

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 1033 (Delegate Eckardt, et al.)
Economic Matters

Occupational Safety and Health - Assessment of Civil Penalties

This bill prohibits the Commissioner of Labor and Industry from assessing a civil penalty against an employer who violates provisions of Maryland's Occupational Safety and Health Act (MOSH) if (1) the Commissioner has not previously notified the employer of the violation; (2) the violation is not serious; and (3) the employer corrects the violation within 10 days of being cited.

The bill also specifies that if any provision of the bill would cause the State to lose the authority to administer its occupational safety and health program, the bill would be abrogated.

Fiscal Summary

State Effect: If the bill is not abrogated, general fund revenues would decrease by an estimated \$47,800 in FY 1997. Expenditures would not be affected.

Local Effect: None.

Fiscal Analysis

State Revenues: Similar bills were introduced and passed during the 1995 session of the Maryland General Assembly but were vetoed by the Governor. In response to those bills, the Assistant Secretary of Labor for Occupational Safety and Health (OSHA) sent a letter to the State's Commissioner of Labor and Industry stating,

“...one of the fundamental principles of the Occupational Safety and Health Act of 1970 is the use of civil penalties for first-time violations to deter noncompliance with the requirements of the Act (OSHA). The availability of

civil monetary penalties for employers is intended to be an incentive for employers to voluntarily comply with all pertinent standards prior to being inspected...”

“As a condition of continued plan approval, the Maryland State program is required not only to have available a system of civil penalties as stringent as the federal but to operate in a manner that is ‘at least as effective as’ the federal program.”

The Assistant Secretary concluded that the legislation introduced in 1995 would clearly make Maryland’s Occupation Safety and Health program (MOSH) less effective than OSHA and would necessitate the initiation of a plan withdrawal action under federal OSHA laws. If Maryland’s plan is withdrawn, the federal government would assume responsibility for issuing citations to Maryland employers for occupational safety and health violations and collect revenues from any penalties imposed.

Since the bill provides for abrogation if any provision of the bill causes Maryland to lose authority to administer its MOSH program, it is assumed that the bill would be abrogated and there would be no fiscal impact.

However, if the bill remains effective, State revenues could decrease by \$47,800 in fiscal 1997. This amount reflects a decrease in the monetary penalties collected for non-serious violations of MOSH regulations and is based on the amount of such penalties collected in fiscal 1995.

Additional Comments: The Department of Labor, Licensing, and Regulation advises that MOSH does not assess monetary penalties for other-than-serious violations unless at least 10 such violations have been identified during an inspection.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Fiscal Services

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