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**SUBSTITUTE SENATE BILL 5858**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senate Committee on Commerce & Labor (originally sponsored by Senators Matson and Moore).

Read first time March 6, 1991.

1       AN ACT Relating to actions against contractors with joint  
2 supervision and control of premises; amending RCW 51.24.030; and adding  
3 a new section to chapter 51.24 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 51.24.030 and 1987 c 212 s 1701 are each amended to  
6 read as follows:

7       (1) Except as provided in section 2 of this act, if a third person,  
8 not in a worker's same employ, is or may become liable to pay damages  
9 on account of a worker's injury for which benefits and compensation are  
10 provided under this title, the injured worker or beneficiary may elect  
11 to seek damages from the third person.

12       (2) In every action brought under this section, the plaintiff shall  
13 give notice to the department or self-insurer when the action is filed.  
14 The department or self-insurer may file a notice of statutory interest  
15 in recovery. When such notice has been filed by the department or

1 self-insurer, the parties shall thereafter serve copies of all notices,  
2 motions, pleadings, and other process on the department or self-  
3 insurer. The department or self-insurer may then intervene as a party  
4 in the action to protect its statutory interest in recovery.

5 (3) For the purposes of this chapter, "injury" shall include any  
6 physical or mental condition, disease, ailment or loss, including  
7 death, for which compensation and benefits are paid or payable under  
8 this title.

9 (4) Damages recoverable by a worker or beneficiary pursuant to the  
10 underinsured motorist coverage of an insurance policy shall be subject  
11 to this chapter only if the owner of the policy is the employer of the  
12 injured worker.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.24 RCW  
14 to read as follows:

15 (1) An injured worker or beneficiary may not seek damages against  
16 a person engaged in any work of improvement on real property or  
17 construction work, done by contract if, at the time of the injury, the  
18 contractor or the contractor's worker causing the injury was on the  
19 premises over which the contractor had joint supervision and control  
20 with the employer of the injured worker and the contractor was an  
21 employer subject to this title. No person primarily engaged in pick up  
22 or delivery of any goods, wares, or merchandise from or to the premises  
23 of an employer other than his or her own shall be deemed to have joint  
24 supervision or control over the premises.

25 (2) As used in this section, "premises" means the place where the  
26 contractor, or the contractor's worker causing the injury, and the  
27 employer of the injured worker are engaged in the furtherance of a  
28 common enterprise or the accomplishment of the same or related purpose  
29 in the operation.