

# HOUSE BILL REPORT

## ESHB 2647

---

---

### As Passed Legislature

**Title:** An act relating to safety devices for flaggers.

**Brief Description:** Requiring safety devices for flaggers.

**Sponsors:** By House Committee on Commerce & Labor (originally sponsored by Representatives Reardon, Scott, Cooper, Conway, Linville, Cairnes, Dunshee, Kagi, Campbell, Sullivan, Keiser, Kenney, Santos, Haigh and Hurst).

### Brief History:

#### Committee Activity:

Commerce & Labor: 1/26/00, 2/3/00 [DPS].

#### Floor Activity:

Passed House: 2/15/00, 92-5.

Senate Amended.

Passed Senate: 2/28/00, 39-6.

Senate Receded.

Senate Amended.

Passed Senate: 3/7/00, 41-3.

House Concurred.

Passed Legislature.

### Brief Summary of Substitute Bill

- Requires revision of safety rules governing flaggers, with emergencies rules effective by June 1, 2000, and permanent rules effective by March 1, 2001.

---

### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; Wood, Democratic Vice Chair; Hurst and McIntire.

**Minority Report:** Do not pass. Signed by 3 members: Representatives B. Chandler, Republican Vice Chair; Lisk and McMorris.

**Staff:** Chris Cordes (786-7103).

**Background:**

Under the Washington Industrial Safety and Health Act (WISHA), the director of the Department of Labor and Industries adopts rules governing workplace safety, including construction work. These rules require the use of flaggers or other appropriate traffic control systems if signs and barricades do not provide necessary protection on a highway or street. The state's public highway laws have similar requirements during construction on, or adjacent to, public thoroughfares when that work interferes with traffic.

The WISHA rules determine the size, color, and lettering of flaggers' signs. When signs are used in the dark, the rules specify that reflective material must be used in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the Department of Transportation. Under the rules, flaggers must wear orange warning clothing and a yellow helmet. They must be trained every three years in accordance with the MUTCD, and must carry a valid certificate verifying the completion of training.

The Utility and Transportation Commission also has rules governing signaling devices and flagging procedures. In addition, these rules establish certain minimum qualifications for flaggers, including that flaggers must be of at least average intelligence, be in good physical condition, and have a courteous but firm manner.

The WISHA rules require that vehicles used in construction (other than passenger vehicles) have a reverse signal alarm or have a signaler assigned to the truck. If an alarm is used, it must be audible above the surrounding noise level no less than 15 feet from the rear of the vehicle.

In October 1999, a flagger directing traffic was killed when struck by a dump truck backing up behind her. According to State Patrol officers investigating the accident, the dump truck's alarm was operating normally, but was difficult to hear because of heavy winds.

---

**Summary of Bill:**

The Department of Labor and Industries, the Transportation Commission, and the Utilities and Transportation Commission (UTC) must adopt emergency rules that revise the safety standards governing flaggers. These emergency rules must take effect by June 1, 2000, and remain in effect until permanent rules are adopted.

The permanent rules must take effect by March 1, 2001, and must address flagger safety, visual warning of objects approaching from behind, and, with respect to the

UTC rules, employment qualifications for flaggers. The agencies must coordinate and make their permanent rules consistent to the extent possible.

By September 15, 2000, the agencies must report to specified legislative committees on the emergency rules, and must report on the permanent rules by April 22, 2001.

Technical amendments are made, including eliminating gender-specific references in statutes referring to flaggers.

The act will be named the "Kim Vendl Worker Safety Act."

---

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after the adjournment of session in which bill is passed, except for Section 1, relating to rule-making, which takes effect immediately.

**Testimony For:** Flaggers on highway construction projects work in an extremely dangerous environment where the situation changes rapidly and the flagger can easily be distracted. Giving flaggers an inexpensive tool to monitor the traffic behind them is cost effective and will improve flaggers' safety. This is not micro-management, but a first step in improving safety. There is a proven record for these signs with mirrors because some flaggers are already using them. Some employers have voluntarily started providing the signs. The specific accident that prompted this bill was investigated and the backup alarm on the truck was working properly. The bill should be expanded to cover both public and private road construction.

(Concerns) This is an issue that should be taken very seriously because there is a large concern about flagger safety and a need to prevent more accidents. However, the signs with mirrors may not be the best solution because the reflected light could distract drivers or the flagger. This could raise liability concerns. The issue should be studied and recommendations adopted after determining the best safety tool. For example, a mirror on a bike helmet might be considered.

**Testimony Against:** None.

**Testified:** (In support) Representative Aaron Reardon, prime sponsor; Richard Vendl, Dan O'Connor, Laborers International Union, Local #292; Allan Darr, Washington State Building and Construction Trades Council; Dan McMurdie, Department of Labor and Industries; Chuck Jewell, Joint Council of Teamsters, Local #38; Dan Sexton, Washington State Association of Plumbers and Pipefitters; and Larry Archer; International Union of Operating Engineers.

(With concerns) Rex Swartz, Department of Transportation.