

SSB 5613 - H AMD 535

By Representative Condotta

NOT ADOPTED 4/09/2009

1 On page 1, line 13, after "may" insert ", upon a showing of
2 immediate necessity to ensure compliance with RCW 51.14.010,"

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4 On page 1, line 16, after "section." insert "The stop work order
5 must state the date and time of the service of the order, specify the
6 nature of the violation in plain language, and explain how to request
7 reconsideration or file an appeal as provided in this section."

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9 On page 2, line 14, after "ten" insert "business"

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11 On page 2, line 16, after "ten" insert "business"

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13 On page 2, line 24, after "employer." strike all material through
14 "section." on line 27 and insert the following:

15 "(6) Except as otherwise provided in this subsection, RCW
16 51.52.080 through 51.52.106 govern appeals under this section. Within
17 ten business days of receipt of an appeal, the board must conduct a
18 hearing at which time the department must demonstrate: (a) A high
19 probability that the employer violated RCW 51.14.010, and (b) that it
20 is necessary to ensure compliance with RCW 51.14.010 that work be
21 immediately stopped. If the board finds that the department has failed
22 to demonstrate a high probability that the employer violated RCW
23 51.14.010 and that it is necessary to ensure compliance with RCW
24 51.14.010 that work be immediately stopped, the board must release the
25 order and the department must immediately refund all penalties paid.
26 Nothing in this subsection precludes the department from proceeding
27 with any action, other than a stop work order, against the employer.

1 (7) If an employer prevails in an appeal before the board of
2 industrial insurance appeals or on judicial review, the board or
3 court, as the case may be, shall award the employer reasonable
4 attorneys' fees, and costs. The board or court, as the case may be,
5 shall also award, at the employer's choice: (a) Liquidated damages in
6 the amount of five thousand dollars or one thousand dollars per
7 covered worker identified, whichever is greater; or (b) actual
8 damages. For purposes of this subsection, "actual damages" means all
9 economic loss suffered by the employer for any day or days during
10 which work was stopped due to a stop work order, including lost
11 profits, lost wages, penalties paid, and interest."

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13 Renumber the subsections consecutively and correct any internal
14 references accordingly.

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EFFECT:

Requires a showing of immediate necessity to ensure compliance with the requirement for an employer to secure industrial insurance before the director may issue a stop work order.

Requires the Board of Industrial Insurance Appeals (Board) to conduct a hearing within 10 days of receipt of an appeal.

Requires upon appeal to the Board that the Department of Labor and Industries (Department) demonstrate a high probability that the employer violated the requirement to secure compensation and that it is necessary to ensure compliance with the requirement to secure compensation that work be immediately stopped. Provides that if such a showing is not made, the Board must release the order and the Department must immediately refund all penalties paid.

Provides that if the employer prevails before the Board of Industrial Insurance Appeals or a court the employer is entitled to reasonable attorneys' fees and costs and either actual damages or liquidated damages, at the employer's choice. Defines actual damages to mean all economic loss suffered for any day or days during which work was stopped due to a stop work order, including lost profits and wages, penalties, and interest. Provides that liquidated damages are \$5,000 or \$1,000 per covered worker identified, whichever is greater.

Provides that the 10 day time frames are business days.

Requires the stop work order to state the date and time of the order, the nature of the violation, and an explanation of how to request reconsideration or file an appeal.

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