

SENATE BILL REPORT

SB 5614

As Passed Senate, March 10, 1999

Title: An act relating to restricting Washington industrial safety and health act citations as a result of employee misconduct.

Brief Description: Concerning the issuance of citations under the Washington industrial safety and health act.

Sponsors: Senators Hochstatter, Oke, T. Sheldon and Heavey.

Brief History:

Committee Activity: Labor & Workforce Development: 2/16/99, 2/18/99 [DP].
Passed Senate, 3/10/99, 45-0.

SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Fairley, Chair; Franklin, Vice Chair; Hochstatter, Kline, Oke and Wojahn.

Staff: Joanne Conrad (786-7472)

Background: Washington State employers can be cited by the Department of Labor and Industries (L&I) for violations of the Industrial Safety and Health Act. Some unsafe acts by employees may be due to unpreventable employee misconduct. Concerns exist that it would be inappropriate to penalize employers who have demonstrable safety programs, in cases of employee misconduct. Federal courts and OSHA have allowed employers to raise unpreventable employee misconduct— as a defense to a citation.

Summary of Bill: No citation may be issued by L&I to employers in the event of unpreventable employee misconduct, if the employer can demonstrate the federal OSHA criteria for use of the defense including: the existence of a safety program, with rules and training; employer communication of the rules, discovery and correction of safety violations, and effective enforcement of its safety program.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Allowing employers to use this defense will reduce litigation, and allow inspectors to rely on federal/state OSHA/WISHA policy. It will help incentivize safety programs.

Testimony Against: None.

Testified: Steve Cant, Labor and Industries; Amber Balch, AWD; Carolyn Logue, NFIB; Gary Smith, Independent Business Association.