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## Commerce & Labor Committee

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### 2SSB 6599

**Brief Description:** Monitoring cholinesterase.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Honeyford, Swecker, Parlette, Haugen, Sheahan and Rasmussen).

#### Brief Summary of Second Substitute Bill

- Requires the Department of Labor and Industries (Department), in implementing any rule on cholinesterase monitoring, to collect and analyze certain data to determine whether cholinesterase testing is warranted.
- Requires the Department to pay for testing costs in 2004, 2005, and 2006 from the Medical Aid Fund.
- Requires any rule on cholinesterase monitoring to allow agricultural employers to seek reimbursement for compliance and recordkeeping costs incurred in 2004, 2005, and 2006 from the Accident Fund.

**Hearing Date:** 2/26/04

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

#### Background:

Exposure to certain pesticides is known to inhibit levels of cholinesterase, a blood enzyme essential to the proper functioning of the nervous system. Blood tests of certain employees are considered to be an acceptable method for determining the extent and effects of exposure to these pesticides.

In 2002 the state Supreme Court issued its decision in *Rios v. Department of Labor and Industries*, and ordered the Department of Labor and Industries "to initiate rule-making on a mandatory cholinesterase monitoring program for agricultural pesticide handlers."

In April 2003 the Legislature passed 2SSB 5890, which required the Department and stakeholders representing agricultural employers and employees to report to the House Commerce & Labor Committee and the Senate Agriculture Committee on the rule making process. The Legislature also specified in the operating budget that \$378,000 from the Department's Accident Account appropriation be used for contracting with medical laboratories to provide cholinesterase monitoring, and to collect and analyze data related to such monitoring.

In December 2003 the Department adopted a rule on cholinesterase monitoring. (The rule took effect February 1, 2004.)

The rule requires agricultural employers to:

- Make cholinesterase monitoring available for employees who handle certain pesticides and meet certain exposure thresholds;
- Make sure employees receive training on the hazards and symptoms of overexposure to the pesticides and the purpose and requirements for monitoring before initial testing;
- Investigate an employee's work practices or remove an employee from handling pesticides depending on the employee's test results;
- Provide up to three months of medical removal protection benefits if an employee is removed from work or assigned other duties; and
- Maintain pesticide handling records and medical monitoring records for seven years.

The rule specifies that the Department will:

- Organize a scientific team to oversee testing data collection and analysis;
- Establish an advisory committee to evaluate issues and provide recommendations related to the Department's implementation of the rule; and
- Make efforts to defray the costs of medical testing during 2004.

### **Summary of Bill:**

Requirements related to a rule on cholinesterase monitoring adopted by the Department of Labor and Industries (Department) are established. The requirements include collecting and analyzing certain data to determine whether mandatory cholinesterase monitoring is warranted, paying certain testing costs, and reimbursing agricultural employers for certain compliance and recordkeeping costs.

### Collection and Analysis of Data

The Department, in implementing any rule on cholinesterase monitoring, must collect and analyze certain data to determine whether mandatory testing is warranted and, if so, what thresholds of exposure to certain pesticides should trigger mandatory testing. The data must include the numbers of employees tested, tests performed, investigations and medical removals required, and investigations and medical removals for which depressed cholinesterase levels are not positively correlated to pesticide handling. In addition, for each employee with substantially depressed cholinesterase levels, the data must include the relationship between the depressed cholinesterase level and the hours of pesticide handling. The Department also must develop a data base to help assess the monitoring program.

The Department must ensure that, for each employee tested in 2004 and 2005, each cholinesterase test measurement is correlated with hours of pesticide handling since the employee's last test. The Department must determine, for each test that requires investigation or medical removal, whether the depressed cholinesterase level was determined to be caused by factors unrelated to workplace

exposure. The Department, upon receiving reports of tests that require investigation or medical removal, may contact employers and offer consultations on pesticide workplace safety.

The Department must report to the House Committees on Agricultural & Natural Resources and Commerce & Labor and the Senate Committees on Agriculture and Commerce & Trade by December 1 of each year. The report must include the results of data collection and analysis, any technical problems regarding testing or administration, and recommendations for legislation needed to resolve any such problems.

#### Payment of Testing Costs

The Department must pay for costs of services related to cholinesterase tests and interpretations of such tests in 2004, 2005, and 2006 from the Medical Aid Fund appropriations for administering the Washington Industrial Safety and Health Act. These services include testing blood samples, interpreting blood tests, and counseling employees who handle certain pesticides.

#### Reimbursement of Compliance and Recordkeeping Costs

Any rule on cholinesterase monitoring must allow agricultural employers to seek reimbursement for compliance and recordkeeping costs incurred in 2004, 2005, and 2006 from the Accident Fund. The costs include training costs and wages and benefits paid to employees for test-related travel time. The rates of reimbursement and procedures for requesting quarterly reimbursements are specified.

**Rules Authority:** The bill does not contain provisions addressing the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.