

Furthermore, vetoing this bill will avoid the substantial problems that could occur during the withdrawal process. For example, OSHA could assert concurrent jurisdiction with MOSH over Maryland employers. Subjecting employers to concurrent jurisdiction is certain to lead to confusion and frustration. Although MOSH would still have enforcement authority, (and hence the abrogation provision of the bill would not operate), OSHA could issue penalties for the violations covered by this bill. Loss of federal funding could also result.

In conclusion, our MOSH program is valued by both employers and labor. According to the Commission of Labor, Maryland has the third lowest incident/illness rate in the nation. MOSH works diligently to save lives and prevent occupational injuries and illness through consultation, training and employment. If OSHA itself adopts penalty relief provisions, which the Labor Commissioner has been advised OSHA is considering, I would look forward to signing into law a bill that provides common sense regulatory relief so long as worker safety and health are not compromised.

For these reasons, I have vetoed Senate Bill 270.

Sincerely,
Parris N. Glendening
Governor

May 22, 1995

The Honorable Parris N. Glendening
Governor of Maryland
State House
Annapolis, Maryland 21401

Re: House Bill 259 and Senate Bill 270

Dear Governor Glendening:

We have reviewed for constitutionality and legal sufficiency House Bill 259 and Senate Bill 270, companion bills on the subject of Occupational Safety and Health – Assessment of Civil Penalties¹. The bills amend § 5-809 of the Labor and Employment Article to prohibit the Commissioner of Labor and Industry from assessing an employer a penalty for a first violation of a Maryland Occupational Safety and Health (“MOSH”) program regulation, if the violation is not a serious one and the employer corrects it within 10 days after issuance of the citation alleging the violation. While the bills may constitutionally be enacted, we note that implementation of either bill could conflict with federal law, resulting in a variety of possible federal actions, including withdrawal of federal funding, or displacement of MOSH. Moreover, an abrogation provision in Section 2 of the bills does not guarantee that such results would not occur.

To retain the MOSH program, Maryland must operate it in a manner that is at least as effective as that of the federal Occupational Safety and Health Administration (“OSHA”) of the Department of Labor. A substantial failure to comply with this requirement permits OSHA to assert concurrent jurisdiction with the State or to terminate the State’s program altogether. OSHA has advised the Commissioner that if