

SENATE BILL REPORT

SSB 5980

As Passed Senate, February 13, 2024

Title: An act relating to the timeline for issuing a citation for a violation of the Washington industrial safety and health act.

Brief Description: Concerning the timeline for issuing a citation for a violation of the Washington industrial safety and health act.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Keiser, Conway, Liias, Van De Wege, Hasegawa, Nobles, Salomon and Valdez).

Brief History:

Committee Activity: Labor & Commerce: 1/25/24, 1/29/24 [DPS, w/oRec].

Floor Activity: Passed Senate: 2/13/24, 49-0.

Brief Summary of First Substitute Bill

- Provides that until June 30, 2026, when the Department of Labor and Industries (L&I) conducts inspections of residential building construction employer worksites, it must make a good faith effort to notify the employer or owner of certain hazards within ten working days.
- Requires L&I to provide a report to the Legislature with the number and percent of inspections when timely notice was not given to the owner or employer and the reasons why L&I did not or could not comply.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5980 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun, Hansen, MacEwen 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.

Minority Report: That it be referred without recommendation.

Signed by Senator Schoesler.

Staff: Susan Jones (786-7404)

Background: General Safety Requirements for Workplaces. Each employer must furnish a workplace free from recognized hazards that are causing or likely to cause serious injury or death to the employees. The Department of Labor and Industries (L&I) may not issue a citation or order assessing a penalty to any employer solely on this requirement except where there is no applicable L&I rule covering the unsafe or unhealthful condition of employment at the workplace.

The Department of Labor and Industries Citations. If upon inspection or investigation L&I believes an employer has violated the requirement for a workplace generally free from hazards, or any safety or health standard promulgated by L&I rule or the conditions of any order granting a variance, L&I must, with reasonable promptness, issue a citation to the employer. Each citation must be in writing and describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, regulation, or order alleged to have been violated. The citation must fix a reasonable time for the abatement of the violation. No citation may be after the expiration of six months from a compliance inspection, investigation, or survey revealing any such violation. No citation may be issued if there is unpreventable employee misconduct that led to the violation under certain circumstances. Each citation or a copy must be prominently posted, at or near each place a violation occurred or as otherwise prescribed in rule.

No Citations at Consultative Visits. L&I has a consultation program, which offers advice and assistance to businesses. The L&I representative will make recommendations regarding the elimination of any hazards disclosed within the scope of the on-site consultation. No visit to an employer's workplace may be considered an inspection or investigation. No notices or citations may be issued and no civil penalties may be assessed. The representative does not have any enforcement authority. However, in the event an on-site visit discloses a serious violation of a health and safety standard and the hazard is either not abated by the employer or is not subject to being satisfactorily abated, L&I must either invoke the administrative restraining authority or seek an injunction.

Penalties. Penalties may be assessed for certain violations depending on the nature of the violation and other factors.

Summary of First Substitute Bill: Until June 30, 2026, when conducting inspections of employer worksites where workers are engaged in activities defined by North American Industry Classification System 2361, residential building construction, L&I must make a good faith effort to notify the employer or owner within ten working days where a hazard that could cause injury to a worker was immediately identified during an inspection. The notice does not eliminate or modify any other right, responsibility, or authority provided in

the Washington Safety and Health Act.

By December 1, 2026, L&I must report to the appropriate committees of the Legislature the number and percent of inspections when timely notice was not given to the owner or employer and the reasons why L&I did not or could not comply.

Appropriation: None.

Fiscal Note: Requested on January 20, 2024.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on First Substitute: PRO: The time between inspection and notice has expanded to 30, 60, 90. Current language with reasonable promptness is insufficient. There is liability for L&I if they fail to provide notice. This is a due process and safety issue.

Employers can't make timely safety corrections without notice. Ten days' notice is too long for a safety notice. Notice is intended to correct and educate. It is a good start but needs to go further. The biggest concern with the substitute is that it is limited to particular group but it should apply to all employer because concern is safety.

The bill addresses the construction industry employers, who find out months after an inspection that there was a safety violation. We would like a notice, not a formal citation. In residential construction, the workers can be on the job for a short period of time.

OTHER: Technical difficulties precluded oral testimony.

Persons Testifying: PRO: Jackson Maynard, Maynard Law PLLC; Robert (Bob) Battles, Association of Washington Business (AWB); Todd Goldberg, The Integrated Group, Inc.; Joseph Irons, Irons Brothers Construction; Tom Kwieciak, Building Industry Association of WA.

OTHER: Craig Blackwood, Department of Labor & Industries.

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