

TerranearPMC Safety Share

Week of February 13, 2012 – The Creation of the Occupational Safety and Health Act

a) Each employer

- (1) Shall 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;
- (2) Shall comply with occupational safety and health standards promulgated under this Act.

The above comes from the original Occupational Safety and Health Act of 1970. It is referred to as the OSHA General Duty Clause, also known as “Section 5a of the OSH ACT” and is one of the most cited regulations used by OSHA to enforce its polices when a specific regulation does not address a particular process where employees are susceptible to getting injured or receiving a health risk.

The chief sponsors of the OSH Act were Democratic Senator Harrison Williams of New Jersey and Republican Representative William Steiger of Wisconsin. As such, the OSH Act has been referred to as the Williams-Steiger Act.

The OSH Act became law under then President, Richard M. Nixon in December 1970. While it has been over 40 years since this law was promulgated, getting this act to become law was no easy feat. Much as the way things are today, there was a give-and-take battle in Washington between major political factions.

The idea and need of a law to protect the American Worker was actually realized in the early 1960s, during the Johnson Administration, when the secretary of Labor, Willard Wirtz, recommended a national program to protect workers. In the wake of alarming revelations about cancer among uranium miners, on 23 January 1968, Johnson adopted Secretary Wirtz's plan and urged Congress to act. Addressing Congress, Secretary Wirtz testified that each year 14,500 workers died, 2 million were disabled, and more than 7 million hurt as a result of industrial accidents, and that these numbers were steadily rising. Unfortunately, because of drastic differences between labor unions and industry and President Johnson's attention drawn to the US commitment in Vietnam (which led to Johnson's decision to not run for re-election in 1968), Congress failed to move forward with the a law to protect workers.

In 1969, President Nixon also called for the enactment of a federal occupational safety and health law, though his proposal was substantially weaker than the one introduced by his predecessor. Republicans in Congress introduced bills reflecting the administration's proposal, and, sensing that some worker safety law must pass, industry switched its position and supported these bills. At the same time, Democrats in Congress introduced stronger legislation supported by the labor unions.

The most controversial debate centered on the scope of the secretary of labor's authority. Democrats favored bills that gave the secretary power to issue occupational safety and health standards, to conduct inspections and impose sanctions, and to adjudicate appeals. Republicans wanted to establish two independent boards appointed by the president, one with authority to issue the standards and the other with authority to decide enforcement appeals. Republicans claimed they did not want to concentrate too much authority in one person, while Democrats worried that a separation of power would result in a weaker law.

Eventually, Republicans and Democrats worked out a compromise solution. The secretary of labor would create and oversee the Occupational Safety and Health Administration, which would have the power to set standards, conduct inspections, and impose penalties for violators. A separate commission, called the Occupational Safety and Health Review Commission (Section 12 of the OSH Act), would adjudicate appeals from businesses fined or otherwise penalized by the secretary of labor. Among other provisions, the compromise bill included a "general duty" clause (mentioned above) for all businesses to keep the workplace free of recognized hazards likely to cause death or serious physical harm. In addition, the compromise granted employees the right to file complaints, accompany inspectors, and participate in Review Commission adjudications, while also prohibiting reprisals against whistleblowers. Ultimately, the House of Representatives voted 308–60 in support of the compromise bill, and the Senate adopted it on a voice vote without debate.

In Section 22 of the OSH Act, the National Institute for Occupational Health (NIOSH), was established. The act grants NIOSH with the authority to develop and establish recommended occupational safety and health standards. It should be noted that NIOSH is an organization within the jurisdiction of the Department of Health and Human Services (not the Department of Labor and therefore, not part of OSHA).

In addition, there is a provision which allows for individual states to establish their own OSH program, which shall be approved by the Secretary of Labor, providing the State program has regulations that are at least as effective as the federal program. Currently, there are 26 states and two territories (US Virgin Islands and Puerto Rico) that have their own OSH program.

Life is like a ten-speed bicycle. Most of us have gears we never use.

- Charles Schulz