

2 **ESSB 5599 - H AMD 0239 ADOPTED 04/16/99**

3 By Representative

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5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.114A
8 RCW to read as follows:

9 The department and the department of labor and industries shall
10 adopt joint rules for the licensing, operation, and inspection of
11 temporary worker housing, and the enforcement thereof. These rules
12 shall establish standards that are as effective as the standards
13 developed under the Washington industrial safety and health act,
14 chapter 49.17 RCW.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.17 RCW
16 to read as follows:

17 The department and the department of health shall adopt joint rules
18 for the licensing, operation, and inspection of temporary worker
19 housing, and the enforcement thereof. For the purposes of this section
20 "temporary worker housing" has the same meaning as given in RCW
21 70.114A.020.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.114A
23 RCW to read as follows:

24 By December 1, 1999, the department and the department of labor and
25 industries shall jointly establish a formal agreement that identifies
26 the roles of each of the two agencies with respect to the enforcement
27 of temporary worker housing operation standards.

28 The agreement shall, to the extent feasible, provide for inspection
29 and enforcement actions by a single agency, and shall include measures
30 to avoid multiple citations for the same violation.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.17 RCW
32 to read as follows:

1 By December 1, 1999, the department and the department of health
2 shall jointly establish a formal agreement that identifies the roles of
3 each of the two agencies with respect to the enforcement of temporary
4 worker housing operation standards.

5 The agreement shall, to the extent feasible, provide for inspection
6 and enforcement actions by a single agency, and shall include measures
7 to avoid multiple citations for the same violation.

8 For the purposes of this section, "temporary worker housing" has
9 the same meaning as provided in RCW 70.114A.020.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.114A
11 RCW to read as follows:

12 (1) The department and the department of labor and industries are
13 directed to engage in joint rule making to establish standards for
14 cherry harvest temporary labor camps. These standards may include some
15 variation from standards that are necessary for longer occupancies,
16 provided they are as effective as the standards adopted under the
17 Washington industrial safety and health act, chapter 49.17 RCW. As
18 used in this section "cherry harvest temporary labor camp" means a
19 place where housing and related facilities are provided to agricultural
20 employees by agricultural employers for no more than twenty-one days in
21 any one calendar year. Temporary labor camps licensed under this
22 section may be occupied for more than twenty-one days if the following
23 conditions are met: (a) The secretary or an authorized representative
24 and the local health jurisdiction determine that the health and safety
25 interests of the worker occupants would be better served by extending
26 the occupancy than closing the camp at the end of the initial twenty-
27 one day period; and (b) the operator requests an extension at least
28 three days prior to the expiration of the initial twenty-one day
29 period. The extended occupancy shall not exceed seven days.

30 (2) Facilities licensed under rules adopted under this section may
31 not be used to provide housing for agricultural employees who are
32 nonimmigrant aliens admitted to the United States for agricultural
33 labor or services of a temporary or seasonal nature under section
34 1101(a)(15)(H)(ii)(a) of the immigration and nationality act (8 U.S.C.
35 Sec. 1101(a)(15)(H)(ii)(a)).

36 (3) This section has no application to temporary worker housing
37 constructed in conformance with codes listed in RCW 19.27.031 or
38 70.114A.081.

1 **Sec. 6.** RCW 70.114A.020 and 1995 c 220 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter.

4 (1) "Agricultural employee" means any person who renders personal
5 services to, or under the direction of, an agricultural employer in
6 connection with the employer's agricultural activity.

7 (2) "Agricultural employer" means any person engaged in
8 agricultural activity, including the growing, producing, or harvesting
9 of farm or nursery products, or engaged in the forestation or
10 reforestation of lands, which includes but is not limited to the
11 planting, transplanting, tubing, precommercial thinning, and thinning
12 of trees and seedlings, the clearing, piling, and disposal of brush and
13 slash, the harvest of Christmas trees, and other related activities.

14 (3) "Department" means the department of health.

