

106TH CONGRESS
2D SESSION

S. 3067

To require changes in the bloodborne pathogens standard in effect under
the Occupational Safety and Health Act of 1970

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2000

Mr. JEFFORDS (for himself, Mr. ENZI, Mr. KENNEDY, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require changes in the bloodborne pathogens standard
in effect under the Occupational Safety and Health Act
of 1970

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Needlestick Safety and
5 Prevention Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Numerous workers who are occupationally
9 exposed to bloodborne pathogens have contracted

1 fatal and other serious viruses and diseases, includ-
2 ing the human immunodeficiency virus (HIV), hepa-
3 titis B, and hepatitis C from exposure to blood and
4 other potentially infectious materials in their work-
5 place.

6 (2) In 1991 the Occupational Safety and
7 Health Administration issued a standard regulating
8 occupational exposure to bloodborne pathogens, in-
9 cluding the human immunodeficiency virus, (HIV),
10 the hepatitis B virus (HBV), and the hepatitis C
11 virus (HCV).

12 (3) Compliance with the bloodborne pathogens
13 standard has significantly reduced the risk that
14 workers will contract a bloodborne disease in the
15 course of their work.

16 (4) Nevertheless, occupational exposure to
17 bloodborne pathogens from accidental sharps inju-
18 ries in health care settings continues to be a serious
19 problem. In March 2000, the Centers for Disease
20 Control and Prevention estimated that more than
21 380,000 percutaneous injuries from contaminated
22 sharps occur annually among health care workers in
23 United States hospital settings. Estimates for all
24 health care settings are that 600,000 to 800,000
25 needlestick and other percutaneous injuries occur

1 among health care workers annually. Such injuries
2 can involve needles or other sharps contaminated
3 with bloodborne pathogens, such as HIV, HBV, or
4 HCV.

5 (5) Since publication of the bloodborne patho-
6 gens standard in 1991 there has been a substantial
7 increase in the number and assortment of effective
8 engineering controls available to employers. There is
9 now a large body of research and data concerning
10 the effectiveness of newer engineering controls, in-
11 cluding safer medical devices.

12 (6) 396 interested parties responded to a Re-
13 quest for Information (in this section referred to as
14 the “RFI”) conducted by the Occupational Health
15 and Safety Administration in 1998 on engineering
16 and work practice controls used to eliminate or mini-
17 mize the risk of occupational exposure to bloodborne
18 pathogens due to percutaneous injuries from con-
19 taminated sharps. Comments were provided by
20 health care facilities, groups representing health care
21 workers, researchers, educational institutions, pro-
22 fessional and industry associations, and manufactur-
23 ers of medical devices.

24 (7) Numerous studies have demonstrated that
25 the use of safer medical devices, such as needleless

1 systems and sharps with engineered sharps injury
2 protections, when they are part of an overall
3 bloodborne pathogens risk-reduction program, can be
4 extremely effective in reducing accidental sharps in-
5 juries.

6 (8) In March 2000, the Centers for Disease
7 Control and Prevention estimated that, depending
8 on the type of device used and the procedure in-
9 volved, 62 to 88 percent of sharps injuries can po-
10 tentially be prevented by the use of safer medical de-
11 vices.

12 (9) The OSHA 200 Log, as it is currently
13 maintained, does not sufficiently reflect injuries that
14 may involve exposure to bloodborne pathogens in
15 health care facilities. More than 98 percent of health
16 care facilities responding to the RFI have adopted
17 surveillance systems in addition to the OSHA 200
18 Log. Information gathered through these surveil-
19 lance systems is commonly used for hazard identi-
20 fication and evaluation of program and device effec-
21 tiveness.

22 (10) Training and education in the use of safer
23 medical devices and safer work practices are signifi-
24 cant elements in the prevention of percutaneous ex-
25 posure incidents. Staff involvement in the device se-

1 lection and evaluation process is also an important
2 element to achieving a reduction in sharps injuries,
3 particularly as new safer devices are introduced into
4 the work setting.

5 (11) Modification of the bloodborne pathogens
6 standard is appropriate to set forth in greater detail
7 its requirement that employers identify, evaluate,
8 and make use of effective safer medical devices.

