

SENATE BILL REPORT

SHB 1651

As Reported by Senate Committee On:
Commerce & Labor, March 25, 2015

Title: An act relating to human trafficking definitions.

Brief Description: Concerning definitions related to human trafficking.

Sponsors: House Committee on Labor (originally sponsored by Representatives Ryu, Goodman, Rodne, Griffey, Van Werven, Wylie, Moscoso, Ormsby and Santos).

Brief History: Passed House: 3/10/15, 97-0.

Committee Activity: Commerce & Labor: 3/20/15, 3/25/15 [DP].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; Hasegawa, Ranking Minority Member; Conway, Keiser, King and Warnick.

Staff: Susan Jones (786-7404)

Background: International labor recruitment agencies and domestic employers of foreign workers must provide a disclosure statement to foreign workers who have been referred to or hired by a Washington employer. The disclosure statement must:

- be in English or, if the worker is not fluent or literate in English, another language that is understood 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;
- include an itemized listing of the agency's fees;
- state that the worker has the right to control the worker's travel and labor documents, subject to federal law; and
- include a list of services or a hotline the worker may contact if the person thinks the worker is a human trafficking victim.

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 Department of Labor and Industries created a model form and posted it on its website, and also integrated information on assisting victims on human trafficking in posters and brochures.

As required under federal law, the U.S. Secretary of State developed a federal informational pamphlet on the legal rights and resources available to nonimmigrant visa holders in certain employment and education-based visa categories. International labor recruitment agencies and domestic employers of foreign workers are not required to provide the Washington disclosure statement if the foreign worker has been provided the federal informational pamphlet. A worker is presumed to have been provided the pamphlet if the federal law requiring the pamphlet is in effect and the worker holds an A-3, G-5, NATO-7, H, J, or B-1 personal or domestic servant visa.

An international labor recruitment agency or domestic employer that fails to provide the disclosure statement to any foreign worker is liable to that foreign worker in a civil action. The court must award a prevailing foreign worker an amount between \$200 and \$500 or actual damages, whichever is greater, and court costs and attorneys' fees. The court may also award other equitable relief.

Summary of Bill: Definitions are added to the Human Trafficking chapter for the following: (1) any person; (2) menace of any penalty; (3) forced labor; (4) human trafficking or trafficking; and (5) work or service, as follows.

- Menace of any penalty is all forms of criminal sanctions and other forms of coercion and are defined as follows;
- Forced work is all work exacted under the menace of any penalty and where the person has not voluntarily offered to work;
- Human trafficking is an act conducted for the purpose of exploitation, including forced labor, by particular means, for example by threat of use of force or other forms of coercion, abduction, or fraud or deception; and
- Work or service includes all types of legal or illegal work, employment, or occupation.

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: CON: There are serious concerns about the existing language used in trafficking legislation which defines trafficking as an act conducted for the purpose of exploitation. This is especially concerning given Seattle City Council's redefining of patronizing a prostitute as sexual exploitation. Human trafficking is being erroneously confused with consensual adult sex work as well as with immigration issues and labor rights abuses. This is extremely problematic for the ability to find and address human rights violations and abuses regardless of what industry they are found in. We are concerned about the vague language and take specific issue with the definition of forced labor in Section 1(3)

that defines involuntary work as forced labor. For the majority of individuals, payment is the incentive to do labor that they would not do otherwise. For example, many people working in the fast food industry do not want to be working there but do so to survive. To suggest otherwise is reductive and it opens itself up to selective enforcement that will inevitably lead to increased targeting of consensual adult sex workers, their families, and their associates. A dialogue with consensual adult sex workers should be included regarding their safety and welfare. The language is vague and loops in a lot of people. These expansive definitions are broader than those allowed under the United Nations definitions so that anyone can define themselves as a victim of human trafficking. This should be put on hold to work on the language.

Persons Testifying: CON: Maria Palafox, Holly Matthews, Sex Workers Outreach Project of Seattle; Maggie McNeill, citizen.

Persons Signed in to Testify But Not Testifying: No one.