
SENATE BILL 5614

State of Washington

56th Legislature

1999 Regular Session

By Senators Hochstatter, Oke, T. Sheldon and Heavey

Read first time 01/29/1999. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to restricting Washington industrial safety and
2 health act citations as a result of employee misconduct; and amending
3 RCW 49.17.120.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 49.17.120 and 1973 c 80 s 12 are each amended to read
6 as follows:

7 (1) If upon inspection or investigation the director or his or her
8 authorized representative believes that an employer has violated a
9 requirement of RCW 49.17.060, or any safety or health standard
10 promulgated by rule adopted by the director, or the conditions of any
11 order granting a variance pursuant to this chapter, ((he)) the director
12 shall with reasonable promptness issue a citation to the employer.
13 Each citation shall be in writing and shall describe with particularity
14 the nature of the violation, including a reference to the provisions of
15 the statute, standard, rule, regulation, or order alleged to have been
16 violated. In addition, the citation shall fix a reasonable time for
17 the abatement of the violation.

1 (2) The director may prescribe procedures for the issuance of a
2 notice in lieu of a citation with respect to de minimis violations
3 which have no direct or immediate relationship to safety or health.

4 (3) Each citation, or a copy or copies thereof, issued under the
5 authority of this section and RCW 49.17.130 shall be prominently
6 posted, at or near each place a violation referred to in the citation
7 occurred or as may otherwise be prescribed in regulations issued by the
8 director. The director shall provide by rule for procedures to be
9 followed by an employee representative upon written application to
10 receive copies of citations and notices issued to any employer having
11 employees who are represented by such employee representative. Such
12 rule may prescribe the form of such application, the time for renewal
13 of applications, and the eligibility of the applicant to receive copies
14 of citations and notices.

15 (4) No citation may be issued under this section or RCW 49.17.130
16 after the expiration of six months following a compliance inspection,
17 investigation, or survey revealing any such violation.

18 (5)(a) No citation may be issued under this section if there is
19 unpreventable employee misconduct that led to the violation, but the
20 employer must show the existence of:

21 (i) A thorough safety program, including work rules, training, and
22 equipment designed to prevent the violation;

23 (ii) Adequate communication of these rules to employees;

24 (iii) Steps to discover and correct violations of its safety rules;

25 and

26 (iv) Effective enforcement of its safety program as written in
27 practice and not just in theory.

28 (b) This subsection (5) does not eliminate or modify any other
29 defenses that may exist to a citation.

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