
**Labor & Workplace Standards
Committee**

HB 2484

Brief Description: Requiring inspections, specialized training, and other enhanced workplace standards on dairy farms.

Sponsors: Representatives Walkinshaw, Moscoso, Ortiz-Self, Sells, Reykdal, Robinson, Pollet, Kilduff, Ryu, Frame, Ormsby, Fitzgibbon, Kuderer, Sawyer, Bergquist, Gregerson and Stanford.

Brief Summary of Bill

- Requires the Department of Labor and Industries (Department) to adopt rules applicable to dairy farms, including rules mandating employee training and establishing dairy-specific safety and health standards.
- Requires the Department to create a dairy safety emphasis unit to, among other things, ensure that every dairy farm is inspected at least once every three years.
- Increases penalties for willful violations of safety and health rules at dairy farms and requires a dairy farm employer to pay \$10,000 to survivors if an employee's death resulted from a willful or serious violation.
- Extends the time frames under which dairy farm employees may file a retaliation complaint, creates a rebuttable presumption, and specifies additional court remedies.

Hearing Date: 1/18/16

Staff: Trudes Tango (786-7384).

Background:

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.

The Washington Industrial Safety and Health Act (WISHA) authorizes the Department of Labor and Industries (Department) to adopt safety and health rules of general or specific applicability for all covered industries in the state. Under this authority, the Department adopted safety standards specifically applicable to agricultural operations, which includes dairy farming. The rules address issues such as pesticide use, farm field equipment, heat exposure, and field sanitation.

The Department enforces WISHA rules by inspecting work sites, investigating work-related injuries, and investigating employee complaints. The Department also offers consult services to employers who request it.

When an employer is found to have violated a safety and health rule, the Department issues a citation that may include a civil penalty. Civil penalties vary depend on the seriousness of the violation and whether it was willful or repeated. An employer that willfully violates a safety or health rule will be assessed a minimum civil penalty of \$5,000.

Complaints of Violations

An employee may file a confidential complaint with the Department if there is a violation of a WISHA rule or a safety hazard at work. An employer may not discharge or discriminate against an employee because the employee filed a complaint or instituted proceedings involving a violation of a WISHA rule. An employee who believes he or she has been discriminated against has 30 days from the day of the alleged discriminatory act to file a complaint with the Department. Remedies for an aggrieved employee include, among other things, reinstatement with back pay.

Industrial Insurance Benefits

An employee with a work-related injury receives benefits under the workers' compensation system. A surviving spouse and legally dependent children may be eligible for a monthly pension if a work-related injury results in the employee's death. The amount they receive is based on a formula used for setting time-loss benefits. In addition, survivors receive a one-time payment and funeral expenses up to a certain amount, which is also based on a formula.

Summary of Bill:

Adoption of Rules

The Department must adopt rules requiring safety training for dairy farm employees. The training must address common dairy issues. The rules must:

- require employers to ensure that all their employees receive agriculture safety training, at no cost to the employee;
- provide that a certificate of completion be issued, which must be renewed every three years; and
- provide that there must be at least one supervisor present on site who has completed training, and that for every ten employees on site there must be at least one trained supervisor.

Training may be provided by the Department, non-profit organizations, and employers. The Department must regularly audit training provided by organizations and employers.

The Department must also adopt rules establishing a dairy safety emphasis unit that will:

- ensure that every dairy farm will be inspected, without advance notice, at least once every three years for compliance with safety and health standards;
- ensure employers are complying with training requirements;
- provide consultation and advisory services to employers; and
- create educational materials for employers and employees.

The Department must also adopt safety and health standards for dairy farms to ensure safe dairy workplaces. The rules must address issues and hazards such as manure pits, air quality, crushing and stomping by animals, heavy equipment operations, slipping and falling hazards, and standards for drinking water, bathrooms, and washing facilities for employees.

Rules must be adopted by June 30, 2018.

Retaliation for Filing Complaints

Dairy farm employees are given 90 days (rather than 30 days) to file a complaint with the Department if the employee believes he or she has been discriminated against for instituting proceedings to address safety and health violations.

Additional remedies are provided for cases involving dairy farm employees (damages equal to three times the amount of back wages and a \$1,000 civil penalty to the Department).

There is a rebuttable presumption that a dairy farm employer discriminated against an employee if the discriminatory act occurred within 90 days of the employee instituting proceedings for the safety and health violation. The employer may rebut the presumption by clear and convincing evidence that the act was taken for permissible purposes. Examples of discriminatory acts include denying a promotion, demoting, failing to rehire after seasonal interruption of work, engaging in unfair immigration-related practices, or other acts of retaliation.

Safety Violations and Worker Fatalities

The minimum penalties for willful violations of safety standards is increased for dairy farm employers (\$7,000 rather than \$5,000). If a serious or willful violation results in the death of a dairy farm employee, the employer must pay an additional \$10,000, to be paid to the employee's survivors in the same manner as workers' compensation death benefits are paid.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.