



Sub. S.B. 183

123rd General Assembly
(As Passed by the General Assembly)

Sens. Brady, Drake, DiDonato, Fingerhut, Furney, Hagan, Herington, Mallory, McLin, Prentiss, Shoemaker, Blessing, Kearns, Spada, Latell, Espy, Wachtmann, Johnson, Gardner, Nein, Oelslager, Armbruster, Horn, Watts

Reps. Ogg, Sutton, J. Beatty, Willamowski, DePiero, R. Miller, Schuler, Jones, Callender, D. Miller, Barnes, Flannery, Verich, Distel, Mottley, Boyd, Bender, Sulzer, James, Ferderber, Hartnett, Schuck, Kilbane, Metelsky, Carey, Wilson, Gerberry, Austria, Stevens, Winkler, Clancy, O'Brien, Gooding, Harris, Cates, Britton, Widener, Barrett, Ford, Perry, Jerse, Jolivette, Patton, Smith, Sykes, Sullivan, Hoops, Salerno

Effective date: *

ACT SUMMARY

- Requires each public employer that employs public health care workers to include, as engineering and work practice controls, needleless systems, products designed with injury protection devices, and other OSHA-compliant devices, but permits an employer to apply for a variance from this requirement.
- Requires each such public employer to develop and implement a written exposure control plan and to ensure that public health care workers are trained in the use of engineering and work practice controls.
- Creates a subcommittee of the Public Employment Risk Reduction Advisory Commission to make recommendations addressing control procedures for the prevention of exposure and requires the Commission to adopt rules based on the recommendations.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

CONTENT AND OPERATION

Public Employment Risk Reduction Program

Under the Public Employment Risk Reduction Program, each public employer in Ohio is required to furnish to each of its public employees a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm and to comply with Ohio employment risk reduction standards, rules, and orders issued under the statutes that created the program (R.C. 4167.04, not in the act).¹ The program is operated by the Ohio Bureau of Employment Services. Effective July 1, 2000, it is transferred to the Ohio Department of Commerce. Rules for the program are adopted by the Public Employment Risk Reduction Advisory Commission, which consists of eight representatives of public employers and eight representatives of public employees.

Under the program, a "public employer" is any agency or organization operated by the state or a local government and a "public employee" is any individual who furnishes services subject to the direction and control of a public employer. "Public employee" includes contract employees, but excludes certain others such as those who furnish emergency medical services, county and municipal correctional officers, and those who do not receive compensation for their services.

Program for risks related to bloodborne pathogens

(sec. 4167.25)

The act establishes new requirements for public employers who employ public health care workers. The requirements concern reducing the risk of spreading bloodborne pathogens, including the viruses that can cause AIDS and hepatitis, through the use of needleless systems, products designed with injury protection devices, and other devices that comply with the bloodborne pathogen standards of the United States Occupational Safety and Health Administration (OSHA).

The act defines the following terms:

¹ *Ohio's Public Employment Risk Reduction Program is distinct from the program operated by the United States Occupational Safety and Health Administration, which covers only private sector employees.*

"Bloodborne pathogen" means a microorganism present in human blood that can cause disease in humans, including the human immunodeficiency virus, the hepatitis B and C viruses, and other pathogenic microorganisms.

"Engineered sharps injury protection" means either 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 that effectively reduces the risk of an exposure incident by a mechanism such as barrier creation, blunting, encapsulation, withdrawal, retraction, destruction, or any other effective mechanism;

(2) A physical attribute built into any other type of needle device, or built into a non-needle sharp, that effectively reduces the risk of an exposure incident.

"Exposure incident" means an occurrence of occupational exposure to blood or other material potentially containing bloodborne pathogens, including exposure that occurs through a sharps injury.

"Public health care worker" means a person who is employed by a public employer to provide health services that carry with them the potential for exposure incidents. The act specifies that "public health care worker" includes a person employed by a public hospital or other public health care facility, a person employed by a public employer to provide home health care, and a person employed by a public employer as a firefighter or an emergency medical technician working at the basic, intermediate, or paramedic level.² "Public health care worker" encompasses other workers, such as county and municipal correctional officers, who are not included in the remaining portion of the Public Employment Risk Reduction Program.

A "public health care worker" does not include a person who is employed by a public employer to provide dental services, treatment, or training or a dental student who is receiving training from a public employer.

"Needleless system" means a device that does not utilize needles for the following:

(1) Withdrawing body fluids after initial venous or arterial access is established;

² *The act includes changes to R.C. 4167.01 for purposes of updating the Public Employment Risk Reduction Program's use of the terms that refer to the levels at which emergency medical technicians are certified.*

- (2) Administering medication or fluids;
- (3) Performing any other procedure involving potential exposure incidents.

"Sharp" means an object used in or encountered when providing health care services that can be reasonably anticipated to penetrate the skin or any other part of the body and result in an exposure incident, including objects such as needle devices, scalpels, lancets, and broken glass.

"Sharps injury" means any injury caused by a sharp, including such injuries as cuts, abrasions, and needlesticks.

Subcommittee

(sec. 4167.26)

The act requires the Public Employment Risk Reduction Advisory Commission to appoint a subcommittee for the purpose of protecting public health care workers from exposure incidents. At all times, at least half the members must be public health care workers who are actively engaged in providing direct care to and for patients. These "front-line" public health care workers must be appointed in such a manner that the membership represents a variety of occupational classifications, including physicians, nurses, nurse aides, laboratory technicians, and phlebotomists.³ At all times, the subcommittee's members must include at least one fire chief; at least one firefighter; at least one emergency medical technician working at the basic, intermediate, or paramedic level; and at least one individual who practices infection control or is an infection control coordinator for a hospital.

