

Proposed Kansas State OSHA Plan

Legislative Update, Background and Impacts

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Current Law

AN ACT concerning workplace safety; authorizing and directing the secretary of labor to make a study of whether the state should enter into an agreement with the federal government regarding state enforcement of federal occupational safety and health act standards.

Complete Study by January 12, 2015

Signed into Law May 12, 2014



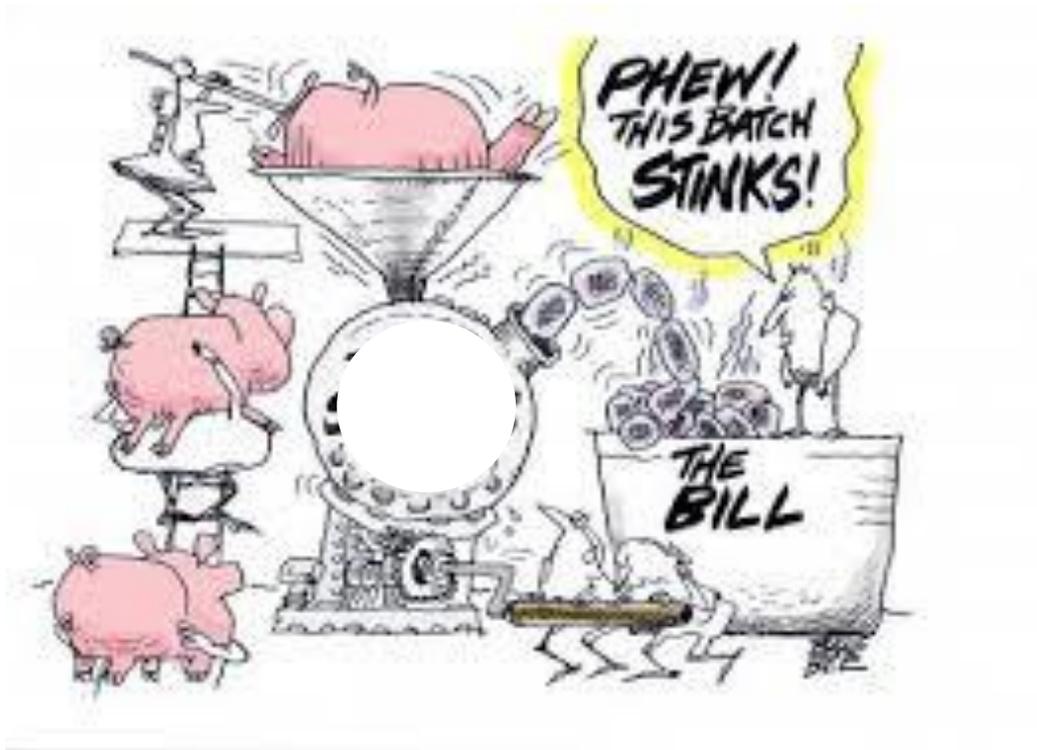
Elements of the Law

- (1) ... whether to sign an agreement....
- (2) identify agreements necessary to carry out the purposes of such plan;
- (3) review funding arrangements necessary for the state to finance a plan for state enforcement of such standards;
- (4) review statutory and rule and regulation changes necessary to carry out such a plan;

Elements of the Law (cont')

- (5) estimate additional staff and positions required to implement such a plan;
- (6) identify steps needed for interaction with the federal government in ways that are reasonably designed to carry out the purposes of this subsection; and
- (7) review such other matters as may be necessary in making the study.

