

# FINAL BILL REPORT

## ESSB 5068

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#### Synopsis as Enacted

**Brief Description:** Addressing the abatement of violations of the Washington industrial safety and health act during an appeal.

**Sponsors:** Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Conway, Prentice and Kohl-Welles; by request of Department of Labor & Industries).

#### **Senate Committee on Labor, Commerce & Consumer Protection**

#### **House Committee on Labor & Workforce Development**

**Background:** Under the Washington Industrial Safety and Health Act (WISHA), the Department of Labor and Industries (L&I) has authority to adopt safety and health standards governing the conditions of employment in all work places. L&I sets occupational health and safety standards that are at least as effective as those standards adopted by the federal Occupational Safety and Health Act of 1970. The agency encourages employers and employees to provide safe and healthful working conditions. It also provides for appropriate reporting of working conditions, inspections, training, education, compliance, and input on rules. L&I has authority to inspect and investigate workplaces and can issue a citation if an employer has violated safety or health standards. Citations are in writing, specify the violation, and fix a reasonable time to correct the violation. If a citation has been issued, L&I notifies the employer within a reasonable amount of time of the penalty to be assessed. An employer has 15-working days within which to notify L&I that the employer intends to appeal the citation or penalty. If no notification is made to L&I within the 15-day period, the citation and penalty are considered final and cannot be appealed.

If L&I determines that an employer has failed to correct a cited violation within the time permitted for correction, L&I notifies the employer of the failure to correct the violation and notifies the employer that it has 15 days to notify L&I of an intention to appeal the penalty. If no such notification is received by L&I the penalty is considered final and cannot be appealed. However, the period permitted in the citation for its correction does not begin to run until a final order is issued in the case of an appeal.

**Summary:** In an application for a stay of abatement, the Department of Labor and Industries (L&I) will not grant a stay when it can determine that the preliminary evidence shows a substantial probability of death or serious physical harm to workers. The Board of Industrial Insurance Appeals (BOIIA) will not grant a stay when, based on the preliminary evidence, it

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is more likely than not that a stay would result in death or serious physical harm to a worker. L&I will initiate rulemaking to implement this law in 2011.

**Votes on Final Passage:**

Senate	47	2
House	55	41

**Effective:** July 22, 2011.