

Virginia to create first pandemic workplace safety mandates in nation, as Trump labor agency sits on sidelines

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*By
Eli Rosenberg
June 24, 2020 at 6:00 a.m. EDT*

The state of Virginia has proposed its own set of [coronavirus](#)-era safety rules that companies must implement to protect workers from infection — a first in the country and a potential way forward for other states in the face of federal inaction.

The temporary emergency safety rules were drafted by the state's Department of Labor and Industry, under direction from Gov. Ralph Northam (D) in late May and will be voted on by the state's 14-member health and safety board on Wednesday.

The governor's office said the rules were prompted in large part by the lack of enforcement from the federal agency tasked with upholding workplace safety, the Occupational Safety and Health Administration.

OSHA has issued only one citation in response to more than 4,000 coronavirus-related complaints, a jarring record that workplace advocates and former OSHA officials have criticized in recent weeks as a neglect of the agency's duties.

"Millions of workers are terrified of going into jobs every day where they are not adequately protected from the coronavirus," said David Michaels, a former OSHA head who served during the Obama administration. "Thousands of workers have complained to OSHA, and OSHA has told them they're on their own. . . . State governments are stepping into the void."

Virginia's standard requires that employers develop policies for workers dealing with coronavirus-like symptoms, while prohibiting those workers suspected of having the coronavirus from showing up to work. The new rules would force companies to notify workers of possible exposure to infected co-workers within 24 hours, while also mandating physical distancing as well as sanitation, disinfection and hand-washing procedures.

The regulations have drawn praise from unions, labor advocates and many workers. But they've also drawn sharp opposition from many businesses and industry groups, which say the new regulations are unnecessary in the face of existing guidelines from the state and federal agencies such as the Centers for Disease Control and Prevention and OSHA.

Those guidelines are recommendations, which carry fewer legal ramifications than enforceable standards do. By contrast, Virginia officials said the state's inspectors will police the new regulations, under penalties of up to \$124,000 and the threat of closure in severe cases.

Many businesses said they were worried that the new rules could add a greater burden to their budgets during an already challenging time economically.

"We urge you to not add more restrictions, guidelines and regulations to an already overwhelmed business community that is struggling to remain solvent," Richard Postle, the chairman of Blue Ridge Bread, which employs 750 workers, wrote in a public comment.

Nicole Riley, the Virginia director for the National Federation of Independent Business, said the proposal was causing confusion. The group targeted a rule forcing businesses to classify workers according to four risk levels. The group also questioned when businesses would have to start abiding by the new rules, should they pass.

"We're already months into covid-19, and a lot of employers have put in a lot of protocols to safeguard employees and customers," she said. "We think this is overkill. It sets up a lot of bureaucratic red tape for business owners to comply with, when they're already struggling with how to keep up their business and keep their employees employed."

Poultry workers took a particularly central role in the debate. The proposed rules came about in part as a result of petitioning by the Legal Aid Justice Center, whose Project for Farm and Immigrant Workers works with poultry workers, according to Megan Healy, Northam's chief workforce development adviser.

Jason B. Yarashes, lead attorney at the Project for Farm and Immigrant Workers, said the new regulations are particularly necessary for workers in high-risk industries like meat-processing and seasonal agriculture, whose workers often live in close quarters.

More than 350 poultry workers in the Shenandoah Valley have tested positive for the coronavirus, according to the city of Harrisonburg, which [issued a resolution](#) in support of the measure.

"It's been obviously a long-standing issue here," Yarashes said. "We're hearing from workers that there was an insufficient response — late safety protocols, no social distancing. Defensive stances from plants saying that they're doing things. And victim-shaming, blaming folks in the community."

The Virginia Poultry Association opposed the rule, saying existing guidelines from the CDC and OSHA are adequate, its law firm Fisher Phillips wrote in a comment.

Healy said the state has received thousands of complaints from workers in other industries in the last few months. Some said they had been discouraged from getting tested for covid-19; others said employers failed to close and clean workplaces properly after co-workers got sick, Healy said.

"We know people are scared to go to work for multiple reasons," she said. "We were looking for ways that we could do better."

Yarashes said he was happy about what he called a “key protection” to prohibit retaliation against workers who raise safety concerns, don protective gear, or speak to government agencies or news media outlets about safety issues.

Some worker advocates said they believe the proposals could go even further. Sarah Jacobson, an organizer with Unite Here Local 23, which works with airport concession workers, [wrote in a comment](#) that she hoped to see requirements for plastic face shields and for plexiglass between workstations.

Labor advocates say that the state approach is laudable and may soon be copied by others, but that it still falls short of a comprehensive national enforcement plan by OSHA. Some expressed fear that a piecemeal approach will allow other states to compete against neighbors in a “race to the bottom,” to offer businesses a more attractive environment at the expense of worker safety.

The standard will last between six and 18 months if it is approved, Healy said.