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OCCUPATIONAL SAFETY AND HEALTH AS A CASE STUDY: A REACTION

Allen E. Shapley
Michigan State University

The basic intent of OSHA Act was to preserve human life by reducing accident rates and eliminating serious health hazards in the industrial sector of our economy. This intent was stated in the purpose of the act and was alluded to time and time again during the congressional debates.

Cited as justification for the legislation, were 14,000 work-related deaths and 2,000,000 industrial injuries per year. New discoveries relative to the high rate of cancer connected to working around vinyl chloride and asbestos came in for considerable discussion. One senator referred to it as "industrial carnage."

Arguments to make safety and health standards mandatory were supported by the evidence. Employers who were members of the National Safety Council averaged 4.6 disabling injuries per million hours of work. Employers who were not members of the National Safety Council averaged 15.6 disabling injuries.

Arguments supporting the position that this should be a strong centralized program were primarily to make the employer cost of safety and health uniform among states. Senator Williams, one of the sponsors of the bill, said "small employers cannot make the necessary investment in health and safety and survive competitively unless all are compelled to do so."

Mr. Hodges feels that there was a hidden intent in the act to give federally mandated power to labor unions. I have found no evidence that would strongly support or refute his claim, but I do know that the congress was very strong in its support of this act. The senate passed it 83 to 3. The modified bill from the conference committee was signed by 18 of the 20 members. The final bill passed in the house 308 to 65. This would indicate, to me, that many congressmen who would not be in favor of granting unions additional power still supported the bill.

Mr. Hodges pointed out, and rightly so, that the OSHA Act requires that the administration carry on education and training in the area of occupational safety and health. He argued that the administration has not fulfilled its obligations in this area but instead has spent all its time developing standards and inspecting firms.

To an extent, his claim is correct. OSHA has not done nearly as much in education and training as many of us feel they should. On the other hand, they have done some, much of which is aimed at the industrial sector rather than the agricultural sector. Also, a review of the legislative history of the bill reveals that its sponsors expected industry to do most of its own education and training work.

However, the amount of education and training conducted by OSHA may change in the near future. A new director, Dr. Corn, was appointed to the office late last year. In January he reported that, after reviewing the progress of OSHA, the needs that should have special and immediate attention are in the areas of education and consultation.

But there may be some problems in the response to OSHA's efforts in this area. Some of their educational materials have been of questionable quality (for example, the new beef bulletin aimed at a low literacy audience). Also, there were some earlier bad experiences by those asking for consultation and instead received inspections and were given fines.

An interesting situation exists with Michigan OSHA relative to education and training. Three quarters of 1% of every employer's workman's compensation premium goes to the safety division of the Michigan Department of Labor for education and training efforts. For a number of years Michigan farmers have been treated the same as all other employers relative to workers compensation insurance. Therefore, they too have been contributing to this fund. However, to date, the Michigan Department of Labor has not published a single piece of educational literature or held a single meeting for agricultural employers and workers. Thus, agriculture has been subsidizing education and training in other industries in Michigan.

INTERPRETATION

There is some evidence that the OSHA administration has interpreted the law differently than the intent as seen by the sponsors of the original act. In reviewing the congressional debate over the bill, its sponsors were clearly concerned with the accidents in the very large firms of the industrial sector. The administrative interpretation, on the other hand, has been one of providing safety and health standards to all businesses, large and small, and to those with histories of high and low accident rates.

Some actions of the OSHA administration may not have been as much due to its interpretation as to its response to the pressure of

special interest groups. For example, the administration passed a temporary pesticide reentry standard as a result of pressure from migrant representative groups. The evidence indicated no need for such a standard.

Much of the pressure for other agricultural standards has come from migrant representative groups even though they relate to jobs not held by migrant workers. For example, the rollover protection and machinery guarding standards for agriculture were strongly encouraged by migrant representative groups. Yet 75 percent of the farm accidents which relate to these standards happen on livestock farms where migrants seldom, if ever, work.

It is quite evident that the intent of the bill was to use the "worst first" priority of setting standards instead of the response to pressure as has been indicated in such instances as I have cited.

An issue that has just arisen in Michigan presents clear evidence that the Michigan OSHA administration is interpreting the law considerably different than the intent of the sponsors. Instead of adopting the federal standards on rollover protection and machinery guarding verbatim, Michigan is attempting to write its own standards which will be considerably more comprehensive.

For example, the federal machinery guarding standard applies only to new equipment manufactured and built after October 25, 1976, but Michigan wants to include a "retrofit" clause which will require all old machinery also to be adequately guarded. This action goes completely against the intent of the bill. It proves the point I made earlier about the need for uniform safety measures among states, in part, so that small employers could be competitive.

CONCLUSIONS

OSHA has had a stormy beginning. Due to its emphasis on standards, inspections, and "gestapo" techniques, it has created many enemies. Last year there were some 80 bills in congress to strongly modify or eliminate the OSHA law. Because of this clear evidence of discontent and, also because of a normal maturation process, we will see some changes in the OSHA administration.

More emphasis will be placed on education and training. Greater efforts will be made to cooperate with employers in consultation and special design. Greater concern will be made evident over the economic impact of a standard before it is applied.

This is not to say that there will be no more standards or a sharp decrease in the rate at which standards will be imposed. To the contrary, we will see more standards. However, I think these standards will be more palatable and more effective as a result of more and better research ahead of time.

I personally believe that the legislative intent of OSHA was sincere, proper, and that now the interpretation is beginning to fall more closely in line with that intent. Right now my fear is that the individual states will make their own interpretations which will be in conflict with some of the original intent of the Occupational Safety and Health Act.