9 **SEC. 3. BLOODBORNE PATHOGENS STANDARD.**

10 The bloodborne pathogens standard published at 29
11 CFR 1910.1030 shall be revised as follows:

12 (1) The definition of “Engineering Controls”
13 (at 29 CFR 1930.1030(b)) shall include as addi-
14 tional examples of controls the following: “safer
15 medical devices, such as sharps with engineered
16 sharps injury protections and needleless systems”.

17 (2) The term “Sharps with Engineered Sharps
18 Injury Protections” shall be added to the definitions
19 (at 29 CFR 1910.1030(b)) and defined as “a non-
20 needle sharp or a needle device used for withdrawing
21 body fluids, accessing a vein or artery, or admin-
22 istering medications or other fluids, with a built-in
23 safety feature or mechanism that effectively reduces
24 the risk of an exposure incident”.

1 (3) The term “Needleless Systems” shall be
2 added to the definitions (at 29 CFR 1910.1030(b))
3 and defined as “a device that does not use needles
4 for (A) the collection of bodily fluids or withdrawal
5 of body fluids after initial venous or arterial access
6 is established, (B) the administration of medication
7 or fluids, or (C) any other procedure involving the
8 potential for occupational exposure to bloodborne
9 pathogens due to percutaneous injuries from con-
10 taminated sharps”.

11 (4) In addition to the existing requirements
12 concerning exposure control plans (29 CFR
13 1910.1030(c)(1)(iv)), the review and update of such
14 plans shall be required to also—

15 (A) “reflect changes in technology that
16 eliminate or reduce exposure to bloodborne
17 pathogens”; and

18 (B) “document consideration and imple-
19 mentation of appropriate commercially available
20 and effective safer medical devices designed to
21 eliminate or minimize occupational exposure”.

22 (5) The following additional recordkeeping re-
23 quirement shall be added to the bloodborne patho-
24 gens standard at 29 CFR 1910.1030(h): “The em-
25 ployer shall establish and maintain a sharps injury

1 log for the recording of percutaneous injuries from
2 contaminated sharps. The information in the sharps
3 injury log shall be recorded and maintained in such
4 manner as to protect the confidentiality of the in-
5 jured employee. The sharps injury log shall contain,
6 at a minimum—

7 “(A) the type and brand of device involved
8 in the incident,

9 “(B) the department or work area where
10 the exposure incident occurred, and

11 “(C) an explanation of how the incident oc-
12 curred.”.

13 The requirement for such sharps injury log shall not
14 apply to any employer who is not required to main-
15 tain a log of occupational injuries and illnesses
16 under 29 CFR 1904 and the sharps injury log shall
17 be maintained for the period required by 29 CFR
18 1904.6.

19 (6) The following new section shall be added to
20 the bloodborne pathogens standard: “An employer,
21 who is required to establish an Exposure Control
22 Plan shall solicit input from non-managerial employ-
23 ees responsible for direct patient care who are poten-
24 tially exposed to injuries from contaminated sharps
25 in the identification, evaluation, and selection of ef-

1 fective engineering and work practice controls and
2 shall document the solicitation in the Exposure Con-
3 trol Plan.”.

4 **SEC. 4. EFFECT OF MODIFICATIONS.**

5 The modifications under section 3 shall be in force
6 until superseded in whole or in part by regulations promul-
7 gated by the Secretary of Labor under section 6(b) of the
8 Occupational Safety and Health Act of 1970 (29 U.S.C.
9 655(b)) and shall be enforced in the same manner and
10 to the same extent as any rule or regulation promulgated
11 under section 6(b).

12 **SEC. 5. PROCEDURE AND EFFECTIVE DATE.**

13 (a) PROCEDURE.—The modifications of the
14 bloodborne pathogens standard prescribed by section 3
15 shall take effect without regard to the procedural require-
16 ments applicable to regulations promulgated under section
17 6(b) of the Occupational Safety and Health Act of 1970
18 (29 U.S.C. 655(b)) or the procedural requirements of
19 chapter 5 of title 5, United States Code.

20 (b) EFFECTIVE DATE.—The modifications to the
21 bloodborne pathogens standard required by section 3
22 shall—

23 (1) within 6 months of the date of enactment
24 of this Act, be made and published in the Federal
25 Register by the Secretary of Labor acting through

1 the Occupational Safety and Health Administration;

2 and

3 (2) take effect on the date that is 90 days after

4 the date of such publication.

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