No. 2001-96

AN ACT

HB 454

Requiring the Department of Health to establish bloodborne pathogen standards for public employees.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Bloodborne Pathogen Standard Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Bloodborne pathogen." A pathogenic microorganism which is present in human blood and can cause disease in humans. The term includes hepatitis B virus (HBV), hepatitis C virus (HCV) and human immunodeficiency virus (HIV).

"Department." The Department of Health of the Commonwealth.

"Employer." An employer having public employees whose duties could reasonably result in occupational exposure to blood or other material potentially containing a bloodborne pathogen.

"Engineered sharps injury protection." Any of the following:

(1) A physical attribute built into a needle device used for withdrawing body fluids, accessing a vein or artery or administering medications or other fluids which effectively reduces the risk of exposure to bodily fluid by a mechanism such as barrier creation, blunting, encapsulation, withdrawal, retraction, destruction or other effective mechanisms.

(2) A physical attribute built into any other type of needle device or into a nonneedle sharp which effectively reduces the risk of exposure to bodily fluid.

"Needleless system." A device which does not utilize needles for:

(1) the withdrawal of body fluids after initial venous or arterial access is established;

(2) the administration of medication or fluids; or

(3) any other procedure involving the potential for exposure to bodily fluid.

"Public employee." An employee of the Commonwealth or a political subdivision employed in a health care facility, home health care organization or other facility providing health care-related services:

(1) whose activities involve contact with a patient or with blood or other body fluid from a patient in a health care or laboratory setting; or

(2) who is responsible for direct patient care with potential occupational exposure to a sharps injury.

The term does not include a licensed individual who provides only intraoral care.

"Sharp." An object used or encountered in a health care setting which can be reasonably anticipated to penetrate the skin or any other part of the body and to result in exposure to bodily fluid. The term includes a needle device, scalpel or lancet, broken glass or a broken capillary tube.

"Sharps injury." An injury caused by a sharp and resulting in exposure to bodily fluid. The term includes any cut, abrasion or needlestick.

"Sharps injury log." A written or electronic record of sharps injuries.

Section 3. Department.

(a) Adoption of standard.—Within six months of the effective date of this act, the department shall adopt a bloodborne pathogen standard governing public employees. The standard shall be at least as prescriptive as the standard promulgated by the Federal Occupational Safety and Health Administration and shall include the following:

(1) A requirement that needleless systems and sharps with engineered sharps injury protection be included as engineering and work practice controls. Engineering controls under this paragraph shall not be required if none is available in the marketplace.

(2) A requirement that each public employee receive education on the use of an engineering control before a control is introduced into the clinical setting.

(3) A requirement that each employer develop and implement an effective written exposure control plan which includes procedures for all of the following:

(i) Updating the written exposure control plan when necessary, but at least once each year, to reflect progress in implementing needleless systems and sharps with engineered sharps injury protection.

(ii) Recording information concerning exposure to bodily fluid in a sharps injury log. This subparagraph includes:

(A) Date and time of the exposure.

(B) Type and brand of sharp involved in the exposure.

(C) Description of the exposure. This clause includes:

(I) Job classification of the exposed public employee.

(II) Department or work area where the exposure occurred.

(III) Procedure which the exposed public employee was performing at the time of the exposure.

(IV) How the exposure occurred.

(V) Body part involved in the exposure.

(VI) If the sharp had engineered sharps injury protection, whether the protective mechanism was activated and whether

the injury occurred before the protective mechanism was activated, during activation of the mechanism or after activation of the mechanism.

(VII) If the sharp had no engineered sharps injury protection, whether and how such a mechanism could have prevented the injury. This subclause requires statement of the basis for the assessment.

(VIII) An assessment of whether any other engineering, administrative or work practice control could have prevented the injury. This subclause requires statement of the basis for the assessment.

(b) Additional measures.—The department shall consider additional measures to prevent sharps injuries or exposure to bodily fluid. This subsection includes training and educational requirements, increased use of vaccinations, strategic placement of sharps containers as close to the work area as practical and increased use of personal protective equipment.

(c) Regulations.—The department may promulgate regulations to implement this act.

Section 4. Employers.

(a) Complaints.—Each employer shall develop and implement compliance monitoring procedures and a complaint process.

(b) Review.—Each employer shall provide its public employees an opportunity to evaluate engineered sharps injury prevention devices and needleless systems in an accident and illness prevention program.

Section 5. Implementation.

The use of a drug or biologic which is prepackaged with an administration system or used in a prefilled syringe and is approved for commercial distribution or investigational use by the United States Food and Drug Administration is exempt from standards adopted under this act for a period of three years from the effective date of this act.

Section 6. Applicability to contractors.

Nothing in this act shall prohibit an employer from applying the principles of this act to a contractor.

Section 7. Effective date.

This act shall take effect in 120 days.

APPROVED—The 13th day of December, A.D. 2001.

MARK S. SCHWEIKER