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ENGROSSED HOUSE BILL 1891

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Reykdal, Ormsby, Sells, Moeller, Ryu, Green, and Freeman

Read first time 02/14/13. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to increasing protections for employees under the  
2 Washington industrial safety and health act of 1973; amending RCW  
3 49.17.160; adding new sections to chapter 49.17 RCW; and creating a new  
4 section.

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

6 **Sec. 1.** RCW 49.17.160 and 2010 c 8 s 12013 are each amended to  
7 read as follows:

8 (1) ~~((No))~~ A person shall not discharge or in any manner  
9 discriminate against any employee because such employee has filed any  
10 complaint or instituted or caused to be instituted any proceeding under  
11 or related to this chapter, or has testified or is about to testify in  
12 any such proceeding or because of the exercise by such employee on  
13 behalf of himself or herself or others of any right afforded by this  
14 chapter.

15 (2) Any employee who believes that he or she has been discharged or  
16 otherwise discriminated against by any person in violation of this  
17 section may, within ~~((thirty))~~ one hundred eighty days after such  
18 violation occurs, file a complaint with the director alleging such  
19 discrimination. Upon receipt of such complaint, the director shall

1 cause such investigation to be made as he or she deems appropriate. If  
2 upon such investigation, the director determines that the provisions of  
3 this section have been violated, he (~~of~~~~er~~) or she shall bring an  
4 action in the superior court of the county wherein the violation is  
5 alleged to have occurred against the person or persons who is alleged  
6 to have violated the provisions of this section. If the director  
7 determines that the provisions of this section have not been violated,  
8 the employee may institute the action on his or her own behalf within  
9 thirty days of such determination. In any such action the superior  
10 court shall have jurisdiction, for cause shown, to restrain violations  
11 of subsection (1) of this section and order all appropriate relief  
12 including rehiring or reinstatement of the employee to his or her  
13 former position with back pay.

14 (3) Within ninety days of the receipt of the complaint filed under  
15 this section, the director shall notify the complainant of his or her  
16 determination under subsection (2) of this section.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.17 RCW  
18 to read as follows:

19 (1) Upon request of a victim or victim's representative, the  
20 director must:

21 (a) Meet with the victim or victim's representative regarding the  
22 inspection or investigation conducted under this chapter concerning an  
23 employee's serious physical harm that resulted in in-patient  
24 hospitalization or death. Alternatives to live meetings may be used.  
25 Reasonable efforts must be made to arrange for the meeting to take  
26 place before the director decides whether to issue a citation;

27 (b) Provide to the victim or victim's representative:

28 (i) A copy of any citation or report issued as a result of the  
29 inspection or investigation. The citation or report must be provided  
30 at no cost and provided on the later of the date the citation or report  
31 is received by the employer and the date of the request;

32 (ii) Notification of any appeal filed under RCW 49.17.140 regarding  
33 a citation issued as a result of the inspection or investigation; and

34 (iii) An explanation of the rights of employees and employee  
35 representatives to participate in the proceedings conducted under RCW  
36 49.17.140;

1 (c) Provide to the victim or victim's representative an opportunity  
2 to appear and make a statement before the parties at proceedings during  
3 reassumption of jurisdiction by the director or appeal before the board  
4 of industrial insurance appeals regarding any violations associated  
5 with the fatality or hospitalization. This opportunity must be  
6 provided before the director enters an agreement to withdraw or modify  
7 a violation associated with the fatality or hospitalization or reduce  
8 an associated penalty. Alternatives to live appearances may be used.

9 (2) The director shall adopt rules regarding the rights of victims  
10 and their representatives under this section and for the informal  
11 review of any claim of a denial of such a right. These rules shall  
12 ensure insofar as possible that the issuance of a citation following a  
13 workplace fatality or hospitalization is not unduly delayed in order  
14 for the director to meet with the victim or victim's representative.

15 (3) For purposes of this section, "victim" means:

16 (a) An employee who has sustained serious physical harm resulting  
17 in death or in-patient hospitalization that is the subject of an  
18 inspection or investigation conducted under this chapter; or

19 (b) A family member of an employee described in (a) of this  
20 subsection, if the employee is killed or cannot reasonably exercise the  
21 employee's rights under this section.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.17 RCW  
23 to read as follows:

24 (1) The requirements of this section apply to an employer that is  
25 required by law or chooses to establish a safety committee to  
26 communicate and evaluate safety and health issues in the workplace.

27 (2) The employer must provide at least eight hours of safety and  
28 health training to members of the safety committee within three months  
29 of appointment to the committee and annually thereafter. This training  
30 must include training on hazard identification and control. Trainers  
31 and class content must meet requirements established by the department.  
32 The training shall be in addition to and may be combined with training  
33 programs provided to all employees pursuant to the rules for accident  
34 prevention programs.

35 (3) The safety committee shall:

36 (a) Identify situations that may be a source of danger or hazard to  
37 workers;

1 (b) Make recommendations to the employer and the workers for the  
2 improvement of the safety and health of workers; and

3 (c) Recommend to the employer and the workers the establishment,  
4 maintenance, and monitoring of programs, measures, and procedures  
5 respecting the safety and health of workers.

6 (4) If the employer receives written recommendations from the  
7 safety committee pursuant to subsection (3) of this section, the  
8 employer shall respond to the safety committee in writing no later than  
9 twenty-one calendar days after receiving the recommendations.

10 (5) At least one employer and one employee member of the safety  
11 committee shall conduct regular inspections of the physical condition  
12 of the workplace, as well as equipment, work methods, and work  
13 practices, to ensure that prompt action is taken to correct any  
14 hazardous condition found. Such an inspection must be performed no  
15 less than once every three months. Written reports of such inspections  
16 must be provided to and reviewed by the full safety committee within  
17 forty-five days of the inspection's completion.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.17 RCW  
19 to read as follows:

20 (1) The employer shall provide to each new employee at the time of  
21 hiring and prior to beginning work written information about all  
22 employee rights provided pursuant to this chapter, including at least  
23 the following:

24 (a) The right to request a workplace inspection;

25 (b) The right to receive information and training about workplace  
26 hazards;

27 (c) The right to receive copies of test results done to find  
28 hazards in the workplace;

29 (d) The right to review records of work-related injuries and  
30 illnesses;

31 (e) The right to get copies of medical records; and

32 (f) The right to exercise these rights without fear of retaliation  
33 or discrimination.

34 (2) The department shall develop and make available materials to  
35 assist employers with implementing this section.

1        NEW SECTION.    **Sec. 5.**    The WISHA advisory committee shall continue  
2    its work of reviewing and making recommendations regarding civil  
3    penalties under the Washington industrial safety and health act to  
4    ensure that the assessment of civil penalties meets the requirements  
5    under the occupational safety and health act of 1970 (84 Stat. 1590; 29  
6    U.S.C. Sec. 651 et seq.).    The WISHA advisory committee shall also  
7    review statutory civil penalties and make recommendations regarding any  
8    changes to the civil penalties.    The department of labor and industries  
9    shall report to the appropriate committees of the legislature by  
10   December 1, 2013, regarding:    (1) Recommendations by the WISHA advisory  
11   committee and department steps with respect to ensuring the assessment  
12   of civil penalties meets federal requirements; and (2) recommendations  
13   of the WISHA advisory committee regarding any changes to the statutory  
14   civil penalties.

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