESSB 5121 last year, the Legislature asked for agriculture-specific safety standards and only those needed for agriculture. L&I was supposed to develop a consolidated "little" book of rules. That is not what L&I adopted. No new standards should be in effect until the ones requested have been developed. The bill gives the department another year to do so. (2) The people who must abide by the rules cannot understand them. The rules need to be rewritten before they are applied to anyone. (3) New, substantive changes to the rules have been developed by the department as part of its processes of rewriting the rules. (4) Very few agricultural employers have the manuals they were supposed to receive; the Spanish language version of the manual has not been sent to employers or employees. The rules should be postponed until the work is truly done. (5) In the last two months, growers have received rules, drafts of rules, and re-drafts of rules. They need time to absorb what is required of them.

Testimony Against: (1) The revised standards for agricultural safety will be available for adoption in October or November; standards that maintain unequal treatment for agricultural workers compared to other workers should not be those in force while the revised standards are being developed. (2) The rules represent four years of hard work and compromise. Agriculture is the only industry with one book of rules. (3) Improvements to agriculture's one book have been proposed in the re-write, but not substantive changes in policy. The federal government has been successfully petitioned to allow the state to remove the design standards from the rules.

Testified: Representative Thompson, prime sponsor; Mike Gempler and Chris Cheney, Washington Growers League; Jim Halstrom, Washington Horticultural Association; and Pat Boss, Hop Growers of Washington (in favor). Frank Leuck, Department of Labor and Industries; and Jeff Johnson, Washington State Labor Council (against).