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Court nullifies OSHA act

United Press International
WASHINGTON — The Supreme Court ruled 5-3 yesterday that government agents checking for safety and health hazards may not make spot checks of businesses without a warrant. The decision struck down the inspection provision of the 1970 Occupational Safety and Health Act on the ground that it invades employee privacy in violation of the Fourth Amendment's ban on "unreasonable searches and seizures."

Justice Byron White wrote in court's opinion. Dissenters were Justices John Paul Stevens, Harry Blackmun and William Rehnquist. Justice William Brennan, 81 in the term, did not participate.

White said experience to date indicates that requiring warrants impose no serious burdens on OSHA's system or upon the courts.

The advantage of surprise will be lost if, after entry is refused, a warrant can be obtained peremptory an inspector to reappear without further notice, the opinion said.

The basis for obtaining a warrant will not depend on demonstrating that a violation is probable, but that reasonable administrative standards for conducting an inspection are satisfied, White said in his opinion.

OSHA's inspection provisions come under heavy fire by industry, particularly small businesses who owners charge bureaucratic harassment and nagging safety and health standards threaten their survival.

White warned that requiring warrants for OSHA inspections do not mean that, as a practical matter, warrantless searches provide other regulatory laws are unconstitutional. He said the reasonableness of those provisions depends upon specific enforcement and privacy guarantees of each law.

Speaking for the dissenters, Stevens said the ultimate question whether warrantless searches are "reasonable" within the meaning of the Fourth Amendment.

He said the warrant clause in the Fourth Amendment does not apply to routine regulatory inspections of commercial premises.

The act, administered by the Labor Department, covers nearly 10 million places of business.

Offenders have been subject to civil penalties, and the most serious violations can be criminally prosecuted.

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