Testimony SB-728 Worker Safety and Health-Injury-I Uploaded by: Kasecamp, Larry

Position: FAV

LARRY KASECAMP Legislative Director

TOM CAHILL
Assistant Director

JOHNNY WALKER Secretary



ANNAPOLIS OFFICE 176 Conduit St., Suite 206 Annapolis, MD 21401-2597

PH: 301-697-2695 utusldmd@gmail.com

March 17, 2021

The Honorable Chairman Delores Kelley and Members of the Senate Finance Committee

REPRESENTATIVES

CUMBERLAND Local 600 JASON WEAVER

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EDMONSTON Local 1470 KENZELL CRAWFORD

BALTIMORE Local 610 JOHNNY WALKER

Local 1949 ERIC BILSON

RE: SUPPORT SB-728

As Legislative Director in Maryland for the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Worker's (SMART) we urge your committee to **support SB-728**, " *Labor and Employment – Worker Safety and Health – Injury and Illness Prevention Program.*"

SB-728 would require employers with 10 or more employees, or whose rate of work-related injury and illness exceeds the average incidence rate of all industries in the State, to develop and implement a health and safety committee and an injury and illness prevention program.

When employers work with employees using best practices to find and fix hazards before workers get hurt, the results will help workers stay safe and businesses save money. Through a collaborate and proactive approach in identifying the hazards that are causing the most incidents annually, the Commissioner of Labor & Industry will be able to set standards to address these workplace hazards.

Dozens of states throughout the country have implemented such safety in the workplace programs. It is time for Maryland to set an example that their workers deserve safety in the workplace too.

We all strive for safety in the workplace and SB-728 will go a long way toward ensuring the workers covered by this legislation have a safe place in which to work.

We urge a favorable report on SB-728.

Sincerely

Lawrence E. Kasecamp
MD State Legislative Director
Transportation Division



SB728_FAV-Schneider-COSH.pdf Uploaded by: Schneider, Scott

Position: FAV

Testimony on SB728, Illness and Injury Prevention Programs

Chairwoman Kelley, Vice Chair Feldman. Good afternoon. My name is Scott Schneider. I am a Certified Industrial Hygienist (CIH) and a Fellow Member of the American Industrial Hygiene Association. I have been working as an industrial hygienist for over 40 years and most of my career has been focused on construction safety and health. I retired a few years ago from the Laborers' Health and Safety Fund of North America where I was Director of Occupational Safety and Health for over 17 years. I have been a Maryland resident for over 35 years living in District 20. I am testifying today on behalf of the National Council for Occupational Safety and Health. I am testifying in support of this bill.

Illness and Injury Prevention programs work. I have appended to my testimony a report issued by Federal OSHA in 2012 which recounts the research supporting this statement. Many states already require them. California has required them for 30 years. Why do they require them? Because Illness and Injury Prevention Programs save lives. States with illness and injury prevention program requirements had 31% fewer fatalities than other states. OSHA has estimated that these programs will also reduce injury and illness rates by 15- 35%, saving \$9-\$35 billion dollars in workers compensation payments alone if implemented nationwide. All the companies in OSHA Voluntary Protection Program, which is only available to the nation's best companies, have such programs. The bottom line is you can't really address illness and injuries in your workplace without a plan. You have to outline a systematic approach to prevention. Management commitment and employee involvement are the most important elements of such a plan. Which is where joint health and safety committees come in. One note, for required training, I would suggest training be done in the languages spoken by most workers in that workplace.

Employees are the ones who know the workplace best and are usually the first to recognize and identify hazards at work. They also have the best ideas to fix them. Their active participation, through a joint health and safety committee, helps ensure the success of the entire program. Not all health and safety committees are successful. Their success depends on choosing representatives who are not afraid to speak up, having adequate resources and time, effective training of committee members and giving the committee the authority and budget to act. But having a committee allows the possibility of active involvement of workers and active surveillance of the workplace to identify problems early and allow them to be corrected before an injury occurs. Without such committees it is difficult to solicit and encourage worker input and participation which is so essential to workplace prevention efforts. Committee members should get trained to they can be most effective in their roles.

For these reasons, I encourage you to give a Favorable report for this bill. I'm happy to answer any questions. Thank you.

SB728-OSHAwhite-paper-january2012sm.pdf Uploaded by: Schneider, Scott

Position: FAV



Occupational Safety and Health Administration

U.S. Department of Labor www.osha.gov

Injury and Illness Prevention Programs

White Paper

January 2012

Introduction/Executive Summary

An *injury and illness prevention program*,¹ is a proactive process to help employers find and fix workplace hazards before workers are hurt. We know these programs can be effective at reducing injuries, illnesses, and fatalities. Many workplaces have already adopted such approaches, for example as part of OSHA's cooperative programs. Not only do these employers experience dramatic decreases in workplace injuries, but they often report a transformed workplace culture that can lead to higher



productivity and quality, reduced turnover, reduced costs, and greater employee satisfaction.

Thirty-four states and many nations around the world already require or encourage employers to implement such programs. The key elements common to all of these programs are management leadership, worker participation, hazard identification and assessment, hazard prevention and control, education and training, and program evaluation and improvement.

Based on the positive experience of employers with existing programs, OSHA believes that injury and illness prevention programs provide the foundation for breakthrough changes in the way employers identify and control hazards, leading to a significantly improved workplace health and safety environment. Adoption of an injury and illness prevention program will result in workers suffering fewer injuries, illnesses and fatalities. In addition, employers will improve their compliance with existing regulations, and will experience many of the financial benefits of a safer and healthier workplace cited in published studies and reports by individual companies, including significant reductions in workers' compensation premiums.

describe these types of systems. Regardless of the title, they all systematically address workplace safety and health hazards on an ongoing basis to reduce the extent and severity of work-related injuries and illnesses.

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¹The occupational safety and health community uses various names to describe systematic approaches to reducing injuries and illnesses in the workplace. Consensus and international standards use the term Occupational Health and Safety Management Systems; OSHA currently uses the term Injury and Illness Prevention Programs and others use Safety and Health Programs to

Background

In the four decades since the *Occupational Safety and Health Act* (OSH Act) was signed into law, workplace deaths and reported occupational injuries have dropped by more than 60 percent. Yet the nation's workers continue to face an unacceptable number of work-related deaths, injuries and illnesses, most of them preventable:

- Every day, more than 12 workers die on the job over 4,500 a year.
- Every year, more than 4.1 million workers suffer a serious job-related injury or illness.

An enhanced focus on prevention is needed to bring these numbers down. To accomplish this, an effective, flexible, commonsense tool is available that can dramatically reduce the number and severity of workplace injuries and illnesses: the injury and illness prevention program. This tool helps employers find hazards and fix them *before* injuries, illnesses or deaths occur. It helps employers meet their obligation under the OSH Act to "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees." It also helps employers avoid the significant costs associated with injuries and illnesses in the workplace.

Injury and illness prevention programs are not new, nor are they untested. Most large companies whose safety and health achievements have been recognized through government or industry awards cite their use of injury and illness prevention programs as their key to success. Convinced of the value, effectiveness, and feasibility of these programs, many countries around the world now require employers to implement and maintain them. These countries include Canada, Australia, all 27 European Union member states, Norway, Hong Kong, Japan and Korea. This initiative also follows the lead of 15 U.S. states that have already implemented regulations requiring such programs.

How Does an Injury and Illness Prevention Program Work?

Most successful injury and illness prevention programs include a similar set of commonsense elements that focus on finding all hazards in the workplace and developing a plan for preventing and controlling those hazards. Management leadership and active worker participation are essential to ensuring that all hazards are identified and addressed. Finally, workers need to be trained about how the program works and the program needs to be periodically evaluated to determine whether improvements need to be made.

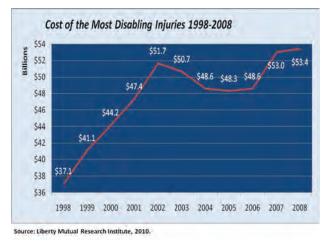
These basic elements – management leadership, worker participation, hazard identification and assessment, hazard prevention and control, education and training, and program evaluation and improvement – are common to almost all existing health and safety management programs. Each element is important in ensuring the success of the overall program, and the elements are interrelated and interdependent.

When it comes to injury and illness prevention programs, every business is different, and one size certainly does not fit all. Employers who implement injury and illness prevention programs scale and adapt these elements to meet the needs of their organizations, depending on size, industry sector or complexity of operations.

What Are the Costs of Workplace Injuries, Illnesses and Deaths to Employers, Workers and the Nation?

The main goal of injury and illness prevention programs is to prevent workplace injuries, illnesses and deaths, the suffering these events cause workers, and the financial hardship they cause both workers and employers.

Workplace incidents cause an enormous amount of physical, financial and emotional hardship for individual workers and their families. Combined with insufficient workers' compensation benefits and inadequate medical insurance, workplace injuries and illnesses can not only cause physical pain and suffering but also loss of employment and wages, burdensome debt, inability to maintain a previous standard of living, loss of home ownership and even bankruptcy. When implemented effectively, injury and illness prevention programs can help workers and their families avoid these disruptive and sometimes calamitous impacts on their lives.



