

SENATE BILL REPORT

SB 5632

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 28, 2005

Title: An act relating to voluntary compliance with safety standards by small agricultural employers.

Brief Description: Describing educational visits to small agricultural employers.

Sponsors: Senators Schoesler, Hewitt, Mulliken, Parlette, Rasmussen, Roach, Jacobsen, Haugen and Honeyford.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/10/05, 2/28/05 [DPS].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5632 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Brown, Hewitt, Honeyford, Keiser and Prentice.

Staff: John Dziejczak (786-7784)

Background: Under the Washington Industrial Safety and Health Act (WISHA), and related federal laws, the Department of Labor and Industries (L&I) is responsible for assuring that employers in Washington provide workers with a safe workplace.

L&I makes on-site contacts with employers for either enforcement or consultative purposes. Enforcement inspections are conducted as part of a routine programmed process, or in response to a complaint, a referral from another government entity, or an injury or fatality. In the five years ending December 31, 2004, L&I conducted 695 programmed inspections, 334 other enforcement inspections, and 609 consultative visits at agricultural work sites.

L&I can require an employer to correct, or abate, a serious hazard discovered during a consultative visit. An employer can be cited and subjected to penalty if a workplace hazard is discovered by L&I during a visit initiated for any other reason.

According to records maintained by the Washington State Employment Security Department, there were 7,393 agricultural employers in Washington the twelve months ending September 2004, employing just under 140,000 workers with different social security numbers.

Summary of Substitute Bill: The term "small farming operation" is defined, which must be interpreted to be consistent with the definition used by the federal Occupational Safety and Health Administration (OSHA): an employer engaging in agricultural activities that does not provide worker housing and had ten or fewer employees at all times during the twelve months.

Unless prompted by a report of an injury or fatality, the first time L&I visits a small farming operation, the visit must be considered to be for consultation and advice, subject to the same powers and restrictions as currently apply to a visit conducted in response to a request from an employer under RCW 49.17.250.

Substitute Bill Compared to Original Bill: The definition of which employers are eligible to have a first visit consider only for consultative or advice purposes is made consistent with a term used by OSHA. Visits prompted by injury or fatality are exempted. Restrictions on L&I enforcement options during and after a consultative visit are made consistent with the existing statute relating to employer-requested consultative visit.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: Citizens who run small farms generally do their best to comply with the numerous and complex state and federal regulations that apply to their operations: environmental issues; worker safety; health regulations, etc. Farmers are more likely to be willing to work more closely with regulators if they could be assured that the government agency was interested in achieving compliance through education and assistance rather than in being punitive and citation-driven. Certain small farms are currently exempt from enforcement of all workplace safety requirements of WISHA's federal counterpart.

Testimony Against: Agricultural employment settings are, statistically speaking, some of the most dangerous places to work, and with current resources, it would take more than 60 years for L&I to make an initial contact with each agricultural employer. Small farmers are not currently taking advantage of the existing voluntary consultation program that reduces a small farm employer's exposure to penalties for all but serious hazards. The scope of exempt employers as defined in the bill is too broad, and if approved, may lead to a push for a similar blanket exemption to all small employers, which would be bad public policy.

Who Testified: PRO: Senator Schoesler, prime sponsor; Dan Fazio, Corwyn Fischer, WA Farm Bureau.

CON: Randy Loomans, Jeff Johnson, WA State Labor Council; Don Guillot, International Brotherhood of Electrical Workers Local Union 77; Michael Wood, Dept. of Labor and Industries.