

John L. Kimberley *Executive Vice President*

Lead Industries Association, Inc. / Zinc Institute, Inc.

January 20, 1971

TO: ALL U.S. MEMBER COMPANIES OF LIA
ALL SUPPORTING COMPANIES OF ZI NOT INCLUDED WITH LIA

SUBJECT: OCCUPATIONAL HEALTH AND SAFETY ACT OF 1970

ATTENTION: _____

Gentlemen:

On October 6, 1970, LIA sent you an early analysis of the Occupational Health and Safety Bill, which at that time was identified as HR-16785 Daniel - Democrat, New Jersey.

Attached is a Hill & Knowlton analysis of the ultimate bill signed into Law by President Nixon during the last week of 1970.

It is the intention of this mailing to keep you informed.

Sincerely,

J.L. Kimberley
J.L. Kimberley
Executive Vice President

JLK/gt
Attach.



282 Madison Avenue, New York, N. Y. 10017

C O P Y

HILL AND KNOWLTON, INC.
ENVIRONMENTAL HEALTH UNIT MEMORANDUM

NEW OCCUPATIONAL HEALTH AND SAFETY LAW CONTAINS

SEVERAL DELAYED-ACTION PROBLEMS FOR INDUSTRY

Washington -- Several long-range, delayed-action work environment problems are wrapped up in the new Occupational Safety and Health Act of 1970 that was signed into law this week by President Nixon.

Some of these were obscured by attention given to hassling in Congress over important issues involved in the basic proposal to give the Secretary of Labor jurisdiction over health and safety conditions for the work environment in some four million of the nation's business establishments. The next two years will see a major build-up in federal bureaus in the Labor Department and the Department of Health, Education and Welfare, as a result of this legislation. The legislation will also result in greatly increasing the industrial hygiene responsibilities of industrial establishments.

But beyond this, the law also:

-- Establishes a new National Institute for Occupational Safety and Health in the Department of Health, Education and Welfare. (Presumably this will result in greatly upgrading the present Bureau of Occupational Safety and Health.) The directory of this Institute will have broad powers (including those delegated to him by the HEW Secretary), (a) to conduct studies and make recommendations for action on "new and improved" safety and health standards and for "innovative" techniques and approaches to safety and health, (b) to designate "toxic materials and harmful physical agents" that will get special attention, (c) to "explore new problems" of health and safety, (d) to conduct epidemiological and medical studies in industrial plants, and (e) to carry on research into "motivational and behavioral factors" relating to safety and health. For most of this, regulations can be made requiring participation of companies.

-- Authorizes a 15-man Presidential Commission on State Workmen's Compensation Laws to undertake a "comprehensive study and evaluation" of these laws concerning their fairness and adequacy, and to report to the President and Congress with recommendations not later than July 31, 1972.

-- Requires the Secretary of Labor to institute a comprehensive program of collection and analysis of industrial health and safety statistics, for which employers are required to maintain records and make reports on all work-related deaths, injuries and illnesses.

- 2 -

The law as passed culminates several years of consideration by Congress, during which many controversial proposals were debated at length before being resolved. Among these were:

1. The measure now provides that only a U.S. District Court may, in effect, stop plant operations on a charge of immediate or imminent danger of death or serious harm. Labor spokesmen had urgently pushed own cognizance, order a shutdown if they deemed a situation was dangerous.

2. In addition to requiring employers to take action to provide a work environment "free from recognized hazards," the law also requires that each employee must comply with standards, rules, regulations and order "applicable to his own actions and conduct." (However, there does not appear to be any penalty or enforcement provision relating to employees who do not so comply.)

3. A National Advisory Committee on Occupational Health and Safety is established, consisting of 12 members to be appointed by the Labor Secretary, including representatives of labor, management, public and occupational safety and health professions. Also, similar advisory committees are authorized to assist in standard-setting for specific industrial situation. However, the Secretary "may" heed the advice of these committees; he is not compelled to.

4. The legislation gives generous leeway for unions and individual employees to have access to medical records, to ask for special inspections by the Labor Department, to accompany inspectors on their tours of the plants, and to register complaints with the Labor Department about any safety and health problems they think exist in their work places.

5. A three-man Presidential Occupational Safety and Health Review Commission is established as an adjudicating body for contesting citations from the Labor Department, operating somewhat as the National Labor Relations Board. Court appeals are provided for.

6. The enacted law will permit states to administer the provisions of health and safety standards, providing the state submits a plan for so doing that is acceptable to the Secretary of Labor. Supporting funds for approved state programs are also provided for.

The effective date of the law itself is 120 days after its enactment. This date has significance relating to such time factors as requiring standards to be set within two years of the effective date.

NOTE: This memorandum does not attempt to summarize various provisions and complications of the standard-setting and enforcement procedures spelled out for achieving the law's objective which is to "assure insofar as practicable that no employee will suffer diminished health, functional capacity or life expectancy as a result of his work experience."

The major purpose of the memorandum is to point out that, as important as the chief thrust of the legislation is, there are other elements that will have impact on the business community in the years ahead for which some advance planning can be undertaken.