At the same time, these programs will help employers avoid the substantial cost impacts and business disruptions that accompany occupational injuries, illnesses and deaths. One widely-cited source regarding estimates of the magnitude of these costs is the Liberty Mutual Research Institute, which reports the direct cost of the most disabling workplace injuries in 2008 to be \$53 billion (Liberty Mutual Research Institute, 2010).² Another source, the National Academy of Social Insurance (NASI), estimates

the annual workers' compensation benefits paid for all compensable injuries and illnesses in 2009 at \$58 billion (National Academy of Social Insurance, 2011). NASI further reports the total costs paid by employers for workers' compensation increased from \$60 billion in 2000 to \$74 billion in 2009.

In addition to these direct costs, employers incur a variety of other costs that may be hidden or less obvious when an employee is injured or ill, but in most cases involve real expenditures of budget or time. These expenditures are commonly referred to as *indirect* costs and can include:

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²The "most disabling" injuries are defined by Liberty Mutual as those causing the injured employee to miss six or more days from work.

- Any wages paid to injured workers for absences not covered by workers' compensation;
- The wage costs related to time lost through work stoppage;
- Administrative time spent by supervisors following injuries;
- Employee training and replacement costs;
- Lost productivity related to new employee learning curves and accommodation of injured employees; and
- Replacement costs of damaged material, machinery and property.

OSHA has historically used the results of one study (Stanford University, 1981) that found the indirect costs can range from 1.1 (for the most severe injuries) to 4.5 (for the least severe injuries) times the direct costs.³

When workers are killed, are injured or become ill, there are substantial costs beyond those borne by employers. A variety of approaches can be used to estimate these costs. For example, Viscusi and Aldy (2003) provided estimates of the monetary value of each life lost. OSHA updated these estimates (to account for inflation) to 2010 dollars, yielding a value of \$8.7 million for each life lost. Multiplying this value by the 4,547 workplace deaths reported by the Bureau of Labor Statistics for 2010, OSHA estimates the annual cost of known workplace fatalities to be nearly \$40 billion.

"Establishing safety as a value rather than a priority tells our employees and our customers that safety is built into our culture, not something we do to merely comply with regulations.

Our excellent safety performance over the past seven years has been a key factor in reducing our insurance cost. Our low EMR [Experience Modification Rate], incidents rates, and SHARP Management System have impressed our customers and, in many cases, was a key factor in selecting Parsons to perform their project."

- Charles L. Harrington, Chairman & CEO, Parsons Corp.

Source: National Safety Council.

This estimate does not include the cost of non-fatal injuries, or of occupational illnesses like cancer and lung disease. These illnesses generally may occur many years or even decades after workers are exposed and are therefore seldom recorded in government statistics or employer surveillance activities.

The human and economic costs of these conditions are indisputably enormous. Leigh et al. (1997) estimated that more than 60,000 workers die each year from occupational illnesses, and more than 850,000 develop new illnesses annually. Similarly, Steenland et al. (2003) estimated that between 10,000 and 20,000 workers die each year from cancer due to occupational exposures, and between 5,000 and 24,000 die from work-related Chronic Obstructive Pulmonary Disease.

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³For more details see OSHA's Safety and Health Management Systems eTool, available at www.osha.gov/SLTC/etools/safetyhealth/mod1_costs.html.

In summary, the number and costs of workplace injuries, illnesses and fatalities are unacceptably high. Injury and illness prevention programs have been proven to help employers and society reduce the personal, financial and societal costs that injuries, illnesses and fatalities impose. As described below, the thousands of workplaces that have implemented these programs in some form have already witnessed the resulting benefits, in the form of higher efficiency, greater worker productivity and lower costs.

What Is the Evidence that Injury and Illness Prevention Programs Protect Workers and Improve the "Bottom Line"?

Numerous studies have examined the effectiveness of injury and illness prevention programs at both the establishment and corporate levels (e.g., Alsop and LeCouteur, 1999; Bunn et al., 2001; Conference Board, 2003; Huang et al., 2009; Lewchuk, Robb, and Walters, 1996; Smitha et al., 2001; Torp et al., 2000; Yassi, 1998). This research demonstrates that such programs are effective in transforming workplace culture; leading to reductions in injuries, illnesses and

fatalities; lowering workers' compensation and other costs; improving morale and communication; enhancing image and reputation; and improving processes, products and services. The studies also highlight important characteristics of effective programs, including management commitment and leadership, effective employee participation, integration of health and safety with business planning and continuous program evaluation. They suggest that programs without these features are not as effective (Shannon et al., 1996, 1997; Gallagher, 2001; Gallagher et al., 2003; Liu et al., 2008).



Source: Huang et al., 2009. Data based on responses from 231 U.S. companies with 100 or more employees.

One study (Smitha et al., 2001) focused on manufacturing facilities in 13 states with mandatory injury and illness prevention programs and/or mandatory health and safety committee requirements. The authors found that both types of regulations were effective in reducing injury and illness incidence rates. Three of the four states with only safety and health program requirements experienced the greatest reductions in injury and illness rates following promulgation of these mandatory program regulations.

OSHA examined the injury and illness prevention programs in eight states where the state had either required a program or provided incentives or requirements through its workers' compensation programs. The successes of these state programs, which lowered injury and illness incidences by 9 percent to more than 60 percent, are discussed below:

- Alaska had an injury and illness plan requirement for over 20 years (1973 to 1995). Five years after the program was implemented, the net decrease in injuries and illnesses (i.e., the statewide reduction in injuries and illnesses over and above the national decrease during the same time period) for Alaska was 17.4 percent.
- California began to require an injury and illness prevention program in 1991. Five years after this requirement began, California had a net decrease in injuries and illnesses of 19 percent.
- Colorado has a program that allows firms to adopt basic injury and illness prevention program components in return for a workers' compensation premium reduction. The cumulative annual reduction in accidents was 23 percent and the cumulative reduction in accident costs was between 58 and 62 percent.
- Hawaii began to require employers to have injury and illness prevention programs in 1985. The net reduction in injuries and illnesses was 20.7 percent.
- Massachusetts Workers' Compensation program firms receive a premium credit for enrolling in a loss management program. In the first year of this program, firms participating in the program had a 20.8 percent improvement in their loss ratios.
- North Dakota has a program under its workers' compensation program for employers who have a risk management program. The incentive is a 5 percent discount on annual workers' compensation premiums. These risk management programs contain many of the elements of an injury and illness prevention program. They resulted in a cumulative decline for serious injuries of 38 percent over a four-year period.
- Texas had a program under its workers' compensation commission from 1991 to 2005 which identified the most hazardous workplaces. Those employers were required to develop and implement injury and illness prevention programs. The reduction in injuries, over a four-year period (1992-1995), averaged 63 percent each year.
- Washington began requiring establishments to have injury and illness prevention programs in 1973. Five years later the net decrease in injuries and illnesses was 9.4 percent.

OSHA also examined fatality rates and found that California, Hawaii and Washington, with their mandatory injury and illness prevention program requirements, had workplace fatality rates as much as 31 percent below the national average in 2009.

Liu et al. (2008) examined the effectiveness of Pennsylvania's voluntary program that provides workers' compensation premium discounts to employers that establish joint labor-management safety committees. These committees are responsible for implementing several injury and illness prevention program elements: hazard identification, workplace inspection and safety management. The authors found that among program participants there was a strong association between improved injury and illness experience and the level of compliance with the program requirements. This is further evidence that programs with strong management commitment and

active worker participation are effective in reducing injury risk, while "paper" programs are, not surprisingly, ineffective.

The literature on injury and illness prevention programs also includes numerous studies that attempt to identify the critical success features associated with superior health and safety performance. Gallagher (2001) concludes that management commitment and employee involvement are the keys to program success: "[R]ecurring findings across these studies were the critical role played by senior managers in successful health and safety management systems, and the importance of effective communication, employee involvement and consultation."

Worker participation, a fundamental element of injury and illness prevention programs, makes an important contribution to an employer's bottom line. When workers are encouraged to offer their ideas and they see their contributions being taken seriously, they tend to be more satisfied and more productive (Huang et al., 2006). Engaging employees in dialogue with management and each other about safety and health can lead to improved relation-

There are many benefits from developing a safety culture at your company - none of which is more valuable than employee loyalty. When employees know you care about their personal well-being and you prove that to them in their workplace, it increases morale, engagement, awareness, motivation and productivity."

- Daniel R. Nobbe, Plant Leader, Fiberteq LLC, Danville, IL.

Source: National Safety Council.

ships and better overall communication, along with reduced injury rates. Improved employee morale and satisfaction translates to greater loyalty, lower absenteeism and higher productivity.

This body of research, combined with studies of individual companies (see boxes, below, with Case Studies of Programs Implemented under OSHA's Voluntary Protection Program (VPP) and Safety and Health Achievement Recognition Program (SHARP)) demonstrate clearly that injury and illness prevention programs are effective at the establishment level in dramatically reducing risk of workplace injury. This effect has also been detected in state-wide comparisons.

