

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulation  
Department of Labor, Licensing, and Regulation  
(DLS Control No. 16-228)**

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**Overview and Legal and Fiscal Impact**

This action incorporates by reference the federal Occupational Safety and Health Administration (OSHA) Final Rule on Occupational Injury and Illness Recording and Reporting Requirements – NAICS Update and Reporting Revisions.

The action presents no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulation of COMAR Affected**

**Department of Labor, Licensing, and Regulation:**

Division of Labor and Industry: Employee Injury and Illness Records and Reports:  
COMAR 09.12.21.02

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**Legal Analysis**

**Background**

The Maryland Occupational Safety and Health (MOSH) program within the Department of Labor, Licensing, and Regulation is a state plan that has been approved by OSHA to develop job safety and health programs for Maryland workers. In order to continue operating MOSH, the State, through the Occupational Safety and Health Advisory Board within the department, must propose or recommend rules that (1) are or will be at least as effective in providing safe and healthful employment and places of employment as the corresponding federal rule and (2) do not place a burden on interstate commerce under specified circumstances.

This federal rule updates the Occupational Injury and Illness Recording and Reporting Requirements regulation in several respects. Among the changes, according to the department, the federal rule alters reporting requirements for amputations.

**Summary of Regulation**

The action incorporates by reference the OSHA Final Rule on Occupational Injury and Illness Recording and Reporting Requirements – NAICS Update and Reporting Revisions and makes three types of changes.

First, in incorporating the final rule, the action changes from 2001 to 2014 the effective dates for the various sections of the Code of Federal Regulations that OSHA updated in its recent action.

Second, the action alters various existing amendments to the regulations to reflect MOSH as the appropriate agency for Maryland employers.

Third, the action further clarifies that reporting requirements apply when there has been an amputation “involving bone or cartilage loss.” For example, the regulation substitutes contact information for MOSH for contact information for OSHA to require employers in the State to contact MOSH, rather than OSHA, after an employee’s amputation “involving bone or cartilage loss.”

## **Legal Issues**

This action presents no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The department cites §§ 2-106(b)(4), 5-312, and 5-702 through 5-704 of the Labor and Employment Article as statutory authority for the regulation. Section 2-106(b)(4) generally authorizes the department to adopt regulations that are necessary to carry out Title 5 of the Labor and Employment Article. Section 5-702 authorizes the Commissioner of Labor and Industry to require an employer to keep and make available to the commissioner specified records and reports and to report orally to the commissioner employment accidents within eight hours after it occurs if the accident results in death of an employee or hospitalization of at least three employees. Sections 5-703 and 5-704 concern recordkeeping and report submittal requirements for employers. Section 5-312 is not necessary to justify the regulation but specifies when a public hearing is required and details the process under which the commissioner adopts regulations.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The regulation incorporates by reference the OSHA Final Rule on Occupational Injury and Illness Recording and Reporting Requirements – NAICS Update and Reporting Revisions, alters various existing amendments to the regulations to reflect MOSH as the appropriate agency for Maryland employers, and clarifies reporting requirements apply when there has been an amputation “involving bone or cartilage loss.” The department advises that the regulation has no

impact on State or local governments because the regulation lessens the burden on the department and employers from reporting and processing non-serious injuries. The Department of Legislative Services concurs.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs. The required recordkeeping updates regarding which industries have to maintain records of injuries in the appendix of the federal standard does not apply to businesses with 10 or fewer employees. Additionally, the regulation lessens the burden on employers from reporting non-serious injuries.

### **Contact Information**

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