

By: Jones of Dallas

H.B. No. 3381

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a state occupational health and safety plan; establishing a maintenance tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 411, Labor Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. STATE OCCUPATIONAL HEALTH AND SAFETY PLAN

Sec. 411.151. DEFINITIONS. In this subchapter:

(1) "Employee" means an individual employed by an employer.

(2) "Employer" means a person that employs one or more individuals. The term does not include the state, a political subdivision of the state, or another governmental entity in this state.

Sec. 411.152. STATE PLAN. The commission shall develop a state plan relating to state enforcement of occupational health and safety standards. The state plan must comply with federal approval requirements under Section 18, Occupational Health and Safety Act of 1970 (29 U.S.C. Sec. 667). Standards adopted by the commission under the state plan may not be more stringent than the standards adopted by the United States Department of Labor.

Sec. 411.153. GENERAL POWERS AND DUTIES OF COMMISSION AND DIVISION. (a) The commission is the state agency generally charged with implementation and enforcement of state laws and

1 administrative rules relating to the protection of the life,  
2 health, and safety of persons at their places of employment. The  
3 commission may obtain information from any appropriate source,  
4 including employers, that relates to occupational health and safety  
5 issues.

6 (b) The division may conduct inspections of places of  
7 employment at reasonable times as necessary to implement this Act.

8 (c) The division shall:

9 (1) gather, maintain, and publish statistical  
10 information relating to occupational health and safety programs  
11 operated by other states in order to obtain data for an ongoing  
12 comparative evaluation of the effectiveness of the programs  
13 operated in this state;

14 (2) design and conduct research relating to the  
15 prevention of job-related injuries and occupational disease;

16 (3) publish the results of its research;

17 (4) consult with employers regarding compliance with  
18 state or federal occupational safety laws, rules, or agreements;

19 (5) develop programs designed to reduce job-related  
20 injuries and occupational disease for use by employers, employees,  
21 and other interested parties; and

22 (6) collect information relating to occupational  
23 safety as required by state or federal laws, rules, or agreements.

24 (d) The commission may adopt rules and prescribe forms as  
25 necessary to implement this subchapter.

26 (e) The division may charge fees for its publications and  
27 for seminars and training programs offered by the division. The

1 commission shall set the fees in amounts reasonable and necessary  
2 to cover administrative costs.

3 Sec. 411.154. EMPLOYER CLASSIFICATIONS; CONSULTATIONS. (a)  
4 The division shall collect and compile information relating to the  
5 job-related accident experience of each employer, including:

6 (1) the frequency of accidents;

7 (2) the existence and implementation of private safety  
8 programs by the employer;

9 (3) man-hour losses due to employee injuries; and

10 (4) other factors considered relevant by the division.

11 (b) Based on the compiled information, the division shall:

12 (1) classify employers as necessary and appropriate to  
13 assist employers in providing safe and healthful conditions of  
14 employment; and

15 (2) identify hazardous occupations.

16 (c) On the written request of an employer, the division may  
17 consult with and advise the employer or the employer's  
18 representative regarding the improvement of the employer's  
19 accident frequency rate and the elimination or reduction of  
20 impediments to occupational health and safety at the employer's  
21 place of business.

22 Sec. 411.155. FUNDING; MAINTENANCE TAX. (a) The  
23 occupational health and safety plan adopted under this subchapter  
24 is funded through the assessment of an annual maintenance tax  
25 collected from each stock company, mutual company, reciprocal or  
26 interinsurance exchange, and Lloyd's association that writes  
27 workers' compensation insurance in this state. The commissioner of

1 insurance shall set the rate of the maintenance tax in an amount not  
2 to exceed one percent of the correctly reported gross workers'  
3 compensation insurance premiums of those insurers as reported to  
4 the Texas Department of Insurance under Subchapter D, Chapter 5,  
5 Insurance Code. The commissioner of insurance shall set the rate of  
6 assessment each year to produce the amount of funds that the  
7 commissioner estimates will be necessary to operate the  
8 occupational health and safety plan. The tax assessed under this  
9 section is in addition to all other taxes imposed on those insurers  
10 for workers' compensation purposes and shall be paid to the Texas  
11 Department of Insurance at the same time that the insurers pay the  
12 maintenance tax imposed under Chapter 255, Insurance Code.

13 (b) The commissioner of insurance may adopt rules as  
14 necessary relating to the assessment and collection of the  
15 maintenance tax imposed under Subsection (a).

16 (c) The Texas Department of Insurance shall remit all funds  
17 received under this section to the comptroller of public accounts  
18 for deposit in the state treasury to the credit of the general  
19 revenue fund.

20 Sec. 411.156. EMPLOYER DUTIES. (a) Each employer shall  
21 furnish and maintain a safe and healthful employee work  
22 environment. The employer shall install, maintain, and use those  
23 methods, processes, devices, and safeguards as are necessary to  
24 protect the life, health, and safety of employees.

25 (b) Each employer shall report to the division in the manner  
26 prescribed by the rules of the commission information relating to  
27 personal injuries, fatalities, accidents, and other occupational

1 health and safety issues related to the employer's place of  
2 business. The employer shall report on forms prescribed by and  
3 covering time periods designated by the commission.

4 SECTION 2. Section 502.003, Health and Safety Code, is  
5 amended by adding Subdivision (4-a) and by amending Subdivision (8)  
6 to read as follows:

7 (4-a) "Commission" means the Texas Workers'  
8 Compensation Commission.

9 (8) "Division" means the division of workers' health  
10 and safety of the Texas Workers' Compensation Commission  
11 [~~"Director" means the director of the Texas Department of Health~~].

12 SECTION 3. Chapter 502, Health and Safety Code, is amended  
13 by adding Section 502.0035 to read as follows:

14 Sec. 502.0035. ADMINISTRATION BY COMMISSION; REFERENCES.

15 (a) Notwithstanding any other provision of this chapter, this  
16 chapter is administered by the commission.

17 (b) A reference in this chapter to the Texas Board of  
18 Health, the Texas Department of Health, a successor agency to that  
19 board or department, or to the director means the commission or the  
20 division, or a successor agency to the commission or division, as  
21 appropriate.

22 SECTION 4. Section 411.018, Labor Code, is repealed.

23 SECTION 5. Except as provided by Section 6 of this Act, the  
24 Texas Workers' Compensation Commission shall adopt rules as  
25 necessary to implement Subchapter I, Chapter 411, Labor Code, as  
26 added by this Act, not later than January 1, 2006, and shall  
27 implement the state occupational health and safety plan not later

1 than September 1, 2006.

2 SECTION 6. If an act of the 79th Legislature, Regular  
3 Session, 2005, transfers the powers and duties of the Texas  
4 Workers' Compensation Commission to another state agency, the  
5 powers and duties assigned to the Texas Workers' Compensation  
6 Commission under Subchapter I, Chapter 411, Labor Code, as added by  
7 this Act, are transferred to the state agency responsible for  
8 employee health and safety programs, and the governing body of that  
9 state agency shall adopt rules as required by that subchapter not  
10 later than January 1, 2006, and shall implement the state  
11 occupational health and safety plan not later than September 1,  
12 2006.

13 SECTION 7. This Act takes effect September 1, 2005.