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SB 5597 - S AMD - 277
By Senators Prentice, Franklin, McAuliffe, Benton, Fraser, Deccio, Costa, Johnson, Thibaudeau and Heavey

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that workers engaged in the handling, transportation, treatment, and disposal of biomedical waste may be exposed to elevated risks of contracting diseases from pathogens conveyed by air or water. These risks may be reduced by application of occupational health standards for airborne pathogens and waterborne pathogens that are comparable to those developed to protect workers from bloodborne pathogens. The legislature further finds that opportunities to improve bloodborne pathogen standards arise when product engineering improvements result in safer medical devices.

NEW SECTION. **Sec. 2.** (1) The department of labor and industries shall review available data, studies, hazard analyses, and other information regarding the potential for employee exposure to airborne or waterborne biological hazards in the handling, transport, treatment, and disposal of biomedical waste. Based on this review, the department shall make recommendations for appropriate action under the department's existing authority to protect workers and develop a plan for implementing the recommendations. The department shall report to the legislature its findings, recommendations, and implementation plan and recommendations for action by the legislature no later than December 1, 1999.

(2) This section expires December 31, 1999.

NEW SECTION. **Sec. 3.** A new section is added to chapter 49.17 RCW to read as follows:

(1) The department shall, by June 30, 2000, adopt emergency rules revising the bloodborne pathogen standard governing occupational exposure to blood and other potentially infectious materials in accordance with subsection (3) of this section. Following adoption of the emergency rules, the department shall complete the rule adoption

process and formally adopt rules embodying a bloodborne pathogen standard meeting the requirements of subsection (4) of this section. This permanent rule shall become operative within six months of the date the emergency rules were issued. The emergency rules adopted under this section shall remain in effect until the permanent rules become operative.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

(b) "Employer" means each employer having an employee with occupational exposure to human blood or other material potentially containing bloodborne pathogens.

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

(d) "Engineered sharps injury protection" means either:

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

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

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

(f) "Needleless system" means a device that does not use needles for:

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

(ii) The administration of medication or fluids; and

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

(g) "Sharp" means any object used or encountered in a health care setting that can be reasonably anticipated to penetrate the skin or any other part of the body, and to result in an exposure incident, including, but not limited to, needle devices, scalpels, lancets, broken capillary tubes, exposed ends of dental wires and dental knives, drills, and burs.

(h) "Sharps injury" means any injury caused by a sharp, including, but not limited to, cuts, abrasions, or needle sticks.

(i) "Sharps injury log" means a written or electronic record satisfying the requirements of subsection (4)(d) of this section.

(j) "Small business" means an employer subject to this section with less than eleven employees at any time during the calendar year immediately preceding the current calendar year.

(3) The emergency rules adopted under subsection (1) of this section shall require each employer to conduct product evaluations of needleless systems and sharps, with engineered sharps injury protections commencing by the effective date of the emergency rules. Product evaluations should include, but not be limited to, the following categories of devices as used in the employer’s facilities:

(a) I.V. catheters;

(b) I.V. access devices and I.V. connectors;

(c) Vacuum-tube blood collection devices;

(d) Blood-drawing devices such as phlebotomy needle/tube holders, butterfly-type devices, and syringes;

(e) Syringes used for purposes other than blood drawing;

(f) Suture needles;

(g) Scalpel devices; and

(h) Any other category of device used at the employer’s facility where there is a sharps injury risk.

For each category of device, product evaluations should be conducted by front-line health care workers representing all wards and medical specialties where they are used. The product evaluation period should continue for not less than six months from the date of commencement.

(4) The department shall adopt a standard, as described in subsection (1) of this section, to be developed within six months of the date the emergency rules were issued. However, any violation of this standard within six months of the effective date may result only

in a warning being issued to the offending employer. The standard shall include, but not be limited to, the following:

(a) A requirement that needleless systems and sharps with engineered sharps injury protection be included as engineering and work practice controls. However, the engineering control is not required if:

(i) It is not available in the marketplace;

(ii) An evaluation committee, established by the employer, at least half the members of which are front-line health care workers from a variety of occupational classifications and departments, including but not limited to nurses, nurses aides, technicians, phlybotomists, and physicians, determines by means of objective product evaluation criteria that use of such devices will jeopardize patient or employee safety with regard to a specific medical procedure; or

(iii) The employer can demonstrate by means of objective product evaluation criteria that the engineering control is not more effective in preventing exposure incidents than the alternative used by the employer. In making this determination, the employer must certify:

(A) That the employees using the engineering controls were adequately trained and demonstrated proficiency in utilizing the device before implementation in patient care settings; and

(B) That the device has been used for a period of time sufficient to allow for the normal adjustment period after implementation of new devices.

(b) A requirement that written exposure control plans include an effective procedure for identifying and selecting existing needleless systems and sharps with engineered sharps injury protection. Any procedure adopted should provide that the evaluation committee described in (a) of this subsection has responsibility for identifying and selecting such devices;

(c) A requirement that written exposure control plans be updated when necessary to reflect progress in implementing needleless systems and sharps with engineered sharps injury protection as determined by the evaluation committee described in (a) of this subsection, but in no event should updating occur less than once every year;

(d) A requirement that information concerning exposure incidents be recorded in a sharps injury log, including, but not limited to:

(i) Date and time of the exposure incident;

(ii) Type and brand of sharp involved in the exposure incident; and

(iii) Description of the exposure incident that shall include:

(A) Job classification of the exposed employee;

(B) Department or work area where the exposure incident occurred;

(C) The procedure that the exposed employee was performing at the time of the incident;

(D) How the incident occurred;

(E) The body part involved in the exposure incident;

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

(G) If the sharp had no engineered sharps injury protection, the injured employee’s opinion as to whether and how such a mechanism could have prevented the injury, as well as the basis for the opinion; and

(H) The employee’s opinion about whether any other engineering, administrative, or work practice control could have prevented the injury, as well as the basis for the opinion.

(5) In complying with this section, a small business may:

(a) Evaluate new technology through its own evaluation committee, a joint evaluation committee, established by multiple small business employers, at least half the members of which are front-line health care workers, or an evaluation committee established under the auspices of the department, at least half the members of which are front-line health care workers;

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

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

(6) The department shall: Promulgate additional amendments to the bloodborne pathogen standard necessary to implement this section; and, to the extent that funds are available, evaluate the impact of this section on the reduction of needle stick and sharps injuries and costs of employer operations.

(7) The department of health shall compile and maintain a list of existing needleless systems and sharps with engineered sharps injury protection, that is available to assist employers in complying with the requirements of the bloodborne pathogen standard adopted under this section. The list may be developed from existing sources of

information including, but not limited to, the federal food and drug administration, the federal centers for disease control, the national institute of occupational safety and health, and the United States department of veterans affairs."

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On page 1, line 2 of the title, after "pathogens" insert: ", bloodborne pathogens, and"

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