Based on its review of the literature on the effectiveness of these programs and on the experience of the states that have implemented injury and illness prevention program requirements, OSHA estimates that implementation of injury and illness prevention programs will reduce injuries by 15 percent to 35 percent for employers who do not now have safety and health programs. At the 15 percent program effectiveness level, this saves \$9 billion per year in workers' compensation costs; at the 35 percent effectiveness level the savings are \$23 billion per year.⁴ In addition to

⁴If injury and illness prevention programs achieve a 15 percent reduction in injuries and illnesses for employers who do not

compensation savings could reach \$23 billion per year.

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currently have safety and health programs, the overall reduction in injuries and illnesses for all employers including those that already have programs is estimated at 12.4 percent. Applying this 12.4 percent to NASI's estimate of the \$74 billion in direct workers' compensation costs in 2009, workers' compensation savings could be as high as \$9 billion per year. With a 35 percent program effectiveness, the overall reduction in injuries and illnesses for all employers is estimated at 30.8 percent and workers'

these workers' compensation savings, employers could also save indirect costs incurred when an employee is injured or ill. Beyond the monetized benefits of injuries and illnesses averted, and lives saved, nonmonetized costs of workplace injuries and deaths include uncompensated lost wages, the loss of human capital assets, the loss of productivity, the cost of other government benefits required by injured workers or their survivors, the loss of government tax revenues, other business expenses, and other losses not compensated by workers' compensation or other insurance.

How Widespread are Injury and Illness Prevention Programs?

Employers across the United States have implemented injury and illness prevention programs, and many jurisdictions, in the United States and abroad, currently require or encourage implementation of these programs. Currently, 34 U.S. states have established laws or regulations designed to require or encourage injury and illness prevention programs, including 15 states with mandatory regulations for all or some employers.⁵ Other states, while not requiring programs, have created financial incentives for employers to implement injury and illness pre-



Photo: Elena Finizio, Braintree, MA Area Office

vention programs. In some instances this involves providing – or facilitating – workers' compensation insurance premium reductions for employers who establish programs meeting specified requirements. And 16 states, in all three of these groups, provide an array of voluntary guidance, consultation and training programs, and other assistance aimed at helping and encouraging employers to implement injury and illness prevention programs. Depending on the state, these programs apply to all employers, employers above or below a certain size threshold, employers with injury and illness rates above industry average, employers in "high-hazard" industries or employers with above-average workers' compensation experience modification rates.

⁵The 15 states are: Arkansas, California, Hawaii, Louisiana, Michigan, Minnesota, Mississippi, Montana, North Carolina, New Hampshire, Nevada, New York, Oregon, Utah, and Washington.

Summary of	Existing State Programs							
State	Mandatory Regulation	Mandatory Safety Committees	Consulting or Recognition	Insurance Premium Reductions	If mandatory, who is covered? ^a			
Alabama					All employers			
Arkansas					"Hazardous" employers			
California					All employers			
Colorado								
Connecticut					Employers with >25 employees "Hazardous" small employers			
Delaware								
Hawaii					All employers			
Idaho								
Indiana								
Kansas								
Louisiana					Employers with >15 employees			
Michigan					Employers in construction industry			
Minnesota					Employers with >25 employees			
					Committees required for "Hazardous" employers			
Missouri								
Mississippi					All employers			
Montana					Employers with > 5 employees			
North Carolina					"Hazardous" employers Committees required for employers with >5 employees			
North Dakota								
Nebraska					All employers			
New Hampshire					Employers with >10 employees Committees required for employers with >5 employees			
New Mexico								
Nevada					Employers with >10 employees Committees required for employers with >25 employees			
New York					Employers with payroll >\$800K Other "hazardous" employers			
Ohio								
Oklahoma								
Oregon					All construction employers All other employers with >10 employees (except logging and agriculture)			
Pennsylvania								
Tennessee					"Hazardous" employers			
Texas								
Utah					"Hazardous" employers			
Vermont					"Hazardous" employers			
Washington					All employers			
West Virginia					"Hazardous" employers			
Wyoming								

^a States define "hazardous" employers individually, using criteria such as above-average injury incidence rates for their industry or above-average workers' compensation claim experience.

Source: OSHA Directorate of Standards and Guidance.

The more than 2,400 establishments that belong to OSHA's Voluntary Protection Program have programs that are based on the same core elements found in the injury and illness prevention program that OSHA will be proposing. The same is true for OSHA's Safety and Health Achievement Recognition Program, in which more than 1,500 smaller employers are enrolled. Each year, dozens of organizations seeking international recognition for their safety and health program proudly submit applications to the National Safety Council for the Robert W. Campbell award (see text box). Case studies of past winners are available on the Campbell Award website.

Recognizing Business Excellence in Safety and Health

The Robert W. Campbell Award recognizes organizations that achieve business excellence by integrating environmental, health and safety (EHS) management into their business operating systems. The Award aims to:

- Recognize businesses that uphold EHS as a key business value and link measurable achievement in EHS performance to productivity and profitability.
- Establish a validated process by which industries can measure the performance of their EHS operations system against well-tested and internationally accepted key performance indicators.
- Use a rigorous systematic review process to capture and evaluate the successes and lessons learned.
- Share leading edge EHS management systems and best practices for educational purposes worldwide.

The Award program is supported by a network of 22 Global Partners across five continents committed to promoting EHS as an integral component of business management worldwide.

Source: www.campbellaward.org.

There are at least two industry consensus standards for injury and illness prevention programs. The American National Standards Institute (ANSI) and American Industrial Hygiene Association (AIHA) have published a voluntary consensus standard, ANSI/AIHA Z10 – 2005 Occupational Safety and Health Management Systems (ANSI/AIHA, 2005). The Occupational Health and Safety Assessment Series (OHSAS) Project Group, a consortium of selected Registrars, national standards bodies, professional associations and research institutes, has produced a similar document, OHSAS 18001 – 2007 Occupational Health and Safety Management Systems (OHSAS Project Group, 2007). These consensus-based standards have been widely accepted in the world of commerce and adopted by many businesses on a voluntary basis.

OSHA INJURY AND ILLNESS PREVENTION PROGRAMS WHITE PAPER

Canada, Australia and all members of the European Union operate programs that either require employers to adopt injury and illness prevention programs, or provide incentives or recognition to those who do so. For example, under the 1989 EU Framework Directive (89/391), EU member countries must have national legislation in place requiring employers to maintain risk identification and prevention programs that are very similar to OSHA's injury and illness prevention program concept (European Union, 1989). U.S. companies operating internationally are familiar with these requirements and have already put in place their own programs to meet these requirements. Finally, many private workers' compensation carriers offer incentives to employers who have injury and illness prevention programs and provide technical assistance to help them implement their programs.

The United States Departments of Defense (DOD) and Energy (DOE) have both adopted this approach for protecting workers employed or stationed at the nation's military installations and nuclear weapons factories, including DOE's high hazard establishments. The success of DOD's program is described in the box below. DOE's program, entitled Integrated Safety Management, includes an expectation that the facilities will "embrace a strong safety culture where safe performance of work and involvement of workers in all aspects of work performance are core values



Photo: Frank Wenzel, Washington DOSH

that are deeply, strongly, and consistently held by managers and workers." According to DOE, the aspects of this safety culture that impact safety performance are Leadership, Employee/Worker Involvement and Organizational Learning (DOE, 2011).

Despite the value to employers and workers in terms of injuries prevented and dollars saved, many U.S. workplaces have not yet adopted injury and illness prevention programs. Based on the positive experience of employers with existing programs, OSHA believes that injury and illness prevention programs provide the foundation for breakthrough changes in the way employers identify and control hazards, leading to significantly improved workplace health and safety environments. Adoption of injury and illness prevention program will result in workers suffering fewer injuries, illnesses and fatalities. In addition, employers will improve their compliance with existing regulations, and will experience many of the financial benefits of a safer and healthier workplace described in the literature and in reports by individual companies.

The Department of Defense Embraces Injury and Illness Prevention Programs

DOD is committed to keeping workers safe from preventable injuries, and has embraced the safety and health management system approach through its participation in OSHA's Voluntary Protection Programs (VPP). The leaders of our armed forces understand that employees are critical to mission readiness, and recognize the link between lost time injuries and illnesses and lost productivity. The Secretary of Defense has set a goal of reducing preventable injuries by 75 percent from a 2002 baseline, with the ultimate aim of achieving zero injuries. VPP participation has proven a powerful tool in this effort.* The 2009 DOD Safety Perception Survey of Senior Leaders captured many positive comments on VPP Successes. According to the head of the Defense Safety Oversight Council (DSOC), which manages DOD's VPP Program, DOD saw a lost day rate reduction of 41 percent, from 31.5 per 100 full-time workers in FY 2002 (before any VPP programs were implemented) to 18.7 per 100 workers in FY 2009. DSOC publishes a list of the "Top 40" installations with the highest lost day rates. One installation that ranked among the highest of these dropped to one of the lowest in under two years through implementation of VPP. The chart below illustrates some of the dramatic improvements in service-wide injury and illness rate performance, comparing data from before and after VPP participation.

