

SENATE BILL REPORT

SB 5850

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, February 24, 2009
Ways & Means, March 2, 2009

Title: An act relating to protecting workers from human trafficking violations.

Brief Description: Protecting workers from human trafficking violations.

Sponsors: Senators Kohl-Welles, Swecker, Keiser, Franklin, Kline, Hargrove, Fraser, Tom, Regala, Prentice, McAuliffe and Shin.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/19/09, 2/24/09 [DPS-WM, w/oRec].
Ways & Means: 2/27/09, 3/02/09 [DP2S, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5850 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

Minority Report: That it be referred without recommendation.

Signed by Senators Holmquist, Ranking Minority Member; Honeyford and King.

Staff: Kathleen Buchli (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5850 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pridemore and Rockefeller.

Minority Report: That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Hewitt, Honeyford, Parlette and Schoesler.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Megan Atkinson (786-7446)

Background: Trafficking in persons is a crime in the state of Washington. A person is guilty of trafficking if the person recruits, harbors, transports, provides, or obtains by any means a person knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor or involuntary servitude, or if the person benefits financially by participating in a venture that engages in any of these actions.

International matchmaking organizations are required, upon request, to disseminate background check and personal history information of a Washington State resident whose information is provided to a recruit of the organization. Violations of this requirement are considered to be violations of the Consumer Protection Act.

Summary of Bill (Recommended Second Substitute): International labor recruitment agencies and domestic employers of foreign workers must provide a disclosure statement to foreign workers, not including those persons who hold an H-1B visa, who have been referred to or hired by a Washington employer. The disclosure statement must be provided in the primary language spoken by the worker; state that the worker may be considered an employee under the laws of the state of Washington; state that the worker may be subject to both state and federal laws governing overtime and work hours; include an itemized listing of any deductions the employer intends to make from the worker's pay for food and housing, including an itemized listing of the international labor recruitment agency's fees; state that the worker has the right to control over his or her travel and labor documents; and include a list of services or a hot line the worker may contact. The Department of Labor and Industries (L&I) may create a model disclosure form and make the form available for download off its website. Upon request, L&I must mail the form. Violations of the disclosure statement requirement are considered violations of the Consumer Protection Act.

Physicians, psychologists, mental health counselors, marriage and family therapists, and social workers must undergo one-time instruction on human trafficking that is culturally-sensitive and that teaches methods of recognizing victims of human trafficking, what services are available to these victims, and where to report potential trafficking situations. The instruction may be taken as part of their mandatory continuing education requirements or as part of their employee orientation training. The instruction may be developed in collaboration with a local universities or colleges and community organizations with experience in assisting or providing services to victims of human trafficking. The boards and commissions responsible for licensing these professionals must develop the instruction within existing resources.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): Amended the definition of "foreign worker" in Section 1 of the bill to exclude persons holding H-1B visas; changed "one-time course" to "one-time" instruction; and requires impacted boards and commissions to develop the necessary instruction materials within existing resources. Added Section 9 to the bill that states if specific funding for the bill is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended First Substitute): The one-time course on human trafficking must be culturally-sensitive. L&I may create a model disclosure form that is available for downloading from L&I's website or by mail if so requested. The definition of "international labor recruitment agency" is modified to include for profit and nonprofit entities.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill (Labor, Commerce & Consumer Protection): PRO: The disclosure will help people know that there are labor laws for their protection. The notification and disclosure of worker rights is strongly supported. The people undergoing the ongoing education requirements under the bill work on the point of first contact. Getting them this education will help people who are victims of human trafficking. This state is one of the top places in the country in terms of the laws on trafficking. This bill is the next logical step. This ensures workers have knowledge of their rights and provides training for critical first responders. Trafficking is a very real issue in our state. We know there is a lot more going on than we know about. These are preventative measures, rather than reactionary measures. Police officers and school counselors should be added to the continuing education requirement.

OTHER: There is an unintended loophole in the bill for nonprofits; the requirements are easy enough and should apply to everyone. The disclosure statement should be made here and we should work on a unified form for the disclosure statement. Regarding the consumer protection element, people with H2A and H2B visas should be exempted or a requirement should be added to have L&I talk to employers before the consumer protection element is enforced.

Persons Testifying (Labor, Commerce & Consumer Protection): PRO: Benita Gjurasic, Tronie Foundation; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; Christina Smailes, student, Pacific Lutheran University.

OTHER: Dan Fazio, Washington Farm Bureau.

Staff Summary of Public Testimony on Substitute Bill (Ways & Means): PRO: This bill will definitely help foreign workers. A lot of recruitment agencies do not tell workers that they have rights and protections under our country's labor laws. The workers are being cheated and are being given inaccurate information. The costs to society and to the victims are huge. There are several sources of current information regarding recognizing the signs of human trafficking, DOH will not have to start from scratch to develop the curriculum.

This bill is aimed at those professionals who most often come into contact with victims of human trafficking so they can recognize the signs of human trafficking and so the victims can get help.

Persons Testifying (Ways & Means): PRO: Rani Hong, Tronie Foundation. Benita Giurasic, Tronie Foundation