

Ergonomics

Background and History

The Washington State Department of Labor and Industries (L&I) defines ergonomics as “the science and practice of designing jobs or workplaces to match the capabilities and limitations of the human body.” It is particularly focused on work related musculoskeletal disorders (WMSD), such as carpal tunnel, tendonitis, and back injuries.

L&I began developing rules relating to ergonomics in October 1998 and it released final rules in May 2000. The rules (a) focus on "caution zone jobs" that involve awkward positions, high hand force, repeated impact or repetitive motions; and (b) require employers to "find and fix ergonomic hazards in the workplace." In short, the rule would have required businesses to review jobs to see if they required movements that would put an employee into a caution or hazard zone and then take steps to lower the risk. Ergonomics regulations would have applied to all industries and were originally to be phased-in over five years, starting in July 2002, with larger employers (those with 50 or more FTE) in industries deemed to have the highest risk of WMSD.

Due to the controversial nature of the rules, the Senate passed a bill (ESB 5882) in 2001 that would have delayed the rules' implementation schedule for two years, but the House did not take action on the bill. In March 2002, Governor Locke directed L&I to delay imposition of citations and penalties for two years, pushing back the start of implementation to July 2004.

At the federal level, ergonomics regulations were issued for all states during the Clinton Administration, but Congress repealed them in 2001. In April 2002 OSHA announced it was commencing an "ergonomics action plan" involving "industry and task-specific guidelines." Since then, OSHA has (a) proposed voluntary guidelines for the nursing home industry; (b) identified retail grocery stores and poultry processing as the focus of the next two sets of industry-specific guidelines; and (c) supported the North Carolina Department of Labor's effort to produce voluntary guidelines for the furniture manufacturing industry.

Although the federal government reversed its position with respect to ergonomics, L&I steadfastly continued to pursue implementation of a statewide mandated ergonomics regulation. At the time, California was the only state to implement such a regulation. In 2002, the California Legislature passed a bill that would have required the California Occupational Safety and Health Standards Board to revise its ergonomics regulations by July 1, 2004. However, then-Governor Gray Davis vetoed the bill.

Initiative 841

Numerous experts were asked to determine the financial impact to businesses as a result of L&I's ergonomics rule. All agreed that a significant amount of money would be required by businesses to obtain and maintain compliance. One estimate stated that the rule will cost businesses \$725 million for the first year alone, far greater than the \$80 million predicted by L&I. As a result, some businesses would potentially be forced to reduce their payroll or close their doors altogether.

In response to L&I's actions, Washington's business community, led by the Building Industry Association of Washington (BIAW) filed an initiative to the people in an effort to stop L&I. Washington voters overwhelmingly passed the initiative on November 4, 2003 to repeal L&I's ergonomics rule. Not only did this initiative repeal newly-created ergonomics rules, it further provided that the Director of the Department of Labor and Industries shall not issue new ergonomic rules except to comply with federal law.

Existing Workplace Safety Law

Existing law sets specific standards for workplace safety. Thirty-eight separate sections of Title 49, Chapter 17 of the Revised Code of Washington set out definitions of safety, the rights of employees and the penalties imposed on employers for not providing a safe workplace. Every employer is required to "furnish to each of his employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death." In addition, current state safety rules must meet or exceed federal standards.

Workplace safety has improved dramatically over the years. In the 1930s, injuries on the job killed 38 employees per 100,000 people employed. Today, workplace fatalities have been reduced by 90%. Nationally, workplace ergonomic disorders have declined 26% over the last ten years. Washington has followed this trend. Ergonomic injuries in our state have fallen more than 24% just since 1996. For example, back disorder claims fell 19%; carpal tunnel syndrome claims fell 27%; and neck and arm disorder claims fell 16%.

Supporters of Initiative 841 assert that the falling injury rate shows that the mandatory ergonomics rule was unnecessary, and would have ultimately discouraged employers from continuing voluntary workplace safety programs.