

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2538

59th Legislature
2006 Regular Session

Passed by the House February 10, 2006
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate February 28, 2006
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2538** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2538

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Hudgins and McCoy; by request of Department of Labor & Industries)

READ FIRST TIME 01/26/06.

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) Subject to subsections (2) through (5) of this section, the

1 director, or his or her authorized representative, in carrying out his
2 or her duties under this chapter, upon the presentation of appropriate
3 credentials to the owner, manager, operator, or (~~agent in charge~~) on-
4 site person in charge of the 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 provided in subsection (4) of this section or section
29 3 of this act, the director or his or her authorized representative
30 shall obtain consent from the owner, manager, operator, or his or her
31 on-site person in charge of the worksite when entering any worksite
32 located on private property to carry out his or her duties under this
33 chapter. Solely for the purpose of requesting the consent required by
34 this section, the director or his or her authorized representative
35 shall, in a safe manner, enter a worksite at an entry point designated
36 by the employer or, in the event no entry point has been designated, at
37 a reasonably recognizable entry point.

1 (4) This section does not prohibit the director or his or her
2 authorized representative from taking action consistent with a
3 recognized exception to the warrant requirements of the federal and
4 state Constitutions.

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

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

8 The director may apply to a court of competent jurisdiction for a
9 search warrant authorizing access to any factory, plant, establishment,
10 construction site, or other area, workplace, or environment where work
11 is performed by an employee of an employer. The court may upon such
12 application issue a search warrant for the purpose requested.

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