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Court takes job hazards case

Eight employees and the United Auto Workers challenged the policy in court. Among the women who sued was one who had submitted to sterilization to preserve her job and a 50-year-old divorcee.

The lawsuit alleged that the policy violated the Title VII part of the Civil Rights Act of 1964, barring sexual bias in employment. U.S. District Judge Robert W. Warren in Milwaukee ruled for Johnson Controls based on both sides' pretrial arguments.

The 7th U.S. Circuit Court of Appeals upheld his ruling in September. Judge John L. Coffey wrote for the appeals court that the differing treatment of women employees was based on a "business necessity."

But this month, in a case also involving Johnson Controls, a California state appeals court ruled that the fetal protection policy is illegal sex/discrimination under the federal protection law. It was the first time a state appeals court had invalidated the "fetal protection program" on sex discrimination grounds.

Since 1982, the battery division of Milwaukee-based Johnson Controls has barred women at its factories from jobs involving exposure to lead and from jobs that, through transfers or promotions, could progress to lead-exposed duties.

The justices agreed to study a policy of automobile battery maker Johnson Controls Inc. that bans women who cannot prove they are infertile from jobs that expose them to lead, a known hazard to the unborn. A decision is expected in 1991. The outcome could affect thousands of female workers in Silicon Valley's semiconductor industry. In 1986, a limited study at a Massachusetts plant of Digital Equipment Corp. found women chip production workers suffered twice the miscarriage rate of other women there. That research led some to question the advisability of women of child-bearing age working on chip production lines — where a variety of toxic and caustic materials are used to etch microscopic circuits onto slivers of silicon.

The Semiconductor Industry Association announced last year a three-year, \$3.5 million study — to be supervised by researchers at the University of California, Davis — to examine potential health risks facing chip production workers. Results are expected to help determine whether fertile women should work on chip lines.

In the battery maker case (International Union vs. Johnson Controls), initially required pregnant women to transfer from chip-making areas but later softened the policy to strongly discourage women from working in those areas.

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Fetal-protection policy to be tested

Mercury News Staff and Wire Reports

WASHINGTON — In a case that could affect millions of working women exposed to dangerous substances, the U.S. Supreme Court said Monday it will review a ruling that lets employers exclude all women of childbearing age from some hazardous jobs.

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In recent years, many companies in industries using high-risk chemicals have adopted fetal-protection policies designed to prevent injuries to unborn children and to protect themselves from damage suits.

Women and labor groups say barring fertile women from hazardous jobs deprives them of employment opportunities, thus reserving many high-paying positions for men. They argue that when employers bar women from jobs based on a belief that they might become pregnant and bear a defective child, they minimize the danger of many toxic chemicals to male reproductive functions and illegally give greater protection to women and fetuses than to men.

COURT, from Page 1C