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HOUSE BILL 2938

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State of Washington                      57th Legislature                      2002 Regular Session

By Representatives Clements, Nixon and Mulliken

Read first time 02/08/2002. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to repealing ergonomics rules; amending RCW  
2 49.17.040 and 49.17.050; adding a new section to chapter 49.17 RCW; and  
3 declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 49.17 RCW  
6 to read as follows:

7            Rules dealing with musculoskeletal disorders, adopted on May 26,  
8 2000, by the director, and codified as WAC 296-62-05101 through 296-62-  
9 05176, shall have no force or effect. The director shall not adopt any  
10 new or amended rules dealing with musculoskeletal disorders that are  
11 substantially the same as these rules.

12            **Sec. 2.** RCW 49.17.040 and 1973 c 80 s 4 are each amended to read  
13 as follows:

14            Except as provided in section 1 of this act, the director shall  
15 make, adopt, modify, and repeal rules ((and regulations)) governing  
16 safety and health standards for conditions of employment as authorized  
17 by this chapter after a public hearing in conformance with the  
18 administrative procedure act and the provisions of this chapter. At

1 least thirty days prior to such public hearing, the director shall  
2 cause public notice of such hearing to be made in newspapers of general  
3 circulation in this state, of the date, time, and place of such public  
4 hearing, along with a general description of the subject matter of the  
5 proposed rules and information as to where copies of any rules (~~and~~  
6 ~~regulations~~) proposed for adoption may be obtained and with a  
7 solicitation for recommendations in writing or suggestions for  
8 inclusion or changes in such rules to be submitted not later than five  
9 days prior to such public hearing. Any preexisting rules adopted by  
10 the department of labor and industries relating to health and safety  
11 standards in work places subject to the jurisdiction of the department  
12 shall remain effective insofar as such rules are not inconsistent with  
13 the provisions of this chapter.

14 **Sec. 3.** RCW 49.17.050 and 1998 c 224 s 1 are each amended to read  
15 as follows:

16 Except as provided in RCW 49.17.040, in the adoption of rules (~~and~~  
17 ~~regulations~~) under the authority of this chapter, the director shall:

18 (1) Provide for the preparation, adoption, amendment, or repeal of  
19 rules (~~and regulations~~) of safety and health standards governing the  
20 conditions of employment of general and special application in all work  
21 places;

22 (2) Provide for the adoption of occupational health and safety  
23 standards which are at least as effective as those adopted or  
24 recognized by the United States secretary of labor under the authority  
25 of the Occupational Safety and Health Act of 1970 (Public Law 91-596;  
26 84 Stat. 1590);

27 (3) Provide a method of encouraging employers and employees in  
28 their efforts to reduce the number of safety and health hazards at  
29 their work places and to stimulate employers and employees to institute  
30 new and to perfect existing programs for providing safe and healthful  
31 working conditions;

32 (4) Provide for the promulgation of health and safety standards and  
33 the control of conditions in all work places concerning gases, vapors,  
34 dust, or other airborne particles, toxic materials, or harmful physical  
35 agents which shall set a standard which most adequately assures, to the  
36 extent feasible, on the basis of the best available evidence, that no  
37 employee will suffer material impairment of health or functional  
38 capacity even if such employee has regular exposure to the hazard dealt

1 with by such standard for the period of his working life; any such  
2 standards shall require where appropriate the use of protective devices  
3 or equipment and for monitoring or measuring any such gases, vapors,  
4 dust, or other airborne particles, toxic materials, or harmful physical  
5 agents;

6 (5) Provide for appropriate reporting procedures by employers with  
7 respect to such information relating to conditions of employment which  
8 will assist in achieving the objectives of this chapter;

9 (6) Provide for the frequency, method, and manner of the making of  
10 inspections of work places without advance notice; and,

11 (7) Provide for the publication and dissemination to employers,  
12 employees, and labor organizations and the posting where appropriate by  
13 employers of informational, education, or training materials calculated  
14 to aid and assist in achieving the objectives of this chapter;

15 (8) Provide for the establishment of new and the perfection and  
16 expansion of existing programs for occupational safety and health  
17 education for employers and employees, and, in addition institute  
18 methods and procedures for the establishment of a program for voluntary  
19 compliance solely through the use of advice and consultation with  
20 employers and employees with recommendations including recommendations  
21 of methods to abate violations relating to the requirements of this  
22 chapter and all applicable safety and health standards and rules (~~and~~  
23 ~~regulations promulgated~~) adopted pursuant to the authority of this  
24 chapter;

25 (9) Provide for the adoption of safety and health standards  
26 requiring the use of safeguards in trenches and excavations and around  
27 openings of hoistways, hatchways, elevators, stairways, and similar  
28 openings;

29 (10) Provide for the promulgation of health and safety standards  
30 requiring the use of safeguards for all vats, pans, trimmers, cut off,  
31 gang edger, and other saws, planers, presses, formers, cogs, gearing,  
32 belting, shafting, coupling, set screws, live rollers, conveyors,  
33 mangles in laundries, and machinery of similar description, which can  
34 be effectively guarded with due regard to the ordinary use of such  
35 machinery and appliances and the danger to employees therefrom, and  
36 with which the employees of any such work place may come in contact  
37 while in the performance of their duties and prescribe methods,  
38 practices, or processes to be followed by employers which will enhance  
39 the health and safety of employees in the performance of their duties

1 when in proximity to machinery or appliances mentioned in this  
2 subsection;

3 (11) Certify that no later than twenty business days prior to the  
4 effective date of any significant legislative rule, as defined by RCW  
5 34.05.328, a meeting of impacted parties is convened to: (a) Identify  
6 ambiguities and problem areas in the rule; (b) coordinate education and  
7 public relations efforts by all parties; (c) provide comments regarding  
8 internal department training and enforcement plans; and (d) provide  
9 comments regarding appropriate evaluation mechanisms to determine the  
10 effectiveness of the new rule. The meeting shall include a balanced  
11 representation of both business and labor from impacted industries,  
12 department personnel responsible for the above subject areas, and other  
13 agencies or key stakeholder groups as determined by the department. An  
14 existing advisory committee may be utilized if appropriate.

15 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of the  
17 state government and its existing public institutions, and takes effect  
18 immediately.

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