

SAFETY & HEALTH ACT:
ARE YOU LIVING UP TO THE LAW?



The Occupational Safety and Health Act has been causing confusion among golf clubs. Penalties have been handed out, yet no clear-cut guidelines have been offered. GOLFDOM points out those safety requirements that must be followed to avoid penalties

by KEN EMERSON
and JACK JANETATOS

Golf clubs, as well as all other employers engaging in a business affecting commerce, are covered now by the Occupational Safety and Health Act of 1970 (Williams-Steiger Act—Public Law 91-596). Employers will find that the law is far ranging and generally lives up to its reputation as "the toughest piece of legislation business has ever had to cope with."

The declared congressional purpose of the act is, "to assure, so far as possible, every working man and woman in the Nation safe and healthful working conditions..."

The provisions of the law apply in all 50 states, the District of Columbia, all territories and the Canal Zone. It is safe to assume that every golf and country club is covered. In the year since its formation, the Occupational Safety and Health Administration (OSHA) has adopted hundreds of standards, has conducted more than 20,000 inspections and has issued over 16,000 citations to employers for violations. In the first five months alone OSHA inspectors found 26,771 violations, issued 5,536 citations and assessed proposed penalties totaling \$512,067. (Of the businesses inspected to date, only 23 per cent have been found to be in full compliance with standards.)

Penalties are assessed based on "gravity of violation" factors and may range from no penalty for a *de*

minimus violation to \$1,000 for a violation that demonstrates a blatant disregard for safety. In addition, fines of up to \$1,000 per day per violation may be assessed for infractions not corrected within a specified time period.

OSHA has also issued a list of standard penalties that will be assessed when certain violations are found by compliance officers. The penalties are not subject to reduction. These are 1) failure to post the official OSHA poster (\$50); 2) failure to post citation received at the work site (\$500); 3) failure to post OSHA Form 102, Summary (\$100); 4) failure to report fatality or incident in which five or more employees are hospitalized (\$200); 5) failure to maintain OSHA Form 100 Log or Form 101 (\$100), and 6) failure to compile OSHA Form 102 (\$100).

Companies found in violation of OSHA standards can face severe penalties when they fail to correct the conditions cited by the OSHA inspector.

SETTING STANDARDS

Generally, job safety and health standards consist of rules that avoid hazards that have been proven by research and experience to be dangerous to personal health and safety. Under the law, job safety standards will be set by the Secretary of Labor, who has until April 28, 1973, to promulgate them. The standards will be enforced by a separate, quasi-judicial three-man Occupational Safety and Health Review Commission. Research and related functions are vested in the Secretary of Health, Education and Welfare.

INTERIM STANDARDS

Although the Secretary of Labor has until 1973 to develop permanent standards, interim standards have already been promulgated and went into effect last year. These are termed "National Consensus" standards by OSHA and include those prescribed by the Walsh-Healey Act, the U.S. Public

Health Service Sanitation Manual's Model Ordinance and Code, the National Fire Protection Assn. Standard No. 101—Life Safety Code, other NFPA and American National Standards Institute (ANSI) and certain recommendations of the National Safety Council pertaining to food and beverage, meat and leather industries and other trades and services. The act also contains provisions for standards which may require:

"That no employee dealing with toxic materials or harmful physical agents will suffer material impairment of health or functional capacity, even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.

"Development and prescription of labels or other appropriate forms of warning so that employees are made aware of all hazards to which they are exposed.

"Prescription of suitable protective equipment.

"Monitoring or measuring employee exposure to hazards at such locations and intervals and in such manner as may be necessary for the protection of employees.

"Prescription of the type and frequency of medical examinations or other tests for employees exposed to health hazards. At the request of an employee, the examination or test results shall be furnished to his physician."

The Secretary of Labor may revise, modify or revoke existing standards as well as promulgate new ones. The act provides for the establishment of emergency, temporary standards, effective immediately upon publication in the Federal Register, where it is found that employees are exposed to grave danger.

The Secretary of Labor is also authorized to grant temporary variances from standards to give the employer enough time to come into compliance if he can show a need for an extension and has a protective plan of action. Many have learned, however, that these tempo-

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rare variances are hard to get; expense or hardship will not be enough. The employer must show that it is nearly impossible to comply.

RECORD KEEPING

In the words of the act, "Each employer shall make, keep, and preserve, and make available to the Secretary (of Labor), or the Secretary of HEW, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of HEW, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the cause and prevention of occupational accidents and illnesses. In order to carry out the provisions of this paragraph such regulations may include provisions requiring employers to conduct inspection."

Records of all work-related deaths, injuries and illnesses must be maintained. Minor injuries requiring only first-aid treatment need not be recorded, but a record must be made if the injuries involved medical treatment, loss of consciousness, restriction of work or motion or transfer to another job.

"First aid" is described as one-time treatment and any follow-up examination of minor scratches,

cuts or burns. "Medical treatment" includes treatment by a physician or registered professional person.

