

SENATE BILL REPORT

SB 5254

As of January 25, 2021

Title: An act relating to the use of protective devices and equipment during a public health emergency.

Brief Description: Concerning the use of protective devices and equipment during a public health emergency.

Sponsors: Senators Salomon, Darneille, Frockt, Hasegawa, Keiser, Saldaña, Stanford and Wilson, C..

Brief History:

Committee Activity: Labor, Commerce & Tribal Affairs: 1/25/21.

Brief Summary of Bill

- Requires an employer that requires its employees or contractors to wear personal protective equipment (PPE) during a public health emergency to provide the PPE at no cost to the employee.
- Requires an employer that does not have a PPE requirement during a public health emergency to accommodate an employee's or contractor's voluntary use of PPE, subject to certain conditions.

SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

Staff: Jarrett Sacks (786-7448)

Background: Under the Washington Industrial Safety and Health Act (WISHA), an employer must provide a workplace free from recognized hazards. The Department of Labor and Industries (L&I) administers WISHA. L&I has adopted general safety standards that apply to most industries, and has safety standards that apply only to specific industries.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Employers must develop a formal accident prevention program tailored to the particular workplace and hazards involved and must provide their employees with appropriate protective measures for each hazard involved. For certain hazards, personal protective equipment (PPE) must be provided. By L&I rule, PPE must be provided at no cost to the employee if:

- the type of PPE would not reasonably or normally be worn away from the workplace, such as single use or disposable PPE; and
- it is required to comply with safety and health standards to protect employees wherever hazards exist from processes; environmental hazards; physical, chemical, or radiological hazards; or mechanical irritants that could cause injury to the function of any body part through absorption, inhalation, or physical contact.

Summary of Bill: An employer that requires its employees or contractors to wear PPE must provide the required equipment at no charge to the employees.

An employer that does not have a requirement that its employees or contractors wear PPE must accommodate an employee's or contractor's voluntary use of protective devices or equipment when:

- relating to controlling and preventing the spread of any infectious or contagious disease, a state of emergency has been declared by the Governor, an order has been issued by a local health officer, or the President of the United States has declared a national or regional emergency;
- the declaration or order covers the jurisdiction where the employee is working;
- the use of the protective devices does not introduce hazards to the work environment and is consistent with WISHA and L&I rules; and
- the use of facial coverings does not interfere with an employer's security requirements.

An employer may not apply to L&I for a temporary order granting a variance from the requirements of the bill.

Appropriation: None.

Fiscal Note: Requested on January 20, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: At the start of the pandemic, workers were afraid of getting sick but were told by employers to not wear masks because it would scare customers. Many times, employer-supplied PPE was unavailable, but they would still be prohibited from bringing their own from home. Some workers were sent home for insisting on wearing a mask to work. These types of employer policies harm employees that are

already the most vulnerable.

OTHER: The bill needs an amendment that specifies that, if an employer provides PPE, they do not have to accommodate an employee's voluntary use that differs from the employer-provided PPE.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Erin Haick, SEIU 925.

OTHER: Alicia Eyler, Washington State Hospital Association.

Persons Signed In To Testify But Not Testifying: No one.