

HOUSE BILL REPORT

EHB 2185

As Amended by the Senate

Title: An act relating to residence modifications for injured workers.

Brief Description: Establishing residence modifications standards.

Sponsors: By Representatives Newhouse, Conway and Condotta.

Brief History:

Committee Activity:

Commerce & Labor: 3/2/05 [DP].

Floor Activity:

Passed House: 3/14/05, 96-0.

Senate Amended.

Passed Senate: 4/13/05, 44-0.

Brief Summary of Engrossed Bill

- Requires the Department of Labor and Industries to adopt rules establishing standards for residence modification of catastrophically injured workers, and giving substantial weight to the worker's attending provider when determining what modifications are needed.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Crouse and McCoy.

Staff: Chris Cordes (786-7103).

Background:

Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. If a worker sustains a catastrophic injury, the Department of Labor and Industries (Department) is authorized to pay, or to order a self-insured employer to pay, as applicable, up to a statutory maximum for residence modification when modifications are reasonable and necessary to meet the needs of the worker. The maximum amount of the payment is the amount of the state's average annual wage, which is \$38,794 beginning July 1, 2004.

Under Department policy, residence modifications are reasonable and necessary if all of the following are met:

- The modification is necessary to meet the worker's needs for safety, mobility, and activities of daily living.
- The contractor's proposed plan will satisfy the necessary modification.
- The home is structurally sound.

Necessary modifications may include, but are not limited to:

- structures, such as walkways and driveways;
- equipment, such as door knobs, toilet seats, or grab bars; and
- air conditioners or purifiers, where medically necessary.

Appliances are not considered residence modifications.

Summary of Engrossed Bill:

Within nine months after the bill's effective date, the Director of the Department of Labor and Industries (Director) must adopt rules to establish standards for residence modification for catastrophically injured workers under the Industrial Insurance Act. The rules must at least:

- use as guidelines the standards on adaptive residential housing adopted by the federal Department of Veterans Affairs; and
- in determining the injured worker's needs, or whether a modification is medically necessary, give substantial weight to the opinion of the worker's attending health services provider.

In developing the rules, the Director must consult with other persons interested in improving standards for adaptive housing.

By January 31, 2006, the Director must report to the appropriate committees of the Legislature on the rules adopted under these provisions.

EFFECT OF SENATE AMENDMENT(S):

- (1) changes the intent from "improving" to "clarifying the process and standards" under which residential modifications are provided, and requires the Department to establish, by rule, "guidelines and processes" instead of "standards;"
- (2) requires the residential modification rules to be based on nationally accepted guidelines and publications on adaptive residential housing. The Department must consider the Department of Veteran's Affairs guidelines and the recommendations published by Barrier Free Environments, Inc. in "The Accessible Housing Design File." In adopting rules, consultation must take place with interested parties, including persons with expertise in rehabilitation of catastrophically disabled individuals and modifications for adaptive housing;

- (3) adds that the rules must also address: providing a process for workers to access the benefit and the Department to address the worker's need on a case-by-case basis; and requiring the Department to consider all available information regarding the medical condition and physical restrictions of the worker;
- (4) requires the Department to consider the opinion of the worker's attending provider along with other available information, instead of giving the opinion "substantial weight;"
- (5) requires the Department to report on the rules by December 2007, instead of January 31, 2006; and
- (6) deletes the emergency clause.

Appropriation: None.

Fiscal Note: Requested on March 1, 2005.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: An injured worker, who is quadriplegic, is trying to build a new home. He has many issues with the Department of Labor and Industries (Department) over the standards that should be used when approving home modifications, because the Department does not seem to have standards. The bill uses the Veterans Administration standards which seem to be well-thought out standards. This issue impacts few people, but the impacts for these few are great.

(Information only) The Department's process in these cases is to use an occupational therapist or other trained professional to review the plans and the worker's limitations to see if the plans provide for the worker's needs. The Department has not adopted standards, but instead uses the recommendations of experts.

Testimony Against: None.

Persons Testifying: Representative Newhouse, prime sponsor.

(Information only) Vickie Kennedy, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.