Employers can also be required to maintain accurate records of employee exposure to potentially toxic materials or harmful physical agents. Golf course superintendents, club managers or kitchen supervisors and swimming pool directors should take careful note of this requirement. The records required of employers include: 1) a diary or log of all reportable injuries and illnesses; 2) an annual review of all reportable deaths, injuries and illnesses, and 3) a statistical report to the Secretary of Labor of all work injuries and illnesses required to be kept.

Required records should be kept at the location from which employees are paid or at their base of operations.

A special report must also be sent to the nearest OSHA office if any illness or injury results in the death of one or more employees or the hospitalization of five or more employees.

Records must be kept for five years. Entries in diaries or logs must be initialed by the manager or employee who is responsible for the information.

INSPECTIONS

In enforcing the standards, Labor

Department safety inspectors may enter any premise "without delay" and, generally, with no advance notice. Their inspections normally will be made during regular working hours. They will inspect the premises and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials during their actual use. They will also question privately any employer, owner, operator, agent or employee.

The act permits the employer and a representative authorized by his employees to accompany the inspector during the physical inspection of any work place for the purposes of aiding the inspection.

Sites will be selected for inspection on the following priorities: 1) catastrophe and/or fatality; 2) complaints; 3) target industries (longshoring, wood products, roofing and sheet metal, meat processing and mobile homes and transportation equipment), and 4) general inspection.

Although the inspections are primarily to aid the enforcement of standards issued under the act, the inspector himself does not enforce these rules; he simply observes and reports on the employer's failure to do so and recommends citations and proposes penalties.

When the inspector first comes on the premises he will verify that the

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OSHA REGIONAL OFFICES

REGION I: Boston (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont); John F. Kennedy Federal Building, Government Center, Room E 308, Boston, Mass. 02203; (617) 233-6712.

REGION II: New York (New Jersey, New York); Room 3445, 1515 Broadway, New York, N.Y. 10036; (212) 971-5941.

REGION III: Philadelphia (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia); Penn Square Building, Room 623, Juniper and Filbert Sts., Philadelphia, Pa. 19107; (215) 597-4102.

REGION IV: Atlanta (Ala-

bama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee); Suite 587, 1375 Peachtree St. N.E., Atlanta, Ga. 30309; (404) 526-3573.

REGION V: Chicago (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin); Room 1201, 300 W. Wacker Dr., Chicago, Ill. 60606; (312) 353-4716.

REGION VI: Dallas (Arkansas, Louisiana, New Mexico, Oklahoma, Texas); Texaco Building, 1512 Commerce St., Dallas, Tex. 75201; (214) 749-2477.

REGION VII: Kansas City (Iowa, Kansas, Missouri, Nebraska); Waltham Building,

Room 300, 823 Walnut St., Kansas City, Mo. 64106; (816) 374-5249.

REGION VIII: Denver (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming); Denver Federal Center, Federal Building, Room 15010, 1961 Stout St., Denver, Colo. 80202; (303) 837-3883.

REGION IX: San Francisco (Arizona, California, Hawaii, Nevada); 10353 Federal Building, 450 Golden Gate Ave., San Francisco, Calif. 94102; (415) 556-0584.

REGION X: Seattle (Alaska, Idaho, Oregon, Washington); 1808 Smith Tower Building, 506 Second Ave., Seattle, Wash. 98104; (206) 442-5930.

employer whose establishment is being inspected has: 1) posted the notice informing employees of their rights and obligations under the act in accordance with the requirements of the law; 2) complied with the record keeping requirements under the act, and 3) given advance notice to authorized representatives of employees, if such notice is required.

During inspection it has been found that there will be numerous apparent violations, such as

blocked aisles, unsafe floor surfaces, hazardous projections, unclean toilets and other similar deficiencies. These types of violations usually can be corrected immediately and in such situations the conditions and corrections will be recorded to help judge good faith and compliance. *Although corrected, the apparent violation may be the basis for a citation or proposed penalty.*

DEFICIENCIES MOST FREQUENTLY CITED

Employers risk a \$50 fine if they do not display this OSHA poster.

SAFETY AND HEALTH PROTECTION ON THE JOB

The Williams-Steiger Occupational Safety and Health Act of 1970 provides job safety and health protection for workers. The purpose of the Federal law is to assure safe and healthful working conditions throughout the Nation.

The U.S. Department of Labor has primary responsibility for administering the Act. The Department issues job safety and health standards, and employers and employees are required to comply with these standards.

BY LAW: SAFETY ON THE JOB IS EVERYBODY'S RESPONSIBILITY!

EMPLOYERS: The Williams-Steiger Act requires that each employer furnish his employees a place of employment free from recognized hazards that might cause serious injury or death; and the Act further requires that employers comply with the specific safety and health standards issued by the Department of Labor.

EMPLOYEES: The Williams-Steiger Act also requires that each employee comply with safety and health standards, rules, regulations, and orders issued under the Act and applicable to his conduct.