15 ~~((+2))~~ (4) "Dwelling unit" means a shelter, building, or portion
16 of a building, that may include cooking and eating facilities, that is:

17 (a) Provided and designated by the operator as either a sleeping
18 area, living area, or both, for occupants; and

19 (b) Physically separated from other sleeping and common-use areas.

20 ~~((+3))~~ (5) "Enforcement" and "enforcement actions" include the
21 authority to levy and collect fines.

22 (6) "Facility" means a sleeping place, drinking water, toilet,
23 sewage disposal, food handling installation, or other installations
24 required for compliance with this chapter.

25 ~~((+4))~~ (7) "Occupant" means a temporary worker or a person who
26 resides with a temporary worker at the housing site.

27 ~~((+5))~~ (8) "Operator" means a person holding legal title to the
28 land on which temporary worker housing is located. However, if the
29 legal title and the right to possession are in different persons,
30 "operator" means a person having the lawful control or supervision over
31 the temporary worker housing under a lease or other arrangement.

32 ~~((+6))~~ (9) "Temporary worker" means ~~((a person))~~ an agricultural
33 employee employed intermittently and not residing year-round at the
34 same site.

35 ~~((+7))~~ (10) "Temporary worker housing" means a place, area, or
36 piece of land where sleeping places or housing sites are provided by an
37 agricultural employer for his or her agricultural employees or by
38 another person, including a temporary worker housing operator, who is

1 providing such accommodations for employees, for temporary, seasonal
2 occupancy(~~(, and includes "labor camps" under RCW 70.54.110)~~)).

3 **Sec. 7.** RCW 70.114A.060 and 1995 c 220 s 6 are each amended to
4 read as follows:

5 The secretary of the department or authorized representative may
6 inspect housing covered by chapter 220, Laws of 1995, to enforce
7 temporary worker housing rules adopted by the state board of health
8 prior to the effective date of this act or the department, or when the
9 secretary or representative has reasonable cause to believe that a
10 violation of temporary worker housing rules adopted by the state board
11 of health prior to the effective date of this act or the department is
12 occurring or is being maintained. If the buildings or premises are
13 occupied as a residence, a reasonable effort shall be made to obtain
14 permission from the resident. If the premises or building is
15 unoccupied, a reasonable effort shall be made to locate the owner or
16 other person having charge or control of the building or premises and
17 request entry. If consent for entry is not obtained, for whatever
18 reason, the secretary or representative shall have recourse to every
19 remedy provided by law to secure entry.

20 **Sec. 8.** RCW 70.114A.081 and 1998 c 37 s 2 are each amended to read
21 as follows:

22 (1) The department shall adopt by rule a temporary worker building
23 code in conformance with the temporary worker housing standards
24 developed under the Washington industrial safety and health act,
25 chapter 49.17 RCW, (~~(the rules adopted by the state board of health~~
26 ~~under RCW 70.54.110,~~) and the following guidelines:

27 (a) The temporary worker building code shall provide construction
28 standards for shelter and associated facilities that are safe, secure,
29 and capable of withstanding the stresses and loads associated with
30 their designated use, and to which they are likely to be subjected by
31 the elements;

32 (b) The temporary worker building code shall permit and facilitate
33 designs and formats that allow for maximum affordability, consistent
34 with the provision of decent, safe, and sanitary housing;

35 (c) In developing the temporary worker building code the department
36 of health shall consider:

1 (i) The need for dormitory type housing for groups of unrelated
2 individuals; and

3 (ii) The need for housing to accommodate families;

4 (d) The temporary worker building code shall incorporate the
5 opportunity for the use of construction alternatives and the use of new
6 technologies that meet the performance standards required by law;

7 (e) The temporary worker building code shall include standards for
8 heating and insulation appropriate to the type of structure and length
9 and season of occupancy;

10 (f) The temporary worker building code shall include standards for
11 temporary worker housing that are to be used only during periods when
12 no auxiliary heat is required; and

13 (g) The temporary worker building code shall provide that persons
14 operating temporary worker housing consisting of four or fewer dwelling
15 units or combinations of dwelling units, dormitories, or spaces that
16 house nine or fewer occupants may elect to comply with the provisions
17 of the temporary worker building code, and that unless the election is
18 made, such housing is subject to the codes adopted under RCW 19.27.031.

