

FINAL BILL REPORT

SHB 1206

C 37 L 21
Synopsis as Enacted

Brief Description: Protecting temporary workers.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Berry, Bronoske, Ramos, Fitzgibbon, Davis, Lovick, Thai, Ortiz-Self, Ormsby, Simmons, Chopp, Callan, Valdez, Macri and Harris-Talley; by request of Department of Labor & Industries).

House Committee on Labor & Workplace Standards
Senate Committee on Labor, Commerce & Tribal Affairs

Background:

Washington Industrial Safety and Health Act.

Washington is a "state plan state" for purposes of the federal Occupational Safety and Health Administration, which means 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 and must adopt rules to help ensure safe work environments. The Department has adopted general rules that apply to most industries, as well as standards that apply only to specific industries.

If the Director of the Department determines that an employer has violated a safety or health standard, the Director generally issues a citation and, depending on the circumstances, may impose a civil penalty. When two or more employers might 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, a staffing agency must ensure its employees receive all required training and personal protective equipment (PPE). The staffing agency may fulfill its obligation by taking reasonable steps to ensure the worksite employer provides the training and the PPE. The worksite employer may be cited for violations when it is responsible for supervising or

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controlling the staffing agency's employees. In some cases, both employers may be cited.

Summary:

Provisions specific to temporary workers in construction and manufacturing industries are adopted. A "staffing agency" is an employer as defined under the WISHA and classified under the North American Industry Classification System as temporary help services, and that recruits and hires its own employees and temporarily assigns them to work for another organization under that other organization's supervision to support, supplement, provide assistance or perform special assignments. A "worksite employer" is an entity that contracts with a staffing agency to provide temporary employment in the construction and manufacturing industries.

Staffing Agency Responsibilities.

Before assigning an employee to a worksite employer, a staffing agency must:

- inquire about the worksite employer's safety and health practices and hazards at the actual workplace in order to assess the safety conditions, employee's tasks, and worksite employer's safety program. The agency may visit the actual worksite;
- provide general awareness safety training to the employee for recognized industry hazards the employee may encounter at the worksite. Training must be in the preferred language of the employee and provided at no cost to the employee;
- transmit a general description of the training program at the start of the contract;
- provide the employee with the Department's hotline number for reporting safety concerns; and
- inform the employee who to report safety concerns to at the workplace.

If the staffing agency becomes aware of existing job hazards that are not mitigated by the worksite employer, the agency must make the employer aware, urge the employer to correct it, and document these efforts, otherwise the agency must remove the worker from the worksite.

Worksite Employer Responsibilities.

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

- document and inform the staffing agency about anticipated job hazards;
- review the staffing agency's training to determine if it addresses recognized hazards for the worksite employer's industry;
- provide specific training tailored to the particular hazards at the workplace; and
- document and maintain records of site-specific training, and within three business days of providing training, provide confirmation to the staffing agency.

A worksite employer that supervises a staffing agency employee must provide worksite specific training to the employee. The worksite employer must allow a staffing agency to visit any worksite where the staffing agency's employees are or will be working, in order for

the staffing agency to observe and confirm the worksite employer's training and information related to the job tasks, safety and health practices, and hazards.

If the worksite employer changes the job tasks or work location and new hazards may be encountered, the worksite employer must inform the staffing agency and employee of job hazards not previously covered in training and update personal protective equipment and training for the new job tasks, if necessary. A staffing agency or employee may refuse a new job task when the task has not been reviewed or for inappropriate training.

Other.

A staffing agency or worksite employer may not retaliate against an employee who reports safety concerns.

The provisions do not diminish existing responsibilities of the worksite employer or staffing agency. Both entities are responsible for compliance with the WISHA.

Votes on Final Passage:

House	67	30
Senate	38	11

Effective: July 25, 2021