VPP Implementation Impacts on Service-Wide Lost Day Rates (per 100 workers)

	FY 02	FY 09	Rate Reduction	Percent Improvement
All DOD	31.5	18.7	12.8	41%
Army	29.3	17.8	11.5	39%
Navy	39.8	21.2	18.6	46%
Marines	73.8	36.7	37.1	50%
Air Force	25.6	16.5	9.1	36%
Defense Logistics	25.6	16.9	8.7	34%

Source: Angello, 2010.

^{*} As of November 30, 2011 there were 39 DOD sites in VPP and approximately 200 additional sites working towards VPP status (Source: OSHA Directorate of Cooperative and State Programs, 2011).

Case Studies of Programs Implemented under OSHA's Voluntary Protection Program (VPP)

- Hypotherm is a 900-employee, New Hampshire-based manufacturer of high-tech plasma and laser-cutting tools and machines. The company provides an extensive employee training program that emphasizes health and safety as part of an overall focus on quality. Through this investment the firm's highly skilled, safety-oriented workforce has driven a 25 percent reduction in costly machine crashes and down time, and over a 3-year period (2007-2010), the company's workers' compensation costs have fallen by 90 percent. Hypotherm has consistently been named a "Best Place to Work" in the state of New Hampshire and plans to add 100 positions over the next year.
- Allegheny Energy's LM6000 Group operates three combustion turbine facilities in southwestern Pennsylvania. Facing complaints about the use of arc flash hoods required for certain operations (fogging, visibility), the company asked a group of employees to investigate alternatives. The employees identified, evaluated and recommended a power ventilated hood, which the company then purchased. In another case, employees were provided time and resources to identify a way to incorporate fall protection in one particular area. The employees found several locations where vertical lifeline systems could be safely installed and used, and a vendor was brought in to assist with the installation. Involving employees and giving them a role in finding solutions has helped Allegheny Energy foster a culture of safety and remain incident-free since the group began operation.
- Pittsburgh-based McConway & Torley has been producing steel castings, rail couplings, and car-connecting systems for the railroad industry since 1868. The company believes it has the best foundry workers in the world, but also realized that its compliance-focused approach to safety was not enough to prevent workers from getting injured. Working with OSHA, the company began filling gaps in its injury and illness prevention program by following the VPP model. During the process of implementing the VPP program at its two foundries, managers and workers discovered that the required high level of employee involvement really made a difference. With top management's full commitment and support, foundry managers and employees work together to proactively resolve safety issues like repetitive motion problems, to improve work practices and to develop job safety analyses. Employees participate in monthly safety audits, facility-wide inspections, accident investigations and self assessments, and are actively involved in conducting safety training. They feel free to submit ideas for safety improvements – and then they help implement those improvements, a degree of empowerment that continues to make a difference in injury reduction and a safer workplace. The impact of the VPP program was powerful: between 2006 and 2010, McConway & Torley was able to reduce workers' compensation cases in its facilities by 79 percent and reduce related direct costs by 90 percent.

Source: OSHA Directorate of Cooperative and State Programs.

Are Injury and Illness Prevention Programs Too Complicated and Expensive for Small Businesses?

For many small businesses, establishing an injury and illness prevention program may seem daunting. Any program based on formal structures can be difficult to establish in a small organization because of tight budgets. Yet simple, low-cost approaches have been shown to be effective in small businesses (Hasle and Limborg, 2006). Injury and illness prevention programs lend themselves to such low-cost approaches because they are highly flexible – the core elements can be implemented at a basic level suitable for the smallest business, as well as at a more advanced, structured level that may be needed in a larger, more complex organization.

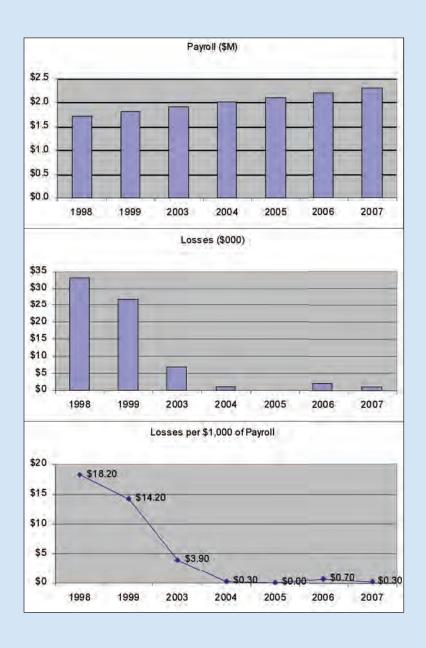
OSHA's Safety and Health Achievement Recognition Program (SHARP), which recognizes small employers that operate exemplary injury and illness prevention programs, provides compelling evidence that such programs can and do work for small businesses. For example, the Ohio Bureau of Workers' Compensation (2011) analyzed the policies of 16 SHARP employers over a 12-year period from 1999 to 2010. The study compared the employers' experience prior to and after achieving entry into the SHARP program. The preliminary results of the study show that the average number of claims for these employers decreased by 52 percent, the average claim cost decreased by 80 percent, the average lost time per claim decreased by 87 percent, and claims (per million dollars of payroll) decreased by 88 percent.

An internal OSHA study of nine SHARP firms, ranging in size from 15 to 160 employees, found that the firms achieved the following as a result of their programs:

- A reduction in the number of injuries and illnesses.
- Improved compliance with regulatory requirements.
- Improved business and cost savings including reduced workers' compensation premiums, reduced administrative and human resources burden associated with filing injury and illness reports, managing workers' compensation cases and training new employees. The companies also experienced improved efficiency in operations and material use, and improved productivity. They were able to leverage their limited health and safety resources.
- An improved workplace environment with greater collective responsibility for workplace health and safety.
- Improved reputation and image in the community including relationships and cooperation between employers and OSHA, between employers and employees, and among employers in the business community.

Small Business Program Example: Anthony Forestry Products

Anthony Forestry Products is a fourth generation, family-owned lumber and wood products company. Its laminated wood products plant in El Dorado, Arkansas employs a staff of 80. The company initiated efforts to improve its safety practices and, in 2001, began working with OSHA's On-Site Consultation Program on a voluntary basis to put in place a working safety and health management system. By 2002, the site was accepted into the SHARP. As a result of this work, the company's workers' compensation loss rate (in losses per \$1,000 of payroll) decreased from \$18.20 in 1998 to \$0.30 in 2007.



Source: ERG (2008).

Conclusions

- Despite the combined efforts of employers, workers, unions, safety professionals and regulators, more than 4,500 workers lose their lives and more than four million are seriously injured each year. Tens of thousands more die or are incapacitated because of occupational illnesses including many types of cancer and lung disease. The human toll from this loss is incalculable and the economic toll is enormous.
- Many employers in the U.S. have been slow to adopt a workplace "safety culture" that emphasizes planning and carrying out work in the safest way possible.
- Injury and illness prevention programs are based on proven managerial concepts that have been widely used in industry to bring about improvements in quality, environment and safety, and health performance. Effective injury and illness prevention programs emphasize top-level ownership of the program, participation by employees, and a "find and fix" approach to workplace hazards.
- Injury and illness prevention programs need not be resource-intensive and can be adapted to meet the needs of any size organization.

OSHA believes that adoption of injury and illness prevention programs based on simple, sound, proven principles will help millions of U.S. businesses improve their compliance with existing laws and regulations, decrease the incidence of workplace injuries and illnesses, reduce costs (including significant reductions in workers' compensation premiums) and enhance their overall business operations.



Photo: Roberto Rodriguez, Mesquite, Texas

References

Alsop, P. & LeCouteur, M. (1999). Measurable success from implementing an integrated OHS management system at Manningham City Council. Journal of Occupational Health & Safety – Australia & New Zealand, 15, 565–572.

Angello, J. (2010). A journey to improved safety performance. The Leader, 19(3), 27-29.

ANSI/AIHA (2005). American National Standard – Occupational Health and Safety Management Systems. ANSI/AIHA Z10–2005.

Bunn, W. B. et al. (2001). Health, safety, and productivity in a manufacturing environment. *Journal of Occupational and Environmental Medicine* 43(1), 47-55.

Bureau of Labor Statistics. (2010). Table A-1. Fatal occupational injuries by industry and event or exposure, All United States, 2010. Available at: http://www.bls.gov/iif/oshwc/cfoi/cftb0241.pdf

Conference Board. (2003). Driving toward "0": Best practices in corporate safety and health.

DOE, (2011). U.S. Department of Energy, Office of Health, Safety and Security. A basic overview of Integrated Safety Management.

European Union, (1989). Council Directive of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. (89/391/EEC).

Gallagher, C. (2001). New directions: Innovative management plus safe place. In W. Pearse, C. Gallagher, & L. Bluff, (eds.) Occupational health & safety management systems: Proceedings of the first national conference (pp. 65-82).

