

# HOUSE BILL ANALYSIS

## HB 1983

**Brief Description:** Establishing when employers are required to compensate employees for wearing apparel.

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**Sponsors:** Representatives McMorris, Kessler, and Butler

Hearing: March 3, 1997

### BACKGROUND:

The Department of Labor and Industries is authorized by statute to adopt rules establishing employment standards for the protection of the safety, health, and welfare of employees and ensuring that wages satisfy the minimum wage prescribed by state law.

*In 1976, the department adopted a rule that requires the employer to furnish clothing when the employer requires employees to wear uniforms or other articles of clothing of a specific style and color. However, an employer need not furnish required clothing that is usual and customary and that conforms to a general dress standard. Businesses have operated under an interpretation of the rule that does not require employers to furnish employee's clothing when the required clothing is white shirts or blouses and black slacks or skirts.*

In 1992, the department issued a guideline for interpreting this regulation that considered white shirts to be usual and customary clothing that need not be furnished by the employer. However, the guideline would have interpreted black slacks or skirts to be clothing of a specific color which must be furnished by the employer. Reference to "dark" or "light" clothing was not considered to be a specific color, and such clothing was the responsibility of the employee.

The department engaged in formal rule-making, including public hearings, that resulted in adoption of a new rule that requires employers to furnish and maintain uniforms when the cost to the employee of obtaining or maintaining the uniform reduces the employee's wage rate below the state minimum wage in any payroll week or overtime compensation required by the state minimum wage act. The state minimum wage is \$4.90 per hour. A uniform is apparel required to be worn during the course of employment that has an employer-designated logo or an employer-designated style or color where no other color options are allowed. Under the rule, black and white are considered colors. Maintenance of a uniform includes professional laundering and repair costs.

The rule declares that employer-designated apparel required to be worn at work is not a uniform if it is usually and customarily worn outside the job and conforms to a general dress standard allowing choice of style and color. Apparel considered personal protective equipment under Washington's Industrial Safety and Health Act (WISHA) rules administered by the Department of Labor and Industries is not a uniform.

**SUMMARY OF BILL:**

Employers must furnish or compensate for apparel that an employer requires employees to wear during working hours if the apparel is a uniform. A uniform is apparel of a distinctive style and quality that, when worn outside the workplace, clearly identifies the person as an employee of a specific employer. A uniform is also apparel marked with the employer's logo, apparel representing an ethnic tradition or historical time period, or formal apparel. An employer's requirement that apparel be a specific color is not used to determine if the apparel is a uniform.

Employers are not required to furnish or compensate employees for employer-designated apparel worn as a reasonable means of enhancing workplace safety unless required to do so under Washington's Industrial Safety and Health Act.

**RULES AUTHORITY:** The bill does not contain provisions addressing the rule-making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which bill is passed.