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H.824

Introduced by Representatives Botzow of Pownal and Marcotte of Coventry

Referred to Committee on

Date:

Subject: Labor; safety; occupational safety and health

Statement of purpose of bill as introduced: This bill proposes to create an expedited rulemaking process that will permit the Commissioner of Labor to adopt federal OSHA standards and rules without undertaking formal rulemaking pursuant to Vermont's Administrative Procedure Act.

An act relating to the adoption of occupational safety and health rules and standards

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. [Deleted.]

~~Sec. 1. 21 V.S.A. § 204 is amended to read:~~

~~§ 204. RULES AND PROCEDURE~~

~~(a)(1) Notwithstanding any provision of 3 V.S.A. chapter 25 to the contrary, the Commissioner may adopt and begin enforcement of safety and health rules and standards that are substantially identical to the safety and health rules and standards adopted by the federal Occupational Safety and~~

1 ~~Health Administration after providing 90 days' public notice of the intent to~~
2 ~~adopt such rules and standards.~~

3 ~~(2) Chapter 25 of Title 3 3 V.S.A. chapter 25, relating to administrative~~
4 ~~procedure, shall only apply to this chapter and the VOSHA Code if the~~
5 ~~Commissioner seeks to adopt rules or standards that exceed the corresponding~~
6 ~~rules or standards adopted by the federal Occupational Safety and Health~~
7 ~~Administration.~~

8 ~~***~~

9 Sec. 2. 21 V.S.A. § 224 is amended to read:

10 § 224. RULES AND STANDARDS

11 ***

12 (b) The Commissioner, in consultation with the Secretary of Human
13 Services, shall adopt rules and standards necessary to implement the purposes
14 of the VOSHA Code and duties thereunder, insofar as they relate to health.
15 ~~The Secretary of Human Services shall furnish the Department certified copies~~
16 ~~of the rules made under this subsection, and the rules shall be published under~~
17 ~~the rules of the Department by the Secretary of State.~~

18 ***

19 (d) Where appropriate, a standard ~~promulgated by~~ adopted in consultation
20 with the Secretary of ~~human~~ Human Services may prescribe the type and
21 frequency of medical examinations or other tests which shall be made available

1 by an employer or at the expense of the employer, to employees exposed to
2 health hazards in employment, in order to effectively determine whether the
3 health of the employee is adversely affected by exposure to the hazard. In the
4 event medical examinations are in the nature of research, as determined by the
5 Secretary of Human Services, such examinations may be furnished at the
6 expense of the State. The results of the examinations or tests shall be furnished
7 only to the Secretary of Human Services, the Commissioner of Health, the
8 Director of Occupational Health, the Commissioner of Labor, and at the
9 request of the employee, to the employee's physician and the employee.

10 (e) The Commissioner ~~or~~ in consultation with the Secretary, in
11 ~~promulgating~~ adopting standards dealing with toxic materials or harmful
12 physical agents under this section, shall set the standard which most adequately
13 ~~assures~~ ensures, to the extent feasible, on the basis of the best available
14 evidence, that no employee will suffer material impairment of health or
15 functional capacity even if such employee has regular exposure to the hazard
16 dealt with by such standard for the period of his or her working life.
17 Development of standards under this subsection shall be based upon research,
18 demonstrations, experiments, and such other information as may be
19 appropriate. In addition to the attainment of the highest degree of safety and
20 health protection for the employee, other considerations shall be the latest
21 available scientific data in the field, the feasibility of the standards, and

1 experience gained under this and other safety and health laws. Whenever
2 practicable, the standard ~~promulgated~~ adopted shall be expressed in terms of
3 objective criteria and of the performance desired.

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on July 1, 2016.