Study and product evaluations

The act requires the subcommittee to study methods by which public health care workers can be protected from exposure incidents. The study must include evaluations of needleless systems, products that have been manufactured with engineered sharps injury protection, and other devices that comply with OSHA's bloodborne pathogen standards. The act specifies that before a member may participate in the evaluation of a product, the member must be trained in the proper method of using product evaluation criteria.

³ *Phlebotomists are health care workers who work with blood.*

Recommendations for rules

The act requires the subcommittee to submit recommendations to the Commission for purposes of the Commission's adoption, modification, or rescission of safety rules for public health care workers. In making its recommendations, the subcommittee is to address all of the following:

(1) Creation of a list of needleless systems, sharps that are manufactured with engineered sharps injury protection, and other devices that comply with OSHA's bloodborne pathogen standards. The list may be based on existing sources of information, including the United States Food and Drug Administration, the Centers for Disease Control and Prevention, the National Institute of Occupational Safety and Health, and United States Department of Veterans Affairs;

(2) Establishment of control procedures for the prevention of exposure incidents, including training and educational requirements, increased use of vaccinations, strategic placement of containers for sharps as close to the work area as possible, and increased use of personal protective equipment;

(3) Any other matter the subcommittee considers relevant.

Reports to state regulators

If a subcommittee member represents a profession or a facility in which health care services are provided, and the profession or facility is subject to state regulation, the act requires that the member report the subcommittee's recommendations to the state agency responsible for regulating the profession or facility.

Duties of employers

(sec. 4167.28)

The act requires each public employer of public health care workers to do all of the following:

(1) Include, as part of the employer's engineering and work practice controls, needleless systems, sharps that are manufactured with engineered sharps and injury protection, and other devices that comply with OSHA's bloodborne pathogen standards.

(2) Develop and implement a written exposure control plan that is consistent with the rules adopted under the act, including procedures for the following:

(a) Identifying and selecting needleless systems, sharps that are manufactured with engineered sharps injury protection, and other devices that comply with OSHA's bloodborne pathogen standards;

(b) Updating, at least once a year, the exposure control plan when necessary to reflect progress in implementing needleless systems and sharps that are manufactured with engineered sharps injury protection.

(3) Ensure that all public health care workers are trained in the use of engineering and work practice controls before undertaking any task with potential for exposure incidents.

Records of exposure incidents

(sec. 4167.28)

The act requires each public employer to maintain accurate records of exposure incidents. The records must contain the following information:

- (1) Date and time of the incident;
- (2) Type and brand of sharp involved;
- (3) Job classification of each worker involved;
- (4) The department or work area where the incident occurred;
- (5) The procedure the worker was performing at the time of the incident;
- (6) How the incident occurred;
- (7) The body part involved;

(8) If the sharp involved in the incident was manufactured with engineered sharps injury protection, a specification of whether the incident occurred before, during, or after activation of the protective mechanism;

(9) If the sharp involved was not manufactured with engineered sharps injury protection, an assessment of whether and how the incident could have been prevented by a sharp with protection, and the basis for the assessment;

- (10) Any other relevant description of the exposure incident.

The act specifies that any of the records a public employer maintains pursuant to it may be used by the employer for purposes of complying with the

record-keeping and reporting requirements included in the Public Employment Risk Reduction Program.

Variances

(secs. 4167.09 and 4167.28(B)(1))

Continuing law establishes procedures for applying for a variance from requirements of the Public Employment Risk Reduction Program. The act provides that a public employer may be granted a variance from the act's requirements under the existing procedures. A variance may be granted in either of two cases:

(1) Needleless systems or sharps that are manufactured with engineered sharps injury protection are not available in the marketplace;

(2) The employer determines, with respect to a specific medical procedure, that use of needleless systems or sharps with engineered sharps injury protection would jeopardize patient or employee safety.

Exemption for prepackaged syringes

(sec. 4167.25(B)(2))

Until five years after its effective date, the act permits a public employer to allow a drug or other substance to be administered with a device without engineered sharps injury protection, if the drug or substance is received in a prefilled syringe or any other prepackaged administration system. The syringe or other administration system must be approved for commercial distribution or investigational use by the United States Food and Drug Administration.

Duties of the Public Employment Risk Reduction Advisory Commission

(sec. 4167.27)

The act requires the Public Employment Risk Reduction Advisory Commission to adopt a rule for the prevention of exposure incidents and an Ohio employment risk reduction standard.⁴ The initial rule and standard must be adopted not later than 180 days after the act's effective date. In adopting, modifying, or rescinding the rule or standard, the Commission is required to act in

⁴ *An employment risk reduction standard is a standard requiring conditions, or the use of one or more practices or operations, reasonably necessary or appropriate to provide safe and healthful places of employment.*

accordance with recommendations submitted by the subcommittee created under the act.

The act requires the Commission to provide advice to public employers with regard to their implementation of the requirements established by the Commission's rules.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-02-99	p. 980
Reported, S. Health, Human Services & Aging	01-26-00	p. 1348
Passed Senate (30-0)	01-26-00	p. 1355
Reported, H. Health, Retirement & Aging	04-12-00	p. 1822
Passed House (94-0)	05-09-00	p. 1898
Senate concurred in House amendments (33-0)	05-10-00	pp. 1681-1682

00-SB183.123/jc

