
HOUSE BILL 1980

State of Washington 55th Legislature 1997 Regular Session

By Representatives Lisk, McMorris, Dyer and Honeyford

Read first time 02/17/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to employment in the construction industry;
2 amending RCW 51.24.035; adding new sections to chapter 49.17 RCW;
3 creating a new section; and declaring an emergency.

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

5 **Sec. 1.** RCW 51.24.035 and 1987 c 212 s 1801 are each amended to
6 read as follows:

7 (1) Notwithstanding RCW 51.24.030(1), the injured worker or
8 beneficiary may not seek damages ((against a design professional who is
9 a third person and who has been retained to perform professional
10 services on a construction project, or any employee of a design
11 professional who is assisting or representing the design professional
12 in the performance of professional services on the site of the
13 construction project, unless responsibility for safety practices is
14 specifically assumed by contract, the provisions of which were mutually
15 negotiated, or the design professional actually exercised control over
16 the portion of the premises where the worker was injured)) for an
17 injury or occupational disease occurring in the course of employment at
18 the site of a construction project, whether accomplished by a single
19 contract or by multiple contracts, against the owner or developer of

1 the project or against any person or entity performing work, furnishing
2 materials, or providing services to or for the construction project
3 including, but not limited to, design professionals, construction
4 managers, general or prime contractors, suppliers, subcontractors of
5 any tier, and any employee of a design professional, construction
6 manager, general or prime contractor, supplier, or subcontractor of any
7 tier.

8 (2) The immunity provided by this section does not extend to any
9 person or entity who injures a worker by deliberate intention as
10 defined in RCW 51.24.020, and it is against public policy to seek
11 indemnification in construction contracts against such liability. Such
12 contractual clauses are void and unenforceable.

13 (3) The immunity provided by this section does not extend to
14 manufacturers and product sellers for product liability actions as
15 defined in chapter 7.72 RCW.

16 (4) The immunity provided by this section does not apply to the
17 negligent preparation of design plans and specifications by a design
18 professional.

19 ~~((+3+))~~ (5) For the purposes of this section, "design professional"
20 means an architect, professional engineer, land surveyor, or landscape
21 architect, who is licensed or authorized by law to practice such
22 profession, or any corporation organized under chapter 18.100 RCW or
23 authorized under RCW 18.08.420 or 18.43.130 to render design services
24 through the practice of one or more of such professions.

25 NEW SECTION. Sec. 2. A new section is added to chapter 49.17 RCW
26 to read as follows:

27 All construction employers have a duty to provide a safe place to
28 work for their own employees and the employees of their subcontractors
29 of any tier working at the site of a construction project. This duty
30 shall be considered within the context of standard construction
31 industry practices. Such duty includes implementation of a safety
32 program that is effective in practice.

33 All construction employers shall take reasonable steps to ensure
34 that their safety programs are designed to comply with Title 51 RCW and
35 this chapter, including the development, implementation, and periodic
36 evaluation of a written accident prevention plan specific to the site
37 of each construction project. All construction employers shall
38 designate an individual with responsibility for construction jobsite

1 safety. All construction employers shall inform their own employees of
2 the name and telephone number of that designated individual. The prime
3 contractor or general contractor shall post the name and telephone
4 number of its designated individual at the site of a construction
5 project. All subcontractors shall inform the prime contractor or
6 general contractor of the name and telephone number of the
7 subcontractor's designated individual responsible for construction
8 jobsite safety.

9 Suggestions for safety improvements and identification of potential
10 hazards at the site of a construction project are to be encouraged.
11 Permissible disciplinary actions for violation of these or other
12 appropriately communicated requirements include, but are not limited
13 to: Verbal or written reprimand, suspension from work, and termination
14 for cause. Such disciplinary actions for violations shall be subject
15 to the disciplinary provisions set forth in an employer's written
16 policy statement or in a written agreement between an employer and
17 employees, if such a written agreement exists.

18 Neither violation of the provisions of this section nor the
19 issuance of a citation under this chapter eliminates or effects any
20 change to the immunity conferred in RCW 51.24.035.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.17 RCW
22 to read as follows:

23 The prime contractor or general contractor has the primary
24 responsibility for compliance with safety regulations at each
25 construction jobsite. If a construction employer's safety program is
26 effective in practice, no citation shall be issued to the construction
27 employer for violations of this chapter by any of the construction
28 employer's subcontractors of any tier. A safety program shall be
29 considered effective in practice if it complies with the following:

30 (1) A prime contractor or general contractor's subcontractors are
31 required, by contract, to comply with the provisions of this chapter;
32 and

33 (2) The prime contractor or general contractor develops,
34 implements, and enforces a written accident prevention program for each
35 construction project; and

36 (3) The prime contractor or general contractor requires each
37 subcontractor at the site of a construction project to provide an
38 accident prevention plan for that construction project, which shall be

1 available at the construction jobsite or at the prime contractor or
2 general contractor's main business office located within the state of
3 Washington; and

4 (4) The prime contractor or general contractor posts at that
5 construction project the name and telephone number of its designated
6 individual with responsibility for construction jobsite safety at that
7 construction jobsite; and

8 (5) The prime contractor or general contractor provides to its
9 employees all safety equipment necessary for that construction jobsite;
10 and

11 (6) The prime contractor or general contractor provides, or
12 requires by contract its subcontractors to provide to the
13 subcontractor's employees, all safety equipment necessary for that
14 construction jobsite.

15 NEW SECTION. **Sec. 4.** The department of labor and industries shall
16 adopt rules in consultation with the affected parties, that are
17 consistent with the legislative intent of this act to implement this
18 act.

19 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and takes effect
22 immediately.

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