

always preferable. Maryland's MOSH program is valued by employers and employees throughout the State. Maryland is permitted to operate its own occupational safety and health program because it has received approval from the Occupational Safety and Health Administration (OSHA) to do so. This approval means that MOSH, rather than OSHA, is the agency responsible for adopting and enforcing occupational safety and health regulations in Maryland. Obtaining and retaining approval to operate a State plan is, however, contingent upon the State plan being and remaining at least as effective as the program operated by OSHA. OSHA has already indicated in writing that the penalty provisions in this bill render Maryland's program less effective than that of OSHA, and that it would have "no alternative but to institute a proceeding...to withdrawal approval of the Maryland State Plan."

The General Assembly expressly sought to avoid this outcome. Section 2 provides that if implementation of any part of the bill "would result in the loss of the authority of the State...to administer a State occupational safety and health program, [they] shall be abrogated and of no further force and effect." While it can be argued that this provision adequately protects the State's interest in retaining the MOSH program, it is wasteful of State and federal resources to knowingly trigger a process which is likely to have an adverse outcome, and which the Legislature sought to avoid.

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 House Bill 259.

Sincerely,  
Parris N. Glendening  
Governor

May 22, 1995

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