The Art of Making Sausage



Introduced
2-11-14

Passed House
2-27-14

Passed Sen.
3-24-14

Became Law
5-12-14

Testimony

Support

General Contractors Association
Wichita Metro Chamber
Individual Companies

Opposed

AFL-CIO
American Subcontractors Assoc.
Kansas State Building Trades
Individual Companies



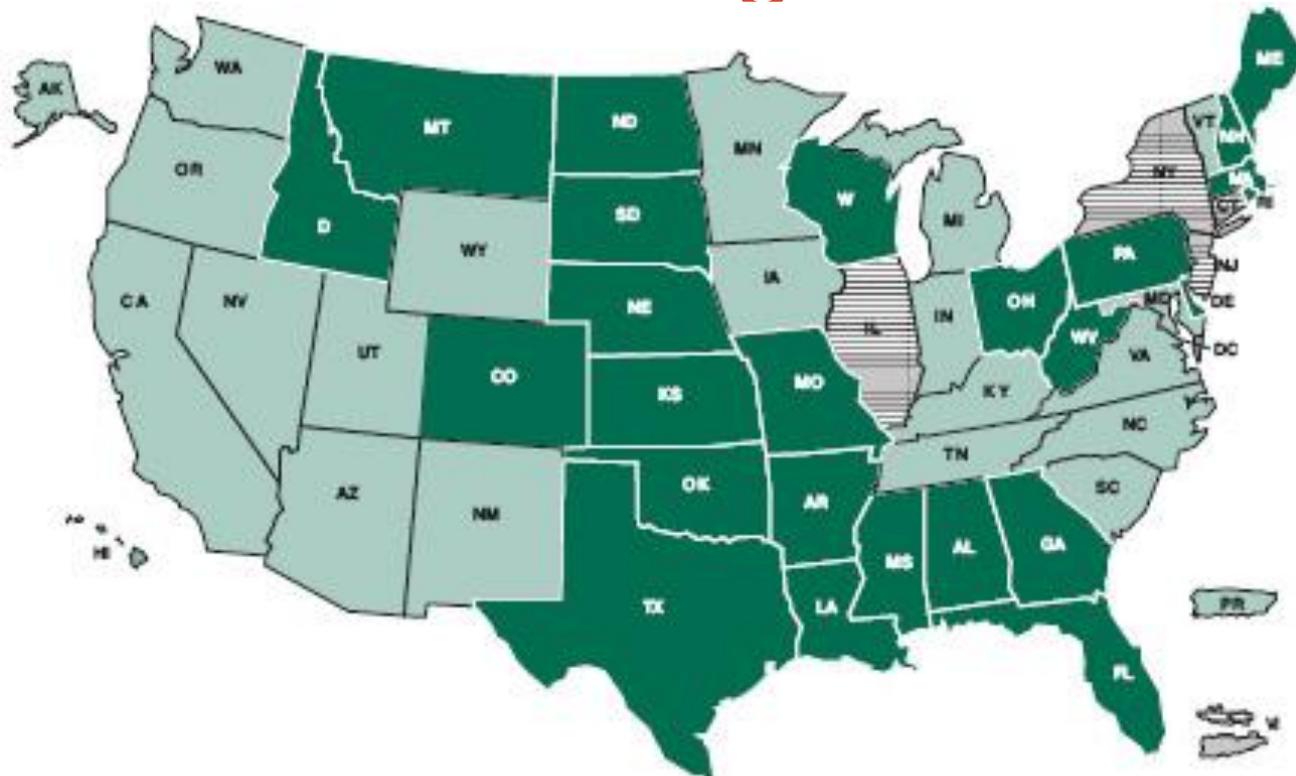


Bill Voting

House Passed 93 to 30
3 Dems Voted For
1 Rep Voted Against

Senate Passed 32 to 8
Party Line Vote

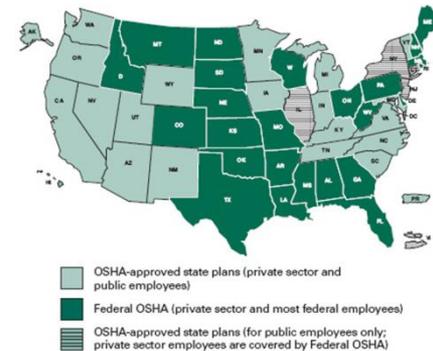
Federal vs State Programs



-  OSHA-approved state plans (private sector and public employees)
-  Federal OSHA (private sector and most federal employees)
-  OSHA-approved state plans (for public employees only; private sector employees are covered by Federal OSHA)