19 (2) In adopting the temporary worker building code, the department
20 shall make exceptions to the codes listed in RCW 19.27.031 and chapter
21 19.27A RCW, in keeping with the guidelines set forth in this section.
22 The initial temporary worker building code adopted by the department
23 shall be substantially equivalent with the temporary worker building
24 code developed by the state building code council as directed by
25 section 8, chapter 220, Laws of 1995.

26 (3) The temporary worker building code authorized and required by
27 this section shall be enforced by the department.

28 The department shall have the authority to allow minor variations
29 from the temporary worker building code that do not compromise the
30 health or safety of workers. Procedures for requesting variations and
31 guidelines for granting such requests shall be included in the rules
32 adopted under this section.

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.70 RCW
34 to read as follows:

35 For the purposes of RCW 43.70.335, 43.70.337, and 43.70.340,
36 "temporary worker housing" has the same meaning as provided in RCW
37 70.114A.020.

1 **Sec. 10.** RCW 43.70.335 and 1998 c 37 s 5 are each amended to read
2 as follows:

3 (1) Any person providing temporary worker housing consisting of
4 five or more dwelling units, or any combination of dwelling units,
5 dormitories, or spaces that house ten or more occupants, or any person
6 providing temporary worker housing who makes the election to comply
7 with the temporary worker building code under RCW 70.114A.081(1)(g),
8 shall secure an annual operating license prior to occupancy and shall
9 pay a fee according to RCW 43.70.340. The license shall be
10 conspicuously displayed on site.

11 (2) Licenses issued under this chapter may be suspended or revoked
12 upon the failure or refusal of the person providing temporary worker
13 housing to comply with (~~the provisions of RCW 70.54.110, or of any~~)
14 rules adopted under this section or chapter 70.114A RCW by the
15 department. All such proceedings shall be governed by the provisions
16 of chapter 34.05 RCW.

17 (3) The department may assess a civil fine in accordance with RCW
18 43.70.095 for failure or refusal to obtain a license prior to occupancy
19 of temporary worker housing. The department may refund all or part of
20 the civil fine collected once the operator obtains a valid operating
21 license.

22 (4) Civil fines under this section shall not exceed twice the cost
23 of the license plus the cost of the initial on-site inspection for the
24 first violation of this section, and shall not exceed ten times the
25 cost of the license plus the cost of the initial on-site inspection for
26 second and subsequent violations within any five-year period. The
27 department may adopt rules as necessary to assure compliance with this
28 section.

29 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.114A
30 RCW to read as follows:

31 The department shall prepare a report to the legislature on
32 utilization of the temporary worker building code authorized by RCW
33 70.114A.081. The report shall include the number of housing units,
34 number of families or individuals housed, number of growers obtaining
35 permits, the geographic distribution of the permits, and
36 recommendations of changes in the temporary worker building code
37 necessary to avoid health and safety problems for the occupants. The
38 report shall be transmitted to the senate committee on commerce, trade,

1 housing and financial institutions and the house of representatives
2 committee on economic development, housing and trade by December 15,
3 2000, and an update shall be transmitted every two years thereafter.

4 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 43.70.330 (Labor camps and farmworker housing--Inspector--
7 Interagency agreement for inspections) and 1998 c 245 s 74, 1995 c 399
8 s 75, & 1990 c 253 s 2; and

9 (2) RCW 70.54.110 (New housing for agricultural workers to comply
10 with board of health regulations) and 1995 c 220 s 11, 1990 c 253 s 4,
11 & 1969 ex.s. c 231 s 1.

12 NEW SECTION. **Sec. 13.** Rules adopted under RCW 70.54.110 prior to
13 the effective date of this act shall remain in effect until modified."

14 Correct the title.

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