Gallagher, C. et al. (2003). Occupational safety and health management systems in Australia: Barriers to success. *Policy and Practice in Health and Safety* 1(2), 67-81.

Hasle, P. & Limborg, H. (2006). A review of the literature on preventive occupational health and safety activities in small enterprises. *Industrial Health* 44(1), 6-12.

Huang, Y. H. et al. (2006). Safety climate and self-reported injury: Assessing the mediating role of employee safety control. *Accident Analysis and Prevention* 38(3), 425-33.

Huang, Y. H. et al. (2009). Financial decision-makers' views on safety: What SH&E professionals should know. *Professional Safety (April)*, 36-42.

Leigh, J. P. et al. (1997). Occupational injury and illness in the United States: Estimates of costs, morbidity, and mortality. *Annals of Industrial Medicine* 157(14), 1557-1568.

Lewchuk, W., Robb, A., & Walters, V. (1996). The Effectiveness of Bill 70 and Joint Health and Safety Committees in Reducing Injuries in the Workplace: The Case of Ontario. *Canadian Public Policy*, 22, 225-243.

Liberty Mutual Research Institute. (2010). 2010 Liberty Mutual Workplace Safety Index.

OSHA INJURY AND ILLNESS PREVENTION PROGRAMS WHITE PAPER

Liu, H. et al. (2008). The Pennsylvania Certified Safety Committee Program: An Evaluation of Participation and Effects on Work Injury Rates. RAND Working Paper WR-594-PA.

National Academy of Social Insurance. (2011). Workers' Compensation: Benefits, Coverage, and Costs, 2009.

Ohio Bureau of Workers' Compensation. (2011). Ohio 21(d) SHARP Program Performance Assessment.

OHSAS Project Group. (2007). Occupational health and safety management systems – Requirements. OHSAS 18001:2007. Published as a British Standards Institute standard.

Shannon, H. et al. (1996). Workplace organizational correlates of lost-time accident rates in manufacturing. *American Journal of Industrial Medicine*, 29(3), 258-268.

Shannon, H. et al. (1997). Overview of the relationship between organizational and workplace factors and injury rates. *Safety Science*, 26, 201-217.

Smitha, M.W. et al. (2001). Effect of state workplace safety laws on occupational injury rates. *Journal of Occupational and Environmental Medicine*, 43(12), 1001-1010.

Stanford University. (1981). Improving construction safety performance: The user's role (Technical report No. 260). Department of Civil Engineering.

Steenland, K. et al. (2003). Dying for Work: The Magnitude of US Mortality from Selected Causes of Death Associated with Occupation. *American Journal of Industrial Medicine*, 43, 461-482.

Torp, S. et al. (2000). Systematic health, environment, and safety activities: Do they influence occupational environment, behavior and health? *Occupational Medicine*, 50(5), 326-333.

U.S. Department of Energy, Office of Corporate Safety Analysis. (2009a). Occupational Medicine Newsletter. Corporate safety: Health & safety is working!

U.S. Department of Energy, Office of Health, Safety and Security (HSS). (2009b). A basic overview of the worker safety and health program (10 CFR 851). Outreach & Awareness Series to Advance DOE Mission.

Viscusi, W. & Aldy, J. (2003). The value of a statistical life: A critical review of market estimates throughout the world. *Journal of Risk and Uncertainty*, 27, 5-76.

Yassi, A. (1998). Utilizing Data Systems to Develop and Monitor Occupational Health Programs in a Large Canadian Hospital. *Methods of Information and Medicine*, 37, 125-129.

FeldmanAmendment2_SB0728-883127-01.pdf Uploaded by: Struse, Frederica

Position: FAV



SB0728/883127/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

11 MAR 21 16:51:01

BY: Senator Feldman
(To be offered in the Finance Committee)

AMENDMENTS TO SENATE BILL 728

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after "employers" insert ", as part of a certain program,"; in line 5, strike "a"; in the same line, strike "purpose" and substitute "purposes"; strike beginning with "requiring" in line 17 down through "time;" in line 20 and substitute "authorizing an employer to provide a copy of the program in a certain form;"; and in line 25, after "terms;" insert "providing for a delayed effective date;".

AMENDMENT NO. 2

On page 2, after line 11, insert:

"(C) "HAZARD" MEANS A CONDITION OR SET OF CIRCUMSTANCES THAT PRESENTS A POTENTIAL FOR OCCUPATIONAL ILLNESS OR PHYSICAL INJURY.";

in line 12, strike "(C)" and substitute "(D)"; in line 15, strike "EACH" and substitute "AS PART OF A PROGRAM, EACH"; in the same line, strike "10" and substitute "20"; strike beginning with the second comma in line 15 down through "COMMISSIONER," in line 17; in line 19, after "WORKPLACE" insert "AND TO ASSIST WITH ADMINISTERING THE PROGRAM"; in line 23, strike "AN EQUAL NUMBER OF"; in the same line, after "EMPLOYEES" insert ", INCLUDING EXECUTIVE LEVEL EMPLOYEES,"; in the same line, after "AND" insert "AT LEAST AN EQUAL NUMBER OF"; and strike in their entirety lines 25 and 26.

On pages 2 and 3, strike beginning with "(I)" in line 29 on page 2 down through "(6)" in line 17 on page 3.

Feldman

On page 3, in line 18, after "SUGGESTIONS" insert "<u>TO PREVENT INJURY AND ILLNESS</u>"; in line 19, strike "(7)" and substitute "(3)"; in the same line, strike "AT THE REQUEST OF THE COMMISSIONER,"; and in line 22, strike "(8)" and substitute "(4)".

On pages 3 and 4, strike beginning with "SHARING" in line 22 on page 3 down through "CONTROL" in line 2 on page 4 and substitute "EMPLOYEES TO SHARE CONCERNS REGARDING HEALTH AND SAFETY WITHOUT FEAR OF RETALIATION OR REPRISAL".

On page 4, in line 13, strike "10" and substitute "20"; in line 16, strike "A LANGUAGE" and substitute "LANGUAGES"; and in line 23, after "PRACTICES" insert ", IF THE RECOGNITION DOES NOT DISCOURAGE THE REPORTING OF CONCERNS".

On page 6, in line 8, strike "A" and substitute "AND, WHEN APPLICABLE, AN EMPLOYEE'S"; in line 9, strike ", AND MEMBERS OF THE PUBLIC"; and after line 11, insert:

"(2) AN EMPLOYER MAY PROVIDE A COPY OF THE PROGRAM IN ELECTRONIC FORM.".

On pages 6 and 7, strike in their entirety the lines beginning with line 12 on page 6 through line 7 on page 7, inclusive.

On page 7, in lines 18 and 19, strike "DURING THE IMMEDIATELY PRECEDING FISCAL YEAR" and substitute "ACCORDING TO THE COMMISSIONER'S MOST RECENT SUBMISSION TO THE U.S. BUREAU OF LABOR STATISTICS"; in line 29, strike "FOR THE IMMEDIATELY PRECEDING FISCAL YEAR" and substitute "ACCORDING TO THE COMMISSIONER'S MOST RECENT SUBMISSION TO THE U.S. BUREAU OF LABOR STATISTICS"; and in line 30, strike "July" and substitute "January".

SB0728/883127/1 Amendments to SB 728 Page 3 of 3

Feldman

On page 8, in line 1, strike "2021" and substitute "2022".

FeldmanAmendmentSB0728-463224-01.pdf Uploaded by: Struse, Frederica

Position: FAV



SB0728/463224/1

AMENDMENTS
PREPARED
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SERVICES

10 MAR 21 08:31:06

BY: Senator Feldman
(To be offered in the Finance Committee)

AMENDMENT TO SENATE BILL 728

(First Reading File Bill)

On page 2, in line 15, strike "10" and substitute "20"; and in line 17, strike "AS DETERMINED BY THE COMMISSIONER" and substitute "ACCORDING TO THE U.S. BUREAU OF LABOR STATISTICS".

On page 7, strike beginning with "DURING" in line 18 down through "YEAR" in line 19 and substitute "ACCORDING TO THE COMMISSIONER'S MOST RECENT SUBMISSION TO THE U.S. BUREAU OF LABOR STATISTICS"; and in line 29, strike "FOR THE IMMEDIATELY PRECEDING FISCAL YEAR" and substitute "ACCORDING TO THE COMMISSIONER'S MOST RECENT SUBMISSION TO THE U.S. BUREAU OF LABOR STATISTICS".

SB 728_AFSCME3_FWA.pdf Uploaded by: Gilmore , Denise

Position: FWA



Testimony

SB 728 – Labor and Employment – Worker Safety and Health – Injury and Illness Prevention Program Favorable with Amendments

AFSCME Council 3 supports SB 728. This legislation would require employers with 10 or more employees, and those with incidence rates that exceed the average for all industries statewide, to establish health and safety Committees. We support the amendment to increase the employee threshold to 20. SB 728 further requires all employers to establish, implement, and maintain a written injury and illness prevention program (IIPP). Employers are required to work with their health and safety committees on the IIPP where they are required. Finally, SB 728 requires the Commissioner to report to the General Assembly annually on the incident rates in Maryland and promulgate standards specific to the hazards causing above-average incident rates.

