

# House Bill 2143

Sponsored by Representative BOSHART DAVIS (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Limits rulemaking authority of Director of Department of Consumer and Business Services regarding rules concerning poor ambient atmospheric conditions and high ambient temperatures.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to scope of rules prescribed pursuant to authority under the Oregon Safe Employment Act;  
3 amending ORS 654.035; and declaring an emergency.

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

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

6 654.035. (1) The Director of the Department of Consumer and Business Services may, by general  
7 or special orders, or by regulations, rules, codes or otherwise:

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

11 (b) Fix reasonable standards and prescribe and enforce reasonable orders for the adoption, in-  
12 stallation, use and maintenance of devices, safeguards and other means of protection, and of meth-  
13 ods, processes and work practices, including, but not limited to, work practices qualifications for  
14 equipment, materials and activities requiring special competence, to be as nearly uniform as possi-  
15 ble, as may be necessary to carry out all laws relative to the protection of the life, safety and health  
16 of employees.

17 (c) Fix and order reasonable standards for the construction, repair and maintenance of places  
18 of employment and equipment that will render them safe and healthful.

19 (d) Fix standards for routine, periodic or area inspections of places of employment that are  
20 reasonably necessary in order to determine compliance with all occupational safety and health laws  
21 and the regulations, rules and standards adopted under occupational safety and health laws. Except  
22 for complaint inspections, follow-up inspections, imminent danger inspections, referral inspections  
23 and inspections to determine the cause of an occupational death, injury or illness, all inspections  
24 shall be based on written neutral administrative standards. The standards shall include a prioritized  
25 scheduling system for inspections that predominantly focuses enforcement activities upon places of  
26 employment that the director reasonably believes to be the most unsafe. The standards shall be ac-  
27 cessible to employers under ORS 192.311 to 192.478 for at least 36 months from the last date the  
28 standards are in effect. The director shall notify in writing each employer whose place of employ-  
29 ment is rated by the director as one of the most unsafe places of employment in the state of the  
30 increased likelihood of inspection of the employer's place of employment and of the availability of  
31 consultative services. The director may by rule offer incentives to employers that elect consultative

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 services before an inspection is conducted. Nothing in this paragraph prevents the director from  
2 conducting a random inspection of a place of employment as long as the inspection is scheduled and  
3 conducted pursuant to written neutral administrative standards.

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

6 (2) The director may not require:

7 (a) The use of fall protection by workers engaged in steel erection at heights lower than the  
8 heights at which fall protection relating to steel erection is required by federal regulation.

9 (b) **Employers to provide or employees to use personal protective equipment at any place**  
10 **of employment to address poor ambient atmospheric conditions, including hazardous air**  
11 **quality resulting from wildfire smoke events, that are not directly caused by any operations**  
12 **or processes that are specific to the place of employment.**

13 (c) **Employers to provide employees with rest breaks or modified work schedules,**  
14 **whether paid or unpaid, to prevent exposure to high ambient temperatures while working.**

15 **SECTION 2. This 2023 Act being necessary for the immediate preservation of the public**  
16 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**  
17 **on its passage.**

18