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**Labor & Workplace Standards  
Committee**

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**HB 1323**

**Brief Description:** Requiring a training and certification program for individuals who apply fire-resistant materials.

**Sponsors:** Representatives Bronoske, Berry, Leavitt, Morgan, Taylor, Senn, Bateman, Reed, Lekanoff and Doglio.

**Brief Summary of Bill**

- Requires individuals applying fire-resistant materials to undergo initial training and refresher training from a state registered apprenticeship program or a manufacturer.
- Requires contractors employing fire-resistant applicators to verify an applicator's compliance with training requirements and to ensure the applicator is certified.
- Imposes civil penalties and debarment on public works contracts for violating the requirements.

**Hearing Date:** 1/31/23

**Staff:** Trudes Tango (786-7384).

**Background:**

The Washington Industrial Safety and Health Act.

The Washington Industrial Safety and Health Act (WISHA) requires employers to provide a safe and healthy work environment to its employees. The Department of Labor and Industries (Department) administers WISHA. The Department has adopted general health and safety

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standards, pursuant to WISHA, that apply to most industries, and has safety standards that apply only to specific industries.

If the Director of the Department believes that an employer has committed a WISHA violation, the Director issues a citation and, depending on the violation, may impose civil penalties. Civil penalties may be adjusted based on the employer's inspection history, the size of the workforce, and other factors. The Director must impose penalties for violations that are serious or willful. The minimum civil penalty for a serious violation is \$100. Maximum penalties are \$7,000, or \$70,000 for willful or repeated violations. The maximum penalties will be adjusted annually in accordance with federal penalty levels.

#### Contractor Debarment.

There are various reasons a contractor may be debarred from bidding on public works contracts. A contractor will be debarred for one year if the contractor has two violations within a five year period, of any of the following: misreporting hours worked or misreporting premiums paid for workers' compensation; failing to obtain workers' compensation coverage; failing to comply with contractor registration requirements; or failing to comply with certain apprenticeship standards. A contractor will be debarred for two years if the contractor has two violations within a five year period for failing to pay prevailing wages.

#### **Summary of Bill:**

The Legislature recognizes that fire protection measures are critical design elements to control the spread of fire and that fire-resistant materials help protect structural steel, contain fire, and limit damage. The Legislature declares that it is important that individuals installing these materials are properly trained.

"Fire-resistant material" means wet or dry mix cementitious material, fibrous materials, putty, and/or caulking that are applied to a surface to provide passive fire suppression for fire protection of the substrate. "Fire-resistant material applicator" means an individual who applies fire-resistant material.

Every fire-resistant material applicator (applicator) must undergo initial training and refresher training every five years, to apply fire-resistant material. The Department must establish training standards through rules.

All training provided must be through either a state registered apprenticeship program or by manufacturers that have been approved by the Department to provide training. If a manufacturer provides training, the applicator must be trained in the application of at least four different products.

Contractors employing applicators must:

- verify that the applicator has complied with training requirements, prior to applying fire-

- resistant material, by obtaining written verification from the training provider;
- retain written verification records for 10 years; and
- ensure the applicators are certified as required.

A contractor out of compliance with the requirement to verify or keep records must be fined up to \$3,000 for every instance that the individual installed fire-resistant material without the required training.

A contractor that violates the requirement to ensure that an applicator is certified is subject to the following penalties:

- For a first violation, a minimum of \$2,500. The first violation must be publicly viewable on the Department's website.
- For a second violation, a minimum of \$3,000 and automatic debarment from bidding on public works for one year.
- For a third violation, a minimum of \$5,000 and a permanent debarment from bidding on public works projects.

After 2032, the Department may adjust the penalties for inflation. The Department may increase penalties for repeat, willful, and serious violations. The Department must implement the provisions and must include procedures for appeal of penalties and enforcement.

**Appropriation:** None.

**Fiscal Note:** Requested on January 25, 2023.

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