SB 728 is important legislation to make Maryland workplaces safer. It promotes a collaborative approach to health and safety between employer and employee. It also proactively helps to identify and abate hazards before workers get hurt which leads to fewer worker injuries and cost-saving for the employer. At Council 3, we have seen firsthand how this approach can work in making worksites safer. In 2011, we negotiated a workplace violence prevention program with the Maryland Department of Health to address patient-on-staff assaults in our State Hospitals. We established health and safety committees made up of equal numbers of employees and employers. These committees followed the IIPP model to find and fix hazards that were contributing to assaults on staff. They met regularly and worked on corrective action plans for their hospitals to implement. They eliminated or mitigated risks that lead to people getting hurt in the facility. Between 2012-2015, our State Hospitals saw a reduction in the total number of patient-to-staff assaults by almost 50%, and some facilities saw close to a 20% reduction in the assaults that lead to serious injury. With fewer staff out on work-related accident leave, some hospitals were better staffed and saved money on overtime costs.

Unfortunately, a new administration came in 2015 and decided not to honor our negotiated workplace violence prevention policy anymore. The health and safety committees were no longer required to do the items the policy prescribed for them to do, and management stopped using data to identify potential hazards. Since 2016, we've had patient riots in 2 facilities. We've had a Direct Care Aid and Licensed Practical Nurse rushed to shock trauma as a result of injuries sustained while patients assaulted them. In the one of the assaults, our member is still dealing with physical limitations two years later. In other the assault, the patient used a metal chair to beat our member so badly he was almost knocked unconscious. We had previously demanded that the furniture be weighted down or replaced with furniture more appropriate for the psychiatric setting but under current law, employees have little recourse if management refuses to fix known hazards. HB 923 would have helped in all of these incidents, and it would have empowered MOSH to enforce that injury and illness prevention planning was occurring.

All Maryland workers deserve to return home safely to their families after their shift. Please provide a favorable report on SB 728.

Every AFSCME Maryland State and University contract guarantees a right to union representation. An employee has the right to a union representative if requested by the employee. 800.492.1996

SB728_AFSCME_FAV.pdfUploaded by: Gilmore , Denise

Position: FWA



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Mike Yestramski Olympia, WA

AFSCME #201-20

Testimony of Keith Wrightson In Support of SB 728 Labor and Employment – Worker Safety and Health – Injury and **Illness Prevention Program Finance Committee** March 12, 2021

AFSCME, representing 50,000 employees in Maryland, strongly supports enactment of Senate Bill 728. This legislation will significantly improve working conditions for all workers in Maryland by requiring employers to implement injury and illness prevention programs (I2P2s).

According to the Bureau of Labor Statistics (BLS), there were 193,400 reported workplace injuries and illnesses in Maryland from 2017 to 2019. Of these, 108,700 were considered serious incidents of worker injury that resulted in days away from work, job transfer or restriction of duties.² Serious injuries causing days away from work are a major concern in Maryland; during this three-year period, more than half (56%) of workplace injuries resulted in at least one day away from work.³

A particular area of concern is the incidence of injuries among Maryland's state and local government workers. During 2019, state and local government workers accounted for 27% of the state's occupational injuries and illnesses.⁴ Of the 17,400 reported among state and local government workers that year, 8,900 were classified as serious injuries and illnesses.⁵

A highly effective way for Maryland to reduce workplace accidents would be to pass this legislation and require employers to institute injury and illness prevention programs. An I2P2 is a take-charge strategy that employers can use to identify and remedy workplace hazards before they cause injuries. Thirty-four states have laws that either require or encourage such approaches, 6 including 15 states with laws mandating I2P2s for all or some employers. Federal law does not require any employers to implement such a program.

¹ Numbers of Nonfatal Occupational Injuries and Illnesses by Industry and Case Types, Maryland, 2017-2019, U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, https://www.bls.gov/iif/oshstate.htm#MD (viewed on March 1, 2021).

² *Id*.

 $^{^3}$ Id.

⁴ *Id*.

⁵ *Id*.

⁶ U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION, INJURY AND ILLNESS PREVENTION PROGRAMS (JANUARY 2012) (viewed on March 1, 2021). https://bit.ly/3uLV5pS.

⁷ The 15 states are: Arkansas, California, Hawaii, Louisiana, Michigan, Minnesota, Mississippi, Montana, North Carolina, New Hampshire, Nevada, New York, Oregon, Utah, and Washington.

I2P2s are a proven way to reduce workplace injury and illnesses. Employers that participate in an I2P2 experience dramatic decreases in workplace injuries. For example, five years after California began requiring employers to institute I2P2s, injuries and illnesses among California workers were down by 19%. In Massachusetts, firms that chose to enroll in the state's program through the workers' compensation insurance system had a 20.8 percent reduction in their workplace loss ratios in the first year. In addition to reducing injury and illness, I2P2s can have other benefits for employers, such as improved productivity.

I2P2s are successful when they incorporate practical elements that focus on finding all hazards in the workplace and developing a plan for preventing and controlling those. Management and worker participation and establishing a safety committee are key to ensuring that all hazards are identified so employees are not placed in harm's way. Worker training on hazard identification also must be at the forefront of any I2P2, and management must be committed to providing such training on an ongoing basis. Senate Bill 728 incorporates all of these elements.

⁸ U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION, INJURY AND ILLNESS PREVENTION PROGRAMS (JANUARY 2012) (viewed on March 1, 2021). https://bit.ly/3uLV5pS.

⁹ Workplace Loss Ratio: the amount of workers' compensation claims costs divided by the amount paid in premium. ¹⁰ U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION, INJURY AND ILLNESS PREVENTION PROGRAMS (JANUARY 2012) (viewed on March 1, 2021). https://bit.ly/3uLV5pS.

SB728 - Maryland Motor Truck Association - Oppose. Uploaded by: Campion, Louis

Position: UNF



Maryland Motor Truck Association

TRUCKING
Moves America Forward

9256 Bendix Road, Suite 203, Columbia, MD 21045 Phone: 410-644-4600 Fax: 410-644-2537

HEARING DATE: March 17, 2021

BILL NO/TITLE: SB728 - Labor and Employment – Worker Safety and Health – Injury and Illness

Prevention Program

COMMITTEE: Senate Finance Committee

POSITION: Oppose

Maryland Motor Truck Association appreciates that Senate Bill 728 is attempting to reduce workplace injuries and illnesses, but the Association opposes this legislation as crafted for the following reasons.

<u>Federal law already mandates safety training in many areas.</u> Truck safety is governed by both Occupational Safety and Health Administration regulations and those of the U.S. Department of Transportation. Among the training subjects that must be covered are:

Use of personal protective equipment

- Operating powered industrial trucks
- Loading dock safety
- Safe lifting techniques

- Driver qualification requirements
- Hours of service
- Driver wellness
- Alcohol and drug testing

Federal law requires numerous safety inspections of vehicles. Under federal law, motor carriers are required to perform periodic preventive maintenance inspections of their vehicles. In addition, drivers must perform a pretrip inspection of their vehicle every day and be satisfied the vehicle is in safe operating condition before taking it on the road. At the end of the day, drivers must conduct a post-trip inspection and document any defects that would affect the safe of operation of the vehicle. Those defects must be repaired before the vehicle may be used again.

It imposes substantial new recordkeeping requirements on employers and GIVES MEMBERS OF THE PUBLIC ACCESS TO THOSE RECORDS. Under SB728, not only do employers have to establish a safety committee and develop a safety program, but all records of mandated quarterly meetings must be retained for at least 2 years and THE COMPANY'S SAFETY PROGRAM MUST BE GIVEN TO MEMBERS OF THE PUBLIC. Many companies have safety programs, committees, and meetings, but those records are not available to the public.

Investing in and improving workplace safety should be a goal of all companies. This protects workers, improves the work environment, and reduces overall expenses (injury costs, insurance premiums, etc.) However, the passage of this legislation duplicates many actions good companies are already taken either voluntarily or as required by law. Passage of this legislation will only place a further burden on those companies attempting to comply with the numerous rules already in place; however, those companies who have chosen not to comply will simply ignore this mandate as they do many others.

For the reasons noted above, Maryland Motor Truck Association respectfully requests an unfavorable report.

<u>About Maryland Motor Truck Association:</u> Maryland Motor Truck Association is a not-for-profit trade association representing the trucking industry since 1935. In service to its 1,000 members, MMTA is committed to supporting and advocating for a safe, efficient, and profitable trucking industry across all sectors and industry types, regardless of size, domicile, or type of operation.

For further information, contact: Louis Campion, (c) 443-623-4223

GCCC Testimony SB 728 Worker Safety Prevention Pla Uploaded by: Christian, Nicole



Testimony offered on behalf of: THE GARRETT COUNTY CHAMBER OF COMMERCE

UNFAVORABLE:

SB 728 - Labor and Employment - Worker Safety and Health - Injury and Illness Prevention Program

Finance Committee March 17, 2021

On behalf of the Garrett County Chamber of Commerce, representing 600 member organizations in Western Maryland, I write to express our opposition to <u>SB 728 – Labor and Employment – Worker Safety and Health – Injury and Illness Prevention Program</u>.

