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**HOUSE BILL 2849**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Doglio, Sells, Frame, Gregerson, Appleton, Valdez, Kloba, Pollet, and Goodman

AN ACT Relating to protecting temporary workers; adding a new section to chapter 49.17 RCW; adding a new section to chapter 49.12 RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  A new section is added to chapter 49.17 RCW to read as follows:

(1) Before the assignment of an employee to a work site employer, a staffing agency must:

(a) Provide training to the employee for industry specific hazards the employee may encounter at the work site employer. Industry specific training must be completed annually, in the preferred language of the worker, and must occur during paid work hours and at no expense to the employee. The training date and training content must be maintained by the staffing agency and provided to the employee; and

(b) Transmit training documentation to the work site employer.

(2) Before the employee engages in work for the work site employer, the work site employer must:

(a) Document anticipated job hazards likely encountered by the staffing agency employee;

(b) Review industry specific training provided by the staffing agency to determine if the training is appropriate for hazards encountered in the work site employer's job site location. If the work site employer determines that the training is not appropriate, the work site employer must provide all necessary supplemental training; and

(c) Document if the determination is made that the training is adequate for the expected hazards likely encountered by the staffing agency employees and document and maintain records of supplemental training and provide the training records to the staffing agency and the employee.

(3) If the work site employer changes the job tasks, the work site employer must:

(a) Inform both the staffing agency and the employee; and

(b) Provide a written job hazard analysis to both the staffing agency and the employee before the employee undertakes the new tasks and update personal protective equipment and training for the new job tasks, if necessary.

(4) A staffing agency and employee may refuse a new job task.

(5) A work site employer must allow a staffing agency to visit any work site where the staffing agency's employees are working to observe and confirm the information related to job tasks and hazards.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Staffing agency" means an individual, company, corporation, or partnership, that procures or provides temporary employment to a person who then works under the supervision or direction of a work site employer. "Staffing agency" does not include a "farm labor contractor" as defined in RCW 19.30.010.

(b) "Work site employer" means an individual, company, corporation or partnership, with which a staffing agency contracts or otherwise agrees to furnish persons for temporary employment.

NEW SECTION. **Sec.**  A new section is added to chapter 49.12 RCW to read as follows:

(1)(a) A staffing agency must provide to each employee notice of the following:

(i) The name, address, and telephone number of: (A) The staffing agency or the staffing agency agent facilitating the placement; (B) the work site employer; and (C) the department;

(ii) A description of the position and whether the position requires any special clothing, equipment, training, or licenses, and any costs charged to the employee for supplies or training;

(iii) The designated pay day, the hourly rate of pay, and whether overtime pay may occur;

(iv) The daily starting time and anticipated end time and, when known, the expected duration of employment;

(v) Whether any meals shall be provided by the staffing agency or work site employer and the charge, if any, to the employee; and

(vi) Details of the means of transportation to the work site and any fees charged to the employee by the staffing agency or work site employer for any transportation services.

(b) The notice required by this section must be provided before or at the same time the staffing agency directs the employee to a new assignment or employment and may be provided by telephone. The information must also be sent in writing to the employee, using a method designated by the employee including facsimile, email, or first-class mail, before the end of the first pay period. Any change in the information provided must be immediately provided to the employee using the same method designated by the employee and the employee must acknowledge the change in terms.

(2) A staffing agency shall post in a conspicuous place in each of its locations where it does business notice of an employee's rights under this section and the name and telephone number of the department. A staffing agency must also provide a copy of the notice of rights to the employee in the language the employee prefers using a method designed by the employee including facsimile, email, or first-class mail. The department shall post on its website sample notices that meet the requirements of this section in at least the five languages the department reasonably determines are most likely to be understood by employees.

(3) A staffing agency or worksite employer may not charge or accept a fee from an employee for:

(a) The cost of registration with the staffing agency or the cost of procuring employment;

(b) Any good or service unless under the terms of a written contract with the employee, which clearly states in a language that the employee understands, that the purchase is voluntary and that the staffing agency will not gain a profit from any cost or fee charged to the employee;

(c) The provision of any of the following that exceed the actual cost per applicant or employee: Bank card, debit card, payroll card, voucher, draft, money order, or similar form of payment of wages, or any drug screen;

(d) A criminal history background check;

(e) Transportation, except as provided in subsection (4) of this section; or

(f) Any good or service the payment of which would cause the employee to earn less than the applicable minimum wage.

(4)(a) If a staffing agency or work site employer or a person acting directly or indirectly in either's interest offers transportation services to an employee and charges a fee for such services, the staffing agency or work site employer may not charge more than the actual cost to transport such employee to or from the designated work site or three percent of the employee's total daily wages, whichever is less. If the staffing agency or work site employer requires the employee to use such transportation services, the staffing agency or work site employer may not charge a fee to the employee.

(b) Any staffing agency that sends an employee to a work site employer for employment that day when no employment exists must fully refund to the employee the cost of transportation and compensate the employee for time spent traveling to the work site employer's location.

(5) A staffing agency may not:

(a) Knowingly issue, distribute, circulate, or provide any false, fraudulent, or misleading information, representation, promise, notice, or advertisement to any applicant or employee;

(b) Assign or place an employee in employment by force or fraud, for illegal purposes, or where the employment is in violation of state or federal laws governing minimum wage, child labor, employment of minors, or required licensure or certification;

(c) Assign or place an employee in employment at any location that is on strike or lockout, without notifying the employee;

(d) Refuse to return on demand any personal property belonging to an employee or any fee or cost that is charged or accepted by a staffing agency or work site employer in excess of the amounts allowed under this section; or

(e) Deduct any fees or costs from employee wages in violation of RCW 49.48.010 or 49.52.060, or deduct any fees or costs from employee wages unless expressly authorized in writing by the employee and the staffing agency provides to the employee a copy of the signed authorization in a language the employee can understand.

(6) If a work site employer changes the location of a job site, the staffing agency and the employee may refuse the new location, and a work site employer and staffing agency may not discriminate against an employee for refusing work at a changed location.

(7) Upon complaint by an employee or an interested party, the department may investigate to determine if there has been compliance with this section by a staffing agency or work site employer. If the director determines that a violation occurred, the director may order payment to the department of a civil penalty of not more than two hundred dollars per employee for a first violation and not more than one thousand dollars per employee for a repeat violation, and payment to the department of the costs of the investigation and enforcement and reasonable attorneys' fees and costs. The department must deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(8) The department may adopt rules to implement this section.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Employee" means a person employed directly by a staffing agency to provide temporary or part-time employment services to a work site employer or a person for whom a staffing agency procures or arranges temporary or part-time employment with a work site employer. "Employee" includes workers performing in an executive, administrative, professional, or outside sales capacity, and domestic or casual labor in or about private residences.

(b) "Staffing agency" means an individual, company, corporation, or partnership, that procures or provides temporary or part-time employment to a person who then works under the supervision or direction of a work site employer. "Staffing agency" does not include a "farm labor contractor" as defined in RCW 19.30.010.

(c) "Work site employer" means an individual, company, corporation or partnership, with which a staffing agency contracts or otherwise agrees to furnish persons for temporary or part-time employment.

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