

SENATE BILL REPORT

SHB 1323

As Passed Senate, April 7, 2023

Title: An act relating to requiring a training and certification program for individuals who apply fire-resistant materials.

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

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Bronoske, Berry, Leavitt, Morgan, Taylor, Senn, Bateman, Reed, Lekanoff and Doglio).

Brief History: Passed House: 2/28/23, 97-0.

Committee Activity: Labor & Commerce: 3/21/23, 3/27/23 [DP].

Floor Activity: Passed Senate: 4/7/23, 48-0.

Brief Summary of Bill

- Requires individuals applying fire-resistant materials to be certified by the Department of Labor and Industries after receiving training from an approved trainer.
- Requires contractors, beginning January 1, 2026, to use only certified fire-resistant material applicators.
- Imposes civil penalties and debarment from public works contracts on contractors violating the requirements.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun, MacEwen, Robinson, Schoesler and Stanford.

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.

Staff: Jarrett Sacks (786-7448)

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 (L&I) administers WISHA. L&I has adopted general health and safety standards, pursuant to WISHA, that apply to most industries, and has safety standards that apply only to specific industries. If the director of L&I 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 are 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: Every individual applying fire-resistant materials must be certified by L&I. To qualify for certification, the individual must complete initial training and refresher training every five years. Training must be through a state-registered apprenticeship program, a manufacturer, or other certified training provider approved by L&I. If a manufacturer provides training, the applicator must be trained in the application of at least four different types of products.

Beginning January 1, 2026, contractors must ensure all fire-resistant material is applied by certified fire-resistant material applicators. A contractor must obtain written documentation of the individual's certification, and must keep records of the documentation for ten years.

A contractor that violates these requirements is subject to the following penalties:

- for a first violation, a minimum of \$2,500;
- for a second violation, a minimum of \$3,000 and automatic debarment from bidding on public works for one year; and
- for a third violation, a minimum of \$5,000 and a permanent debarment from bidding on public works projects.

After 2032, L&I may adjust the penalties for inflation. L&I may increase penalties for repeat, willful, and serious violations.

Fire-resistant material means:

- wet or dry mix materials, cementitious material, and fibrous materials applied to achieve an hourly fire-resistant rating for buildings classified as construction types I through V, as defined by the International Building Code (IBC); and
- sealants, putty, and caulking used for firestop systems applied to risk category III and IV buildings, as defined by the IBC.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony: PRO: We want consistency in the application of fire proofing materials, especially in commercial structures. These materials are applied to avoid critical collapses of structures during fires. There is currently a mixture of different regulations in different jurisdictions. Passive fire protection is important and works along with active fire protection such as fire sprinklers to delay fires and allow people time to put the fires out. Not just anyone should be allowed to apply these materials. The bill leaves the requirements to rulemaking to avoid being too specific to an industry or a particular material.

Persons Testifying: PRO: Representative Dan Bronoske, Prime Sponsor; Ray Dumas, OPCMIA Local 528; AJ Johnson, Washington State Council of Fire Fighters; Erin Frasier, Washington State Building & Construction Trades Council.

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