Section 1303 of the bill requires employers of all sizes to establish, implement, and maintain an injury and illness prevention program. Employers with 10 or more employees would be required to create a committee. These requirements are onerous and burdensome to employers, and are a complete overreach by Government into the operations of private business.

Most employers want to provide a safe environment for their workers and this legislation is unwarranted. Most have made good faith efforts following CDC and Maryland guidance to implement safety protocols during the current pandemic. This bill makes the assumption that employers are not looking out for the best interests of their employees. There may be a few bad actors out there but that does not mean all employers should be penalized and burdened with these additional requirements.

Maryland's job creators cannot reasonably be expected to comply with all of the mandates the Legislature is considering this session, especially now, as they struggle to juggle previously passed employer mandates and the operational and economic implications of COVID-19.

The Chamber respectfully requests an **UNFAVORABLE committee report on SB 728**.

Sincerely,

Nicole Christian, CCE, GOM

President & CEO Garrett County Chamber of Commerce, Inc. (301) 387-8745 office (301) 616-0396 mobile nicole@garrettchamber.com



Opposition to SB 728 - Worker safety etc - Prevent Uploaded by: Doherty, Daniel



The Maryland State Dental Association Opposes SB 728 – Labor and Employment – Worker Safety and Health – Injury and Illness Prevention Program Submitted by Daniel T. Doherty, Jr. on behalf of the Maryland State Dental Association

SB 728 would establish a comprehensive and complex Injury and Prevention Program and would require every employer with 10 or more employees to develop and implement such a program. The bill requires the establishment of a health and safety committee, specifies its membership, how often it must meet, directs that it maintains written records and conduct periodic inspections, review investigations, establish communication processes, provide training relating to the program and much more. All of this will be required beginning July 1, 2021. This bill would require dental practices to expend considerable expense and an inordinate amount of time to establish a program of questionable value to its employees and patients.

Under SB 728 what constitutes an employee? Is a sole proprietor an employee? Does the bill intend to include part-time staff as well, even an employee who may work only 8 hours per week? It is not uncommon within dentistry that associate dentists, dental hygienists, and dental assistants work part-time in one or more dental practices. For some dental personnel this is their choice due to family considerations, for others full time employment is not available in one practice, and they therefore work for multiple dental offices. Consider a practice where a sole proprietor has employed one associate dentist, 4 part time dental hygienists, 4 part time dental assistants and a receptionist. Why should SB 728 apply to a dental practice with a sole proprietor and only 2 full time employees?

Dental, medical and other health care practices are different from commercial and industrial businesses. Dental offices are regulated by the Maryland Department of the Environment, The Maryland Department of Health, the State Board of Dental Examiners in addition to OSHA. They must follow strict infection control and sanitation standards prescribed by the CDC, maintain records and safety standards for their x-ray and other imaging equipment, as well as complying with various medical waste mandates. The safety of patients and employees are the prime focus of these various regulatory agencies. To impose the requirements of SB 728 on dental offices, as well as other health care practices, the Maryland State Dental Association (MSDA) contends is inappropriate. In fact, SB 728 reads like a collective bargaining agreement. Its provisions are too detailed and complex for dental offices, and will not enhance their employees' safety and health.

For these reasons the MSDA respectfully requests that SB 728 receive an unfavorable report.

Submitted March 17, 2021 by: Daniel T. Doherty, Jr. 301-606-7553

MD Judiciary - Testimony SB 728.pdf Uploaded by: Elalamy, Sara Position: UNF

MARYLAND JUDICIAL CONFERENCE GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera Chief Judge 187 Harry S. Truman Parkway Annapolis, MD 21401

MEMORANDUM

TO: Senate Finance Committee FROM: Legislative Committee

Suzanne D. Pelz, Esq.

410-260-1523

RE: Senate Bill 728

Labor and Employment – Worker Safety and Health – Injury and

Illness Prevention Program

DATE: February 10, 2021

(3/17)

POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 728. This bill adds Subtitle 13 to Title 5 of the Labor and Employment Article. It establishes a requirement that an employer with 10 or more employees must establish a Health and Safety Committee comprised of an equal number of managerial and non-managerial employees. There is no mention as to the number of employees required to staff a committee. Committee members shall be paid the employee's regular rate of pay for the time spent on committee activities.

This bill raises separation of power concerns as it impedes the Judiciary's independence. Article IV, §18(b)(1) identifies the Chief Judge of the Court of Appeals as the administrative head of the Maryland Judiciary. The power to administer the Judiciary is not an implied or inherent power but is an express constitutional power of the Chief Judge. This constitutional authority includes managing the Judiciary's personnel.

The Judiciary has its own comprehensive personnel system with policies that address recruitment, supervision, grievances, and termination. The Judiciary is exempt from those aspects of the State Personnel Management System. Indeed, in 1996, as part of the comprehensive personnel reform bill, the General Assembly enacted State Personnel and Pensions Article §2-201, which says "Except as otherwise provided by law, an employee in the Judicial, Legislative, or Executive Branch of State Government is governed by the laws and personnel policies and procedures applicable in that branch." The Judiciary, therefore, submits that the same principle should be applied here: that this legislation should not be applied to the Judiciary.

Finally, not only will this bill have a significant operational impact on the Judiciary but it could have a significant fiscal impact on the Judiciary. This cost has not been budgeted by the Judiciary.

cc. Hon. Brian Feldman Judicial Council Legislative Committee Kelley O'Connor

SB0728_UNF_NWRA_Worker Safety & Health - Injury & Uploaded by: Kasemeyer, Pam

Maryland-Delaware Solid Waste Association

a chapter of the



National
Waste & Recycling
Association

Collect. Recycle. Innovate.

TO: The Honorable Delores G. Kelley, Chair

Members, Senate Finance Committee The Honorable Brian J. Feldman

FROM: Pamela Metz Kasemeyer

J. Steven Wise Danna L. Kauffman

DATE: March 17, 2021

RE: **OPPOSE** – Senate Bill 728 – Labor and Employment – Worker Safety and Health – Injury and Illness

Prevention Program

The Maryland Delaware Solid Waste Association (MDSWA), a chapter of the National Waste and Recycling Association, is a trade association representing the private solid waste industry in the State of Maryland. Its membership includes hauling and collection companies, processing and recycling facilities, transfer stations, and disposal facilities. MDSWA and its members **oppose** Senate Bill 728.

This bill states that each employer must establish, implement, and maintain an Injury and Illness Prevention Program (Program). The bill also states that each employer with 10 or more employees, or whose rate of work-related injury and illness exceeds the average incidence rate of all industries in the State as determined by the Commissioner of Labor, must develop, and implement a Health and Safety Committee to promote health and safety in the workplace. An employer with 10 or more employees shall establish the Program in consultation with the Committee.

MDSWA appreciates the intent of Senate Bill 728, however the industry does not believe that this is the right time to be imposing an additional administrative requirement on businesses. The formation of a committee along with reporting and record retention requirements presents a regulatory burden on businesses that are desperately trying to stabilize their operations. Furthermore, the industry has a significant variety of workers with varied responsibilities and job structures and, therefore, it would be virtually impossible for companies to establish a committee structure and plan development that could appropriately address the diversity of job types and related responsibilities.

It is also important to note that employers are already required to comply with stringent workplace regulations and safety protocols through the Maryland Occupational Safety and Health Division of the Department of Labor. Rather than impose a requirement on employers at this time, we believe that a better avenue would be the approach taken in other states to create financial incentives (e.g., tax credits or reduction in premium costs for worker's compensation) for employers to voluntarily implement injury and illness prevention programs. Another suggestion is to have the Commissioner of Labor work more closely with employers by providing voluntary guidance, consultation, training programs, and other assistance to help and encourage the implementation of programs that would be better suited for each employer's operation, rather than a one-size fits all approach. For the reasons stated above, we request an unfavorable report.

For more information call:

Pamela Metz Kasemeyer J. Steven Wise Danna L. Kauffman 410-244-7000

SB0728_UNF_LS,MAADS,HPCNM,MNCHA_Labor and Employme Uploaded by: Kauffman, Danna







TO: The Honorable Delores G. Kelley, Chair Members, Senate Finance Committee

The Honorable Brian J. Feldman

FROM: Danna L. Kauffman

Pamela Metz Kasemeyer

410-244-7000

DATE: March 17, 2021

RE: **OPPOSE** – Senate Bill 728 – *Labor and Employment* – *Worker Safety and Health* – *Injury and Illness*

Prevention Program

On behalf of the LifeSpan Network, the Maryland-National Capital Homecare Association, the Hospice & Palliative Care Network of Maryland, and the Maryland Association of Adult Day Services, we respectfully oppose Senate Bill 728. This bill states that each employer must establish, implement, and maintain an Injury and Illness Prevention Program (Program). The bill also states that each employer with 10 or more employees, or whose rate of work-related injury and illness exceeds the average incidence rate of all industries in the State as determined by the Commissioner of Labor, must develop, and implement a Health and Safety Committee to promote health and safety in the workplace. An employer with 10 or more employees shall establish the Program in consultation with the Committee.

