
**Labor & Workplace Standards
Committee**

ESSB 6122

Brief Description: Protecting temporary workers.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Keiser, Kuderer and Wilson, C.).

Brief Summary of Engrossed Substitute Bill

- Establishes specific standards under the Washington Industrial Safety and Health Act for staffing agencies and work site employers.
- Requires the Department of Labor and Industries to review staffing agency industrial injury claims and report to the Legislature with findings and a recommendation.

Hearing Date: 2/20/20

Staff: Lily Smith (786-7175).

Background:

Safety and Health.

Washington is a "state plan state" for purposes of the federal Occupational Safety and Health Administration (OSHA). As a state plan state, Washington assumes responsibility for occupational safety and health in the state under the Washington Industrial Safety and Health Act (WISHA). The Department of Labor and Industries (Department) administers the WISHA. The WISHA directs the Department to adopt rules governing safety and health standards that require the adoption of practices or processes reasonably necessary or appropriate to provide safe or healthful employment. The Department has adopted general standards that apply to most industries, as well as standards that apply only to specific industries. State law directs that the agricultural industry have agricultural-specific standards.

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.

If the Director of the Department determines that an employer has violated a safety or health standard, the Director must in most cases issue a citation and impose a penalty. If two or more employers may share liability for violations, (such as in the case of staffing agencies providing temporary workers), the Department applies policies outlined in a directive. In general, the staffing agency must ensure employees receive all required training and personal protective equipment, but may fulfill its obligation by taking reasonable steps to ensure the work site employer provides the training and the personal protective equipment. The work site employer may be cited for violations when it is responsible for supervising or controlling the staffing agency's employees. In some cases, both employers may be cited.

Workers' compensation.

For purposes of payment of workers' compensation premiums, a temporary help company that provides workers on a temporary basis to its customers is considered the employer. The customer employer is liable if the temporary help company fails to pay the premiums.

Summary of Bill:

Provisions specific to temporary workers are adopted. A "staffing agency" (agency) is an entity who procures or provides temporary employment to a person who works under the supervision or direction of a work site employer. Farm labor contractors are not included. A "work site employer" is an entity with which an agency agrees to furnish persons for temporary employment in the construction and manufacturing industries.

Agency Responsibilities.

Before the assignment of an employee to a worksite employer, an agency must:

- where five or more employees will be assigned to one worksite, make every reasonable effort to visit the actual workplace to review the safety and health practices and hazards;
- where a visit to the actual workplace is not feasible, inquire about the safety and health practices and hazards;
- provide annual general industry hazards training in the employee's preferred language at no expense to the employee;
- transmit training documentation to the worksite employer;
- provide the Department's number for reporting safety hazards and concerns; and
- inform the employee to whom they should report safety concerns at the workplace.

Training dates and content must be maintained by the agency and provided to the employee upon request.

Worksite Employer Responsibilities.

Before the employee engages in work, the worksite employer must:

- document and inform the agency about anticipated job hazards;
- review industry training provided by the agency for appropriateness, and if not appropriate, provide training;
- document training adequacy; and
- document and maintain records of supplemental training and provide the records to the agency and the employee within 48 hours.

A worksite employer that changes the job tasks with resulting new potential hazards must:

- inform both the agency and the employee, including information on the new job hazards before the employee undertakes the new tasks; and
- if necessary, update personal protective equipment and training.

A worksite employer must also:

- allow an agency to visit any worksite to observe and confirm the information related to job tasks and hazards;
- provide worksite specific training to an employee when supervised by the worksite employer; and
- allow an agency to visit any worksite to observe and confirm the worksite employer's training and information related to the worksite's safety and health practices and hazards.

Other.

An agency and employee may refuse a new job task when the task has not been reviewed, or for lack of appropriate training.

An agency or worksite employer may not retaliate against an employee who reports a safety concern.

Report.

The Department must review three years of industrial injury claims related to agencies' employees. By December 1, 2023, the Department must provide a report to the appropriate committees of the Legislature with its findings regarding the claims and a recommendation for a financial assessment charged to the worksite employers so that worksite employers are also impacted financially from claims related to their worksites by agencies' employees.

Appropriation: None.

Fiscal Note: Available.

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