Program Differences*

	Federal	State
Inspections-Total	40,950	51,281
Safety	33,598	39,286
Health	7,352	11,995
Complaints	9,568	9,246
Programmed	23,082	28,489
Construction	22,507	20,773
Maritime	386	36
Manufacturer	8,399	7,892
Other	9,654	22,580



* Data from OSHA IMIS Inspection Report 2012

Program Differences*

	Federal	State
Violations – Total	78,760	109,688
Willful	424	195
Repeat	3,031	1,908
Serious	57,155	50,330
Unclassified	1	11
Other	18,038	56,934
FTA	107	310



* Data from OSHA IMIS Inspection Report 2012

Program Differences



	Federal	State
Penalties – Total (\$)	168,842,092	71,489,790
Willful	15,053,400	6,970,140
Repeat	21,884,028	4,618,202
Serious	123,274,497	49,041,037
Unclassified	1,200	23,051
Other	7,829,960	7,856,174
FTA	797,507	2,981,186
% of Inspections with Citations Contested	11.4%	15.6%

* Data from OSHA IMIS Inspection Report 2012

Tennessee Model



General Industry

29 CFR Part 1910 – Same in Tennessee, except

29 CFR 1910.1 Purpose and scope

29 CFR 1910.2 Definitions

29 CFR 1910.3 Petitions for the issuance,
amendment, or repeal of a standard

29 CFR 1910.4 Amendments to this part

29 CFR 1910.15 Shipyard employment

29 CFR 1910.16 Longshoring and marine
terminals

Tennessee Model



Construction Industry

29 CFR Part 1926 – Same in Tennessee, except

29 CFR 1926.1 Purpose and scope

29 CFR 1926.2 Variances from safety and health standards

29 CFR 1926.3 Inspections - right of entry

29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards

Tennessee Model



Tennessee Right-to-Know Law provides additional requirements:

- Annual Training Required

- Labeling for Non-Containerized Chemicals

- Submission of Chemical List When Requested

Tennessee Bloodborne Pathogen Law adds requirement:

- Sharps Injury Log

Tennessee Haz. Exposure

- Enforces Z-1-A Tables of Permissible Exposure Limits

Tennessee Model



General Duty Clause

Employer shall furnish to each employee conditions of employment free of (same as OSHA)

... to cite a violation, there must be:

- 1) An exposed employee*
- 2) A recognized hazard*
- 3) Likelihood of death or serious physical harm*
- 4) Feasible & useful method of abatement*

Tennessee Model



Type of Violation	Federal Max Penalty	Tenn Max Penalty
Serious/Other than Serious	\$7,000/\$1,0000	\$7,000/\$1,0000
Willful	\$70,000	\$70,000
Repeated	\$70,000	\$70,000
Failure to Abate	\$7,0000 per day	\$7,000 per day

Tennessee Model



of Inspectors*

of Inspectors/# of employees*

Tenn	33	1/69,000
Kansas	15	1/89,000

* Data from AFL-CIO 2011

Process for Plan Approval

Developmental Plan

To gain approval a state must prove it has a structure to operate its workplace health and safety programs. The state must show that all criteria will be working within three years.

Provisional Operation

After a state's plan becomes certified, the OSHA monitors its activities until it deems the state fit to enforce its own health and safety policies. When ready, OSHA will grant the state an operational status agreement, which allows the state run its own programs with little or no federal oversight.

Final Approval

A state must wait at least one year until it receives final approval. To reach final approval, the OSHA must determine the state-run programs meet federal criteria as observed in real workplace settings.

