

SENATE BILL REPORT

HB 1991

As Reported By Senate Committee On:
Commerce & Labor, April 1, 1997

Title: An act relating to civil penalties for accident prevention program violations.

Brief Description: Modifying civil penalties for accident prevention program violations.

Sponsors: Representatives Honeyford, McMorris and Clements.

Brief History:

Committee Activity: Commerce & Labor: 3/24/97, 4/1/97 [DP, DNP].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

Minority Report: Do not pass.

Signed by Senators Franklin, Fraser and Heavey.

Staff: Jonathan Seib (786-7427)

Background: The Washington Industrial Safety and Health Act (WISHA) applies to most workplaces in Washington, including private and public workplaces. Under the federal Occupational Safety and Health Act (OSHA), Washington is authorized to assume responsibility for occupational safety and health (the state plan state– concept). The state’s industrial safety and health standards must be at least as effective as those adopted under OSHA for the state to maintain its status as a state plan state.

WISHA is administered and enforced by the Department of Labor and Industries, which adopts rules governing safety and health standards for workplaces covered under the act. Under the act, an employer must comply with the safety and health rules adopted by the department, and is obligated to furnish all employees a workplace that is free from recognized hazards that cause, or are likely to cause serious injury or death to employees. This general duty to keep workplaces free from serious recognized hazards is referred to as the safe workplace– requirement. The safe workplace requirement applies even if the department has not adopted a specific rule to cover the particular facts of the violation.

WISHA directs the Department of Labor and Industries to issue a citation and assess a penalty against a covered employer for violations of the act, the rules adopted under the act, or the conditions of an order granting a variance.

Employers are required to have written accident prevention programs tailored to the workplace and the types of hazards involved.

Summary of Bill: Under WISHA, a civil penalty may not be assessed against an employer for failure to address a hazard in an employer's accident prevention program, unless the assessment is based on a specific rule or variance which addresses the hazard, or the employer has violated the requirement to furnish a safe workplace.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill will encourage the Department of Labor and Industries to provide employers with education first before issuing citations. It will focus employer efforts on voluntary approaches to prevent additional compliance action under the current "safe workplace" standard.

Testimony Against: This bill is based on an apparent misconception regarding the purpose of the accident prevention program standard. The standard already is an employer-focused, performance-based standard. This bill eliminates accountability under the accident prevention program standard that is necessary to make it work effectively for employers and employees. It would remove some of the department's existing flexibility to work with and educate employers about accident prevention.

Testified: PRO: Representative Honeyford, Prime Sponsor; Amber Balch, Association of Washington Business; Claude Golden, Boeing; Doug Sanders, Johnston & Culberson; Matthew Bernard, Primex Aerospace; Jan Gee, Washington Retail Association, Washington Food Industry; Michael Killen, Davis, Wright, Tremaine; CON: Michael Silverstein, Michael Wood, Department of Labor and Industries; Bob Dilger, Washington State Building Trades Council; Robby Stern, Washington State Labor Council.