



Maryland OSHA Initiative Pushes Training Over Punishment

By David Rattigan

A Maryland initiative that pushes education over punishment as a means of creating a safer workplace environment is creating a stir that's extended to the tree care industry.

Relying on an "iron fist" of fines and enforcement inside the velvet glove of educational and training programs, the state is allowing some companies to reduce their fines via worker attendance at programs that will improve job site safety.

Under the program, administered by Maryland OSHA, a company accused of being out of compliance may accept a settlement that will allow it to skip or reduce fines and instead focus on education and training. The arrangement shortens the often lengthy process of workplace justice in a way that also addresses the issue of

poor safety training that may accompany it.

"Each case is literally customized depending on that employer's status," says Robert Lawson, commissioner of labor and industry in the state of Maryland. "Basically, our incentive is to get compliance and remove the employees from the hazard, and help that employer achieve permanent compliance and understand their obligations under Maryland OSHA law."

The issue of worker safety and concern over the rising number of incidents was on the radar screen in that state long before Lawson started in his position two and a half years ago, but has been kicked into another gear under his leadership. Randy Owen, a member of the Tree Care Industry Association and a TCIA board member, noted that Lawson has deep experience with workplace safety (including tree care work, since he formerly worked for a major utility), but most importantly, "What

he's got is some good common sense. He can make a true impact."

Owen, of Owen Tree Service in Attica, Michigan, met Lawson along with Edwin Foulke, assistant secretary of labor for Occupational Safety and Health (OSHA), at TCI EXPO in 2006. What impressed him about the Maryland program was its solution-oriented approach.

"What an ideal for a government agency to do that," says Owen, noting that many people perceive government fines as a means of raising revenue. "For them to truly have an impact on this, I would consider to be the ideal of what a ruling government body should do."

While each company and case is different, Lawson says that most of the serious, disabling injuries and fatalities were occurring within smaller companies. In Maryland, he notes, most of the serious injuries in the green industry involved

small employers, and a disproportionate number were in the immigrant community.

“Our investigation showed that the majority of times, because they’re small employers, they’re not familiar with what the law requires,” Lawson says. In Maryland, approximately 80 percent of businesses have fewer than 10 employees.

He notes that most small businesses in the startup years have their attention fixed on the survival of the business. While they may pay attention to basic safety issues, Lawson says, “the hidden hazards that jump up and get them are the ones that there are standards for, (ones) that require training and implementation on their part, and follow-up with their employees to ensure they understand and follow the safety rules.”

As an example, Lawson cited the tragic, high-profile case from a few years ago when a young immigrant died after getting

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caught in a mulch blower.

“The bottom line on that fatality is that there were no restrooms on the facility, so the practice was that the employees would go into this mulch blower and relieve themselves in there,” Lawson says. “This individual got his leg caught in the auger. It

was a very horrible accident.”

Frequently, a small employer may create safety issues for itself as it expands. Lawson used the example of a company owner who may be well-experienced himself in tree climbing and tree trimming, but has a need for more employees with those skills as he grows, and they may not get them.

“What we’ve seen in the immigrant community is the very great inclination to say, ‘Oh, yeah, I understand, I know how to do this,’ because they want to work,” he says. “So they’ll tackle something they’re not prepared for. They don’t know how to climb appropriately, they don’t know how to use all the equipment appropriately, or may not even know how to use a small trim chain saw while working from an elevated position, and they wind up injuring themselves. A lot of times, it’s just education into the basic way to do a skill safely.

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throughout the state, presented free. (For a directory, check the Web at www.dlir.state.md.us/labor/mosh.html.) The Division of Labor and Industry will also send an expert out to provide customized presentations for groups of 20 or more. When Lawson took over his position two and a half years ago, there were 25 such programs, and he says the division continues to expand the programming.

Some small businesses (250 employees or fewer) also qualify for a federal OSHA consultation program. While a business is in that program, it is exempt from inspections. In Maryland, the division of labor and industry will steer some non-compliant companies into that program, and for those companies, completion of the program will also bring a reduction in their workplace fine.

“Unfortunately, in some of these cases the way (a company) finds out is after the accident.”

The state of Maryland presents 96 different training courses (focused on workplace safety and health) at community colleges

“Basically, the consultant will come in and give recommendations for what they need to do to come into compliance with

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federal safety standards,” Lawson says. The consultant will follow up with other consultations, and guide the employer’s effort to create a safer work environment, at the same time shielding a company from fines or other enforcement.

By taking a pro-active approach to safety issues, the state has been able to circumvent common roadblocks they may run into during traditional enforcement situations.

“If an employer has an accident, or worse – a fatality, the lawyers come in,” Lawson says. “As soon as the lawyers get in, they can drag this process out for several years, and unfortunately, while it’s in the legal mode you may not get compliance. So you’ve got the workers out there continually being exposed to possible additional injuries. Our goal is to shorten that time as much as possible and help the employer eliminate those exposures and learn how to work safely so they are not subject to further accidents or inspections because somebody calls in about an unsafe condition.”

Lawson says that the division is continually working on pieces of its plan, which includes an outreach effort, expansion of training, providing incentives for employers, and any element that can streamline the process of connecting the employer and employee with knowledge that might keep them safe.

“The goal is to get the employees removed from the hazards,” Lawson says. “In the past few years, we’ve looked at some innovative approaches to try to do this.”

One new program is a partnership the division has created with the Maryland University Small Business Development Center, which provides funding and guidance for small businesses. Many of the businesses are small, immigrant-owned businesses and the division of labor and industry has presented safety programs for them that also includes a presentation from a local bank. The bank’s presentation was about a federal loan program that would provide funding for safety equipment and training.

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“We’ve kind of formed a womb to tomb partnership to help these small employers who are starting out,” Lawson says. “Rather than to try and re-educate them after the disaster, we are working with them to prevent the disaster in the first place.”

It was interesting to Lawson that, after the first program was run, two of the 12 employers in attendance said they hadn’t realized how dangerous their industries were.

“We think we have a whole new approach,” Lawson says. “A number of people in the state are watching and very excited because we’re actually providing the financial assistance aspect.”

Lawson attended a meeting in January with Foulke and 25 OSHA plan administrators from across the United States. Sparked by concern about rising workplace injury numbers, Foulke had made a request that anyone doing innovative programming share with other state administrators, and Lawson did.

“I don’t think anyone’s gone as far as we have,” says Lawson, adding that a number of administrators spoke with him, and some indicated that they’d be following up. Lawson politely declined to mention them, not wanting to embarrass anyone if they didn’t follow up.

“You always have to have the heavy hand for the employers who are going to



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