Historical Timelines for Approval

South Carolina

Initial Approval: November 30, 1972
State Plan Certification: July 28, 1976
18(e) Final Approval: December 15, 1987

California

Initial Approval: April 24, 1973
State Plan Certification: Sept 14, 1981
18(e) Final Approval: June 20, 1985

Hawaii

Initial Approval: December 28, 1973
State Plan Certification: April 26, 1978
18(e) Final Approval: N/A

New Jersey

Initial Approval: January 11, 2001
State Plan Certification: In process
18(e) Final Approval: N/A

Tennessee

Initial Approval: June 28, 1973
State Plan Certification: May 03, 1978
18(e) Final Approval: July 22, 1985

Kentucky

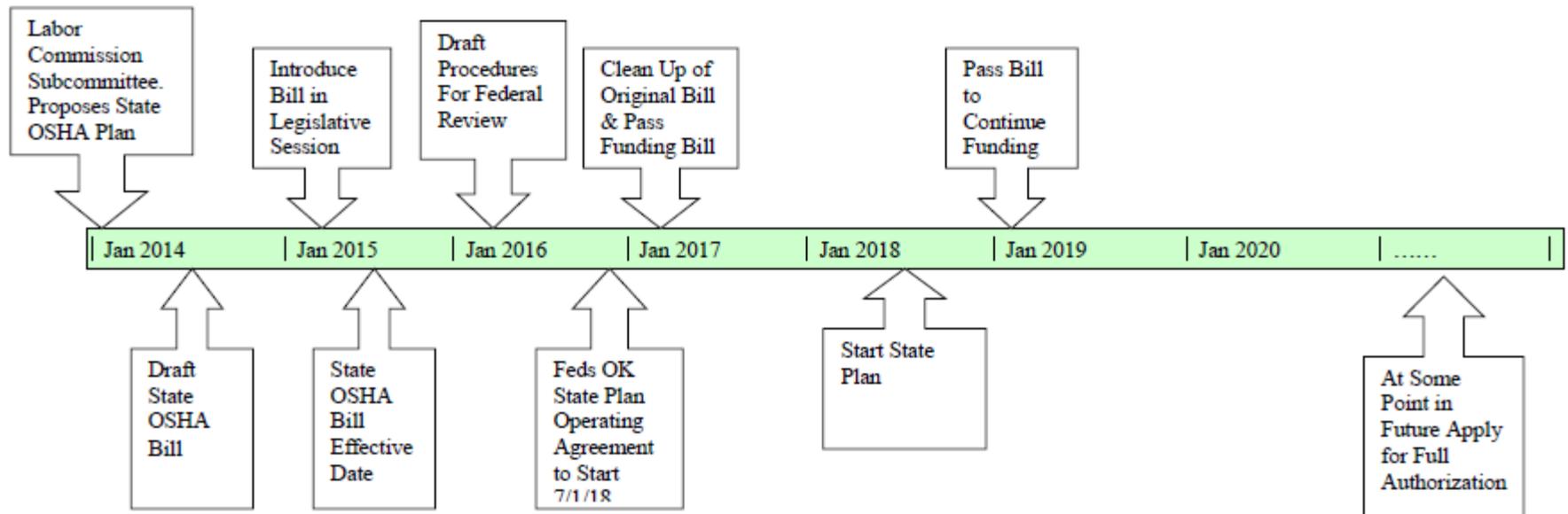
Initial Approval: July 23, 1973
State Plan Certification: Feb 08, 1980
18(e) Final Approval: June 13, 1985

Oregon

Initial Approval: December 22, 1972
State Plan Certification: Sept 15, 1982
18(e) Final Approval: May 12, 2005

Example Timeline (State of Montana)

Montana can eliminate \$145 million/yr work comp costs, if injuries are reduced to national average



Current Status

- Study is underway.
- Results of study to be published by January 12, 2015

Thank You For The Opportunity

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