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**SUBSTITUTE HOUSE BILL 1323**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Bronoske, Berry, Leavitt, Morgan, Taylor, Senn, Bateman, Reed, Lekanoff, and Doglio)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to requiring a training and certification program  
2 for individuals who apply fire-resistant materials; amending RCW  
3 39.12.055; adding a new chapter to Title 49 RCW; prescribing  
4 penalties; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature recognizes that fire  
7 protection measures are critical design elements meant to control the  
8 spread of a fire until active fire protection measures, such as  
9 sprinklers, fire extinguishers, or the fire department can take over  
10 and control a fire. Among the types of passive fire protection  
11 measures are the use of fire-resistant materials that help to protect  
12 structural steel, contain the fire, and limit damage to critical  
13 infrastructure. It is important that individuals installing these  
14 materials be properly trained to perform this work. Therefore, the  
15 legislature hereby establishes a training and certification program  
16 for fire-resistant material applicators.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout sections 3 through 5 of this act unless the context  
19 clearly requires otherwise.

20 (1) "Fire-resistant material" means:

1 (a) Wet or dry mix materials, cementitious materials, and fibrous  
2 materials, applied to achieve an hourly fire-resistant rating for  
3 buildings classified as construction types I, II, III, IV, and V, as  
4 defined by the international building code; and

5 (b) Sealants, putty, and caulking used for firestop systems,  
6 applied to risk category III and IV buildings, as defined by the  
7 international building code.

8 (2) "Certified fire-resistant material applicator" means an  
9 individual certified by the department to apply fire-resistant  
10 material. Certified fire-resistant material applicator does not  
11 include an individual applying fire-resistant material in or to the  
12 individual's own residence.

13 (3) "Contractor" means an employer performing work that includes  
14 the application of fire-resistant material, or any person,  
15 partnership, or business entity that does not have employees but that  
16 performs work that includes the application of fire-resistant  
17 material.

18 (4) "Department" means the department of labor and industries.

19 NEW SECTION. **Sec. 3.** (1) Every individual applying fire-  
20 resistant material for or as a contractor must be certified by the  
21 department. To qualify for certification, the individual must  
22 complete initial training and must complete refresher training every  
23 five years for recertification.

24 (2) All training provided under this section must be provided by  
25 an apprenticeship program registered with the Washington state  
26 apprenticeship and training council, or by fire-resistant material  
27 manufacturers or other certified training providers, that have been  
28 approved by the department to provide training in the application of  
29 fire-resistant materials. Training provided by manufacturers must  
30 include training in the application of at least four different types  
31 of fire-resistant material products.

32 (3) An individual who has completed the training required under  
33 this section must submit an application to the department to receive  
34 certification as a certified fire-resistant material applicator.

35 (4) The department shall, by rule, develop and administer a  
36 certification process for fire-resistant material applicators,  
37 including the minimum standards for initial training and refresher  
38 training, and the approval process for fire-resistance material  
39 manufacturers or other certified training providers. The department's

1 rules and certification process must be in place at least one year  
2 prior to January 1, 2026.

3 NEW SECTION. **Sec. 4.** (1) Beginning January 1, 2026, contractors  
4 must ensure all fire-resistant material is applied by a certified  
5 fire-resistant material applicator prior to the individual applying  
6 any fire-resistant material. A contractor must verify that the  
7 individual is certified by the department by obtaining written  
8 documentation of the individual's certification.

9 (2) Contractors must retain the written documentation for a  
10 period of 10 years.

11 NEW SECTION. **Sec. 5.** (1) Unless specifically provided otherwise  
12 by statute, this chapter shall be implemented and enforced, including  
13 penalties, violations, citations, and other administrative  
14 procedures, pursuant to chapter 49.17 RCW.

15 (2) The first violation of this section is a penalty of \$2,500.

16 (3) The second violation is a penalty of \$3,000 and debarment  
17 from bidding for public works projects for one year.

18 (4) The third violation is a penalty of \$5,000 and the  
19 contractor's permanent debarment from public works projects.

20 (5)(a) Violations must be published on the department's website,  
21 as determined under the department's rules.

22 (b) The penalties established in this section are a minimum which  
23 the department may exceed. After 2032, the department may adjust  
24 these penalties for inflation. Repeat, willful, and serious  
25 violations may result in increased penalties as determined by the  
26 department.

27 (6) The department must adopt rules to implement this chapter.

28 **Sec. 6.** RCW 39.12.055 and 2009 c 197 s 3 are each amended to  
29 read as follows:

30 ((A)) Except as otherwise provided in section 5 of this act, a  
31 contractor shall not be allowed to bid on any public works contract  
32 for one year from the date of a final determination that the  
33 contractor has committed any combination of two of the following  
34 violations or infractions within a five-year period:

35 (1) Violated RCW 51.48.020(1) or 51.48.103;

36 (2) Committed an infraction or violation under chapter 18.27 RCW  
37 for performing work as an unregistered contractor; or

1           (3) Determined to be out of compliance by the Washington state  
2 apprenticeship and training council for working apprentices out of  
3 ratio, without appropriate supervision, or outside their approved  
4 work processes as outlined in their standards of apprenticeship under  
5 chapter 49.04 RCW.

6           NEW SECTION.     **Sec. 7.**     Sections 1 through 5 of this act  
7 constitute a new chapter in Title 49 RCW.

8           NEW SECTION.     **Sec. 8.**     Section 4 of this act takes effect January  
9 1, 2026.

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