
HOUSE BILL 2538

State of Washington 59th Legislature 2006 Regular Session

By Representatives Conway, Hudgins and McCoy; by request of
Department of Labor & Industries

Read first time 01/10/2006. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to authorizing the department to request and
2 superior court to grant warrants pursuant to chapter 49.17 RCW;
3 amending RCW 49.17.070; adding a new section to chapter 49.17 RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature intends that inspections
7 performed under the Washington industrial safety and health act ensure
8 safe and healthful working conditions for every person working in the
9 state of Washington. Inspections must follow the mandates of Article
10 II, section 35 of the state Constitution, and equal or exceed the
11 requirements prescribed by the occupational safety and health act of
12 1970 (Public Law 91-596, 84 Stat. 1590). The legislature also intends
13 that the inspections comply with the fourth and fourteenth amendments
14 to the United States Constitution and Article I, section 7 of the state
15 Constitution.

16 **Sec. 2.** RCW 49.17.070 and 1973 c 80 s 7 are each amended to read
17 as follows:

18 (1) The director, or his or her authorized representative, in

1 carrying out his or her duties under this chapter, upon the
2 presentation of appropriate credentials to the owner, manager,
3 operator, or (~~agent in charge~~) on-site person in charge of the
4 worksite, is authorized:

5 ((+1)) (a) To enter without delay and at all reasonable times the
6 factory, plant, establishment, construction site, or other area,
7 workplace, or environment where work is performed by an employee of an
8 employer; and

9 ((+2)) (b) To inspect, survey, and investigate during regular
10 working hours and at other reasonable times, and within reasonable
11 limits and in a reasonable manner, any such workplace and all pertinent
12 conditions, structures, machines, apparatus, devices, equipment, and
13 materials therein, and to question privately any such employer, owner,
14 operator, agent, or employee((+)).

15 ((+3)) (2) In making inspections and making investigations under
16 this chapter the director may require the attendance and testimony of
17 witnesses and the production of evidence under oath. Witnesses shall
18 be paid the same fees and mileage that are paid witnesses in the
19 superior courts. In the case of contumacy, failure, or refusal of any
20 person to obey such an order, any superior court within the
21 jurisdiction of which such person is found, or resides, or transacts
22 business, upon the application of the director, shall have jurisdiction
23 to issue to such person an order requiring such person to appear to
24 produce evidence if, as, and when so ordered, and to give testimony
25 relating to the matter under investigation or in question, and any
26 failure to obey such order of the court may be punished by said court
27 as a contempt thereof.

28 (3) Except as otherwise provided in this section or section 3 of
29 this act, the director or his or her authorized representative shall
30 obtain consent from the owner, manager, operator, or his or her on-site
31 person in charge of the worksite when entering any worksite located on
32 private property to carry out his or her duties under this chapter.
33 The director or his or her authorized representative shall enter a
34 worksite at a reasonably recognizable entry point to request the
35 consent described in this section.

36 (4) This section does not prohibit the director or his or her
37 authorized representative from making observations of evidence in open

1 view or from taking action consistent with a recognized exception to
2 the warrant requirements of the federal and state Constitutions.

3 (5) This section does not require advance notice of an inspection.

4 NEW SECTION. Sec. 3. A new section is added to chapter 49.17 RCW
5 to read as follows:

6 If the director or his or her authorized representative is denied
7 or reasonably believes that he or she will be denied access to any
8 factory, plant, establishment, construction site, or other area,
9 workplace, or environment where work is performed by an employee of an
10 employer, to which such access was sought for the purposes set forth in
11 this chapter, the director may apply to a court of competent
12 jurisdiction for a search warrant authorizing access to the facility.
13 The court may upon such application issue a search warrant for the
14 purpose requested.

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