PRINTER'S NO. 489

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 454 Session of 2001

INTRODUCED BY O'BRIEN, DAILEY, BELARDI, BENNINGHOFF, CALTAGIRONE, CAPPABIANCA, CAWLEY, CLARK, CLYMER, CORRIGAN, CRUZ, DeLUCA, DeWEESE, FAIRCHILD, FLEAGLE, FRANKEL, GEORGE, GRUCELA, HARHAI, HASAY, HENNESSEY, HERMAN, HORSEY, KENNEY, LAUGHLIN, LEDERER, MANN, McCALL, McNAUGHTON, MELIO, MICOZZIE, MUNDY, ORIE, PIPPY, PRESTON, RUBLEY, SATHER, SAYLOR, SHANER, SOLOBAY, STABACK, STEELMAN, T. STEVENSON, E. Z. TAYLOR, THOMAS, TIGUE, WALKO, C. WILLIAMS, WILT, WOJNAROSKI, YEWCIC AND YOUNGBLOOD, FEBRUARY 5, 2001

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, FEBRUARY 5, 2001

AN ACT

Requiring the Department of Health to establish bloodborne pathogen standards for public employees; and establishing the Bloodborne Pathogen Fund.

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 with 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 an exposure incident 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 an exposure incident.

"Front-line health care worker." A nonmanagerial employee responsible for direct patient care with potential occupational exposure to a sharps injury.

"Fund." The Bloodborne Pathogen Fund established in section 4.

"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 an exposure incident.

"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.

"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 an exposure incident. The term includes a needle device, scalpel or lancet; broken glass; or a broken capillary tube.

"Sharps injury." An injury caused by a sharp. 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 promulgate regulations adopting 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 Review Commission 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:

(i) none is available in the marketplace; or

(ii) an evaluation committee, as described in paragraph (2)(iii)(C)(X), determines by means of objective product evaluation criteria that use of such devices will jeopardize patient or employee safety with regard to a specific medical procedure.

(2) A requirement that each employer develop and implement an effective written exposure control plan which

includes procedures for all of the following:

(i) Identifying and selecting needleless systems and sharps with engineered sharps injury protection through the evaluation committee described in subparagraph (iii)(C)(X).

(ii) 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 as determined by the evaluation committee under subparagraph (iii)(C)(X).

(iii) Recording information concerning exposure incidents in a sharps injury log. This subparagraph includes:

(A) Date and time of the exposure incident.

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

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

(I) Job classification of the exposed public employee.

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

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

(IV) How the incident occurred.

(V) Body part involved in the exposure incident.

(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.

(IX) Ensuring that all front-line health care workers are trained on the use of all engineering controls before they are introduced into the clinical setting.

(X) Establishing an evaluation committee, at least half the members of which are public front-line health care workers from a variety of occupational classifications and departments, including nurses, nurse aides, technicians, phlebotomists and physicians, to advise the employer on the implementation of the requirements of the regulations. Members of the committee shall be trained in the proper method of utilizing product evaluation criteria prior to the commencement of product evaluation.

(b) Additional measures.--The department shall consider

additional measures to prevent sharps injuries or exposure incidents. 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) Transitional period for certain drugs and biologics.--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 Federal Food and Drug Administration is exempt for a standard adopted under subsection (a) or additional measures adopted under subsection (b) for a period of three years from the effective date of this act.

(d) Compilation and maintenance of list.--The department shall compile and maintain a list of needleless systems and sharps with engineered sharps injury protection. The list shall be available to assist employers in complying with the requirements of the regulations promulgated under this section. The list may be developed from existing sources of information, including the Federal Food and Drug Administration, the Federal Centers for Disease Control, the National Institute of Occupational Safety and Health and the United States Department of Veterans Affairs.

Section 4. Fund.--

(a) Establishment.--The Bloodborne Pathogen Fund is established in the State Treasury.

(b) Purposes.--The department shall utilize the fund to do all of the following:

(1) Implement this act.

(2) In needleless systems and sharps with engineered

sharps injury protection, provide for research, development and product evaluation.

(c) Source.--The source of the fund is appropriations.

(d) Continuous appropriation.--The money in the fund is continuously appropriated to the fund. This appropriation shall not lapse at the end of any fiscal year.

Section 5. Effective date.

This act shall take effect in 120 days.