COMPLIANCE WITH SAFETY AND HEALTH REQUIREMENTS

To ensure compliance with safety and health requirements, the U.S. Department of Labor conducts periodic job-site inspections. The inspections are conducted by trained safety and health compliance officers. The law requires that an authorized representative of the employer and a representative of the workers be given an opportunity to accompany the inspector for the purpose of aiding the inspection. Workers also have the right to notify the Department of Labor and request an inspection if they believe that unsafe and unhealthful conditions exist at their work-site. In addition, employees have the right to bring unsafe conditions to the attention of the safety and health compliance officer making the inspection. If upon inspection the Department of Labor believes that the Act has been violated, a citation of violation and a proposed penalty is issued to the employer.

Citations of violation issued by the Department of Labor must be prominently displayed at or near the place of violation.

The Act provides for mandatory penalties of up to \$1,000 for each serious violation and for optional penalties of up to \$1,000 for each non-serious violation. Penalties of up to \$1,000 are required for each day during which an employer fails to correct a violation within the period set in the citation. Also, any employer who willfully or repeatedly violates the Act is to be assessed civil penalties of not more than \$10,000 for each violation.

Criminal penalties are also provided for in the Act. Any willful violation resulting in death of an employee, upon conviction, is punishable by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both. Conviction of an employer after a first conviction doubles these maximum penalties.

The Act provides that employees may not be discharged or discriminated against in any way for filing safety and health complaints or otherwise exercising their rights under the Act.

For assistance and information, including copies of the Act and of specific safety and health standards, contact the employer or the nearest office of the Department of Labor.

Although later articles will specify, by area of the club, what regulations will apply and where the most serious hazards may be found, it is important to note that inspectors will look for the following violations in all parts of the club.

Employee health and comfort.

- 1) lack of adequate toilet facilities for each sex;
- 2) unsanitary, poorly illuminated dressing rooms;
- 3) lack of covered receptacles in toilet room used by women;
- 4) lack of wooden or plastic toilet seat;
- 5) failure to provide a restroom whenever 10 or more women are employed;
- 6) lack of adequate hand washing facilities with proper paper or cloth towels and soap;
- 7) poor housekeeping.

Signs. Failure to post signs warning of dangers or calling attention to safety instructions.

Medical and first-aid equipment.

- 1) lack of first-aid kits or incomplete kits;
- 2) lack of proper or approved first-aid kits;
- 3) lack of a first-aid attendant;
- 4) In the absence of a formal infirmary on the premises or in the vicinity of the establishment each business should have a person or persons adequately trained to render first aid.

Fire equipment.

- 1) untested fire extinguishers;
- 2) uninspected fire extinguishers or inspections that have lapsed;
- 3) empty fire extinguishers.

Mechanical equipment

- 1) unguarded fans;
- 2) unguarded cutting equipment.

Floors.

- 1) unsafe and slippery floors;
- 2) floors with uncovered or unprotected holes;
- 3) floors with unnecessary protrusions and projections.

Aisles. Passageways not kept clear.

Stairways. No handrails.

Ladders.

- 1) broken ladders not tagged "dangerous for use."
- 2) ladders without safety feet.

Electrical.

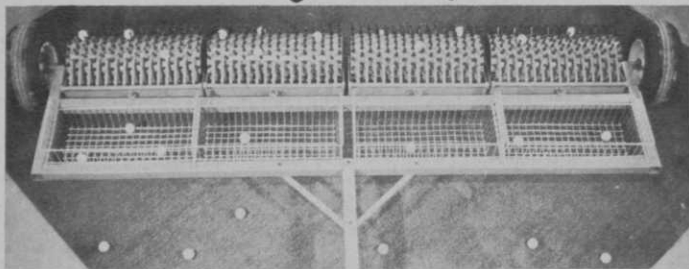
- 1) electrical system not grounded;
- 2) ungrounded electrical equipment. (Office machines have been cited as unsafe for failing to have a

continued on page 54



Ed Hogan
Secretary of Labor

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OSHA from page 28

three-prong plug.);

3) frayed or spliced electrical wires or broken plugs.

Exits.

1) insufficient exits for fire and emergencies;

2) locked or blocked exits;

3) unmarked or unlit exits.

COMPLAINTS

Any employees (or representative) who believe that a violation of a job safety or health standard exists, which threatens physical harm, or that an imminent danger exists, may request an inspection by sending a signed, written notice to the Department of Labor. The notice should be reasonably specific about the grounds for the notice and a copy shall be given to the employer or his agent. The names of the complainants need not, however, be furnished to the employer. If the secretary finds no reasonable grounds for the complaint and a citation is not issued, the secretary is required to notify the complainants in writing of his determinations or final disposition of the matter. Also, the secretary is required to set up procedures for informal review in a case where a citation is not issued.

WORKMEN'S COMPENSATION

The act does not in any way affect any workmen's compensation law or enlarge or diminish or affect in any other way the common law or statutory right, duties or liabilities of employers and employees under any law with respect to injuries, diseases or death of employees arising out of, or in the course of, employment.

DUTIES OF EMPLOYEES

"Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct." (Section 5(b)).

In upcoming issues Emerson and Janetatos will cover specifics of the Occupational Safety and Health Act that pertain to each of GOLF-DOM's major readership groups—managers, superintendents professionals and club officials. □

For more information circle number 173 on card

For more information circle number 177 on card