While we appreciate the spirit of Senate Bill 728, we do not believe that this is the right time to be imposing an additional administrative requirement on businesses. The formation of a committee along with reporting and record retention requirements presents a regulatory burden on businesses that are desperately trying to stabilize their operations. It is also important to note that, especially in health care, employers are already required to comply with stringent workplace regulations and safety protocols through the Maryland Occupational Safety and Health Division of the Department of Labor and/or the Maryland Department of Health as well as guidance from the CDC.

Rather than impose a requirement on employers at this time, we believe that a better avenue would be the approach taken in other states to create financial incentives (e.g., tax credits or reduction in premium costs for worker's compensation) for employers to voluntarily implement injury and illness prevention programs. Another suggestion is to have the Commissioner of Labor work more closely with employers by providing voluntary guidance, consultation and training programs and other assistance to help and encourage the implementation of programs that would be better suited for each employer's operation rather than a one-size fits all approach.

For the reasons stated above, we request an unfavorable report.

NFIB - Workplace Health and Safety Committees - SB Uploaded by: O'Halloran, Mike



NFIB-Maryland – 60 West St, Ste. 101 – Annapolis, MD 21401 – www.NFIB.com/Maryland

TO: Senate Finance Committee

FROM: NFIB - Maryland

DATE: March 17, 2021

RE: **OPPOSE SENATE BILL 728** – Labor and Employment – Worker Safety and Health – Injury and Illness Prevention Program

Founded in 1943, NFIB is the voice of small business, advocating on behalf of America's small and independent business owners, both in Washington, D.C., and in all 50 state capitals. With more than 250,000 members nationwide, and nearly 4,000 here in Maryland, we work to protect and promote the ability of our members to grow and operate their business.

On behalf of Maryland's small businesses, NFIB-Maryland opposes Senate Bill 728 – legislation that would require all employers with ten or more employees to establish a "health and safety committee" at their respective workplaces.

Our members appreciate the spirit of SB728 – to ensure the health and safety of all Maryland workers particularly as we battle a global pandemic. Indeed, small business owners are in large part going above and beyond current CDC, state, and local guidelines to protect against the spread of COVID-19.

However, the committees, record retention and subsequent reporting requirements envisioned in SB728 present a regulatory burden especially for our smallest businesses. Employers are already held to stringent workplace regulations via the Maryland Occupational Safety and Health (MOSH) Division under the Department of Labor. The Division's stated mission is:

[MOSH] works to improve the safety and health of Maryland's working men and women in both the public and private sector by providing consultation services, outreach and educational programs, establishing partnerships, settling and enforcing standards, and encouraging continual process improvement in workplace safety and health.

SB728

The workplace committees established under SB728 are duplicative of MOSH's mission at the expense and cost of small business owners. It would exacerbate the already tangled web of regulations they deal with on a day-to-day basis.

Again, NFIB appreciates the sponsor's intent of ensuring the safety of all Maryland workers and our members share the sponsor's sentiment but for the reasons outlined above, **NFIB opposes SB728** and requests an unfavorable committee report.

SB728_LOO_Labor and Employment-Worker Safety and H Uploaded by: O'Keeffe, Kevin



T 301.621.9545 800.470.3013 F 301.912.1665 www.iecchesapeake.com 8751 Freestate Drive Suite 250 Laurel, MD 20723

March 17, 2021

To: Members of the Senate Finance Committee

From: Independent Electrical Contractors (IEC) Chesapeake

Re: Oppose Senate Bill 728 – Labor and Employment – Worker Safety and Health

- Injury and Illness Prevention Program

IEC Chesapeake opposes Senate Bill (SB) 728 and asks for an unfavorable report. IEC Chesapeake believes that SB728 is unnecessary. There are currently Maryland Occupational Safety and Health (MOSH) regulations to address safety issues in the workplace. SB728 applies to businesses with a minimum of ten employees and who have a rate of injury and illness higher than the average of all industries in Maryland. The affected businesses would have to establish a Health and Safety Committee with an equal number of managerial and non-managerial employees. The committee must have a minimum of quarterly meetings. There are training, inspection, and record keeping requirements. IEC Chesapeake believes that during these challenging times for businesses to remain viable, it is unwise public policy to place additional financial and administrative burdens on businesses.

Independent Electrical Contractors (IEC) Chesapeake represents members throughout Delaware, Maryland, Virginia, Pennsylvania, and Washington, D.C. Our headquarters are located in Laurel, Maryland. IEC Chesapeake has an extensive apprenticeship program for training electricians. In addition, IEC Chesapeake promotes green economic growth by providing education and working with contractor members, industry partners, government policy makers and inspectors to increase the use of renewable energy.

Thank you for your consideration. If you have any questions, please contact Grant Shmelzer, Executive Director of IEC Chesapeake, at 1-301-621-9545, extension 114 or at gshmelzer@iec-chesapeake.com or Kevin O'Keeffe at 410-382-7844 or at kevin@kokeeffelaw.com.



SB728_UNF_MRA.pdf Uploaded by: Price, Sarah Position: UNF

MARYLAND RETAILERS ASSOCIATION

The Voice of Retailing in Maryland



SB728 Labor and Employment – Worker Safety and Health – Injury and Illness Prevention Program Finance Committee March 17, 2021

Position: Unfavorable

Background: SB728 would require businesses to establish an injury and illness prevention program that must meet regularly throughout the year.

Comments: The Maryland Retailers Association agrees with the importance of maintaining a safe and healthy workspace; however, the committee structure proposed by SB728 is not feasible for a retail environment.

In a normal year, the retail industry has an average turnover rate of over 60%. The need to regularly hire and train new employees would make it very difficult to fulfill the requirement to maintain a committee such as the one proposed in the bill. Additionally, an employer would need to ensure that all committee members are able to work the same schedule shifts in order to plan regular meetings. This can be difficult to manage as one of the appeals of a retail position is the ability to work a schedule outside of the typical 9-5 window based on an employee's lifestyle needs – there is no guarantee that the employees chosen for the proposed committee would always be available for the same block of time. As for the multitude of issues that committee members would be required to discuss and report on, most retail workers are not qualified to evaluate safety and health standards in a place of work.

In addition to the myriad of difficulties posed by the mandate to form and maintain a health and safety committee that must fulfill all of the duties described in the bill, the requirement to develop an injury and illness prevention program is burdensome to businesses. Business owners and managers are not health and safety experts. We would welcome Maryland Occupational Safety and Health to provide a template program for businesses to follow, but business owners are not qualified to independently develop a plan like that described in SB728.

We again recognize the importance of maintaining a healthy workforce and providing a safe workplace, and we appreciate the intent behind this bill. Ultimately we do not believe that the proposals in SB728 would effectively address what it proposes, due to the issues presented by the nature of scheduling and administrative duties in the retail industry.

SB 728 - MHLA - Rohrer - UNF.pdf Uploaded by: Rohrer, Amy



SB 728 – Oppose Labor & Employment – Worker Safety & Health – Injury & Illness Prevention Program Finance Committee March 17, 2021

Dear Chairwoman Kelly and Members of the Committee:

As the sole statewide trade association dedicated to advocacy for Maryland's lodging industry, we request an unfavorable report on SB 728 due to the overly burdensome and redundant regulations that the bill, if passed, would place upon our industry.

For decades, OSHA has meticulously overseen the health and welfare of employees within the workplace. Policies, procedures and protocols are in place to ensure a healthy work environment with a focus on employee safety. Guidance and regulation from OSHA is fluid and dynamic in nature; constantly being updated and revised. Furthermore, multiple mechanisms already exist for a) employers to inquire about safety policies; and b) employees to report any incidents or hazards that might potentially exist in the workplace.

Additionally, insurance carriers are extremely interested in the quality of the operation of the hotels within their portfolio, as their primary concern is to limit liability and exposure to costly claims. Most properties have annual audits and inspections by their carriers so that the carriers can verify certain policies, procedures and conditions exist. If any deficiencies are discovered, properties have a certain period of cure time to rectify and comply with the carrier's findings.

It is this dual pronged approach of checks and balances, from both the government sector (OSHA) and private sector (insurance carriers), that ensure a safe and healthy work environment exists for our employees.

Any additional requirements mandated by government in this regard would be superfluous, duplicative, and a waste of our members' valuable time and extremely limited resources.

For the reasons expressed in this letter, we oppose SB 728 and request an unfavorable report.

Respectfully submitted,

Amy Rohrer, CAE President & CEO

SB0728.pdfUploaded by: Williams, Peggy

This bill puts an undue financial burden on small businesses. After all the shutdowns in 2020, small businesses are struggling to survive and some may never come back. Given the current situation, this legislation would not incentivize any businesses trying to return. I oppose this legislation. Thank you.

Peggy Williams 103 Wiltshire Ln Severna Park, MD 21146