

**Enrolled**  
**House Bill 2093**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Office of Regulatory Streamlining)

CHAPTER .....

AN ACT

Relating to employer notification of increased likelihood of workplace inspection; amending ORS 654.035.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 654.035 is amended to read:

654.035. (1) The Director of the Department of Consumer and Business Services may, by general or special orders, or by regulations, rules, codes or otherwise:

(a) Declare and prescribe what devices, safeguards or other means of protection and what methods, processes or work practices are well adapted to render every employment and place of employment safe and healthful.

(b) Fix reasonable standards and prescribe and enforce reasonable orders for the adoption, installation, use and maintenance of devices, safeguards and other means of protection, and of methods, processes and work practices, including, but not limited to, work practices qualifications for equipment, materials and activities requiring special competence, to be as nearly uniform as possible, as may be necessary to carry out all laws relative to the protection of the life, safety and health of employees.

(c) Fix and order [*such*] reasonable standards for the construction, repair and maintenance of places of employment and equipment [*as shall*] **that will** render them safe and healthful.

(d) Fix standards for routine, periodic or area inspections of places of employment that are reasonably necessary in order to determine [*that*] **compliance with** all occupational safety and health laws and the regulations, rules and standards [*promulgated thereunder are being complied with*] **adopted under occupational safety and health laws**. Except for complaint inspections, follow-up inspections, imminent danger inspections, referral inspections and inspections to determine the cause of an occupational death, injury or illness, all inspections shall be based on written neutral administrative standards. The standards shall include a prioritized scheduling system for inspections that predominantly focuses enforcement activities upon places of employment that the director reasonably believes to be the most unsafe. The standards shall be accessible to employers under ORS 192.410 to 192.505 for at least 36 months from the last date the standards are in effect. The director shall notify in writing [*each employer whose accepted disabling claims rate is above the state average for its standard industrial classification and*] each employer whose [*industry*] **place of employment** is rated by the director as one of the most unsafe [*industries*] **places of employment** in the state of the increased likelihood of inspection of [*their places*] **the employer's place** of employment and of the availability of consultative services. The director may by rule offer incentives to employers that elect consultative services before an inspection is conducted. Nothing in this

paragraph prevents the director from conducting a random inspection of a place of employment [so] **as** long as the inspection is scheduled and conducted pursuant to written neutral administrative standards.

(e) Require the performance of any other act [which] **that** the protection of the life, safety and health of employees in employments and places of employment may demand.

(2) The director may not require the use of fall protection by workers engaged in steel erection at heights lower than the heights at which fall protection relating to steel erection is required by federal regulation.

**SECTION 2.** ORS 654.035, as amended by section 2, chapter 595, Oregon Laws 2003, is amended to read:

654.035. The Director of the Department of Consumer and Business Services may, by general or special orders, or by regulations, rules, codes or otherwise:

(1) Declare and prescribe what devices, safeguards or other means of protection and what methods, processes or work practices are well adapted to render every employment and place of employment safe and healthful.

(2) Fix reasonable standards and prescribe and enforce reasonable orders for the adoption, installation, use and maintenance of devices, safeguards and other means of protection, and of methods, processes and work practices, including, but not limited to, work practices qualifications for equipment, materials and activities requiring special competence, to be as nearly uniform as possible, as may be necessary to carry out all laws relative to the protection of the life, safety and health of employees.

(3) Fix and order [such] reasonable standards for the construction, repair and maintenance of places of employment and equipment [as shall] **that will** render them safe and healthful.

(4) Fix standards for routine, periodic or area inspections of places of employment that are reasonably necessary in order to determine [that] **compliance with** all occupational safety and health laws and the regulations, rules and standards [promulgated thereunder are being complied with] **adopted under occupational safety and health laws.** Except for complaint inspections, follow-up inspections, imminent danger inspections, referral inspections and inspections to determine the cause of an occupational death, injury or illness, all inspections shall be based on written neutral administrative standards. The standards shall include a prioritized scheduling system for inspections that predominantly focuses enforcement activities upon places of employment that the director reasonably believes to be the most unsafe. The standards shall be accessible to employers under ORS 192.410 to 192.505 for at least 36 months from the last date the standards are in effect. The director shall notify in writing [each employer whose accepted disabling claims rate is above the state average for its standard industrial classification and] each employer whose [industry] **place of employment** is rated by the director as one of the most unsafe [industries] **places of employment** in the state of the increased likelihood of inspection of [their places] **the employer's place** of employment and of the availability of consultative services. The director may by rule offer incentives to employers that elect consultative services before an inspection is conducted. Nothing in this subsection prevents the director from conducting a random inspection of a place of employment [so] **as** long as the inspection is scheduled and conducted pursuant to written neutral administrative standards.

(5) Require the performance of any other act [which] **that** the protection of the life, safety and health of employees in employments and places of employment may demand.

**Passed by House January 27, 2005**

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Chief Clerk of House

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Speaker of House

**Passed by Senate April 27, 2005**

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President of Senate

**Received by Governor:**

.....M,....., 2005

**Approved:**

.....M,....., 2005

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2005

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Secretary of State