

# HOUSE BILL REPORT

## HB 2647

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### As Reported By House Committee On:

Commerce & Labor

**Title:** An act relating to safety devices for flaggers.

**Brief Description:** Requiring safety devices for flaggers.

**Sponsors:** Representatives Reardon, Scott, Cooper, Conway, Linville, Cairnes, Dunshee, Kagi, Campbell, Sullivan, Keiser, Kenney, Santos, Haigh and Hurst.

### Brief History:

#### Committee Activity:

Commerce & Labor: 1/26/00, 2/3/00 [DPS].

#### Brief Summary of Substitute Bill

- Requires flaggers working on road construction to be provided with devices that show a view of the area behind the flagger.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; Wood, Democratic Vice Chair; Hurst and McIntire.

**Minority Report:** Do not pass. Signed by 3 members: Representatives B. Chandler, Republican Vice Chair; Lisk and McMorris.

**Staff:** Chris Cordes (786-7103).

### Background:

Under the Washington Industrial Safety and Health Act (WISHA), if signs and barricades do not provide necessary protection on a highway or street, a flagger or other appropriate traffic control must be provided. The state's public highway laws have similar requirements during construction, repair, or maintenance work conducted on, or adjacent to, public highways, roads, streets, bridges or other thoroughfares

when that work interferes with traffic. The WISHA rules determine the size of flaggers' signs, the color and size of the letters used on the signs, and the type of reflective material used. Under the rules, flaggers must wear orange warning clothing, a yellow helmet, and, for night work, reflective material. They must be trained every three years and must carry a valid certificate verifying the completion of training.

The WISHA rules also require that vehicles used in construction (other than passenger vehicles) have a reverse signal alarm or have a signaler assigned to the truck. If an alarm is used, it must be audible above the surrounding noise level no less than 15 feet from the rear of the vehicle.

In October 1999, a flagger directing traffic was killed when struck by a dump truck backing up behind her. According to State Patrol officers investigating the accident, the dump truck's alarm was operating normally, but was difficult to hear because of heavy winds.

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### **Summary of Substitute Bill:**

Beginning July 1, 2000, flaggers required to be certified under the WISHA must be provided with devices that show a view of the area behind the flagger. The Department of Labor and Industries must adopt rules, to take effect no later than July 1, 2000, to implement this requirement. These rules are not subject to the requirements for adopting "significant legislative rules." Effective immediately, the director is authorized to take necessary steps to ensure that implementation of the warning device requirement occurs on July 1, 2000.

By September 15, 2000, the director must report to legislative committees on the rules adopted to implement the warning device requirement.

The act will be named the "Kim Vendl Worker Safety Act."

**Substitute Bill Compared to Original Bill:** The substitute bill: (1) applies the new warning device requirement to all flaggers certified under the Washington Industrial Safety and Health Act, not just to those posted on public road construction; (2) deletes references to specific warning devices, such as mirrors; (3) changes the effective date of the new warning device requirement from January 1, 2001, to July 1, 2000; (4) specifies that the Department of Labor and Industries' rules implementing the new warning device requirement must take effect by July 1, 2000, and that this rule is not subject to procedures for "significant legislative rules"; (5) adds that the department may immediately take the steps necessary to ensure that the new warning device requirement is implemented on its effective date; and (6) adds that the department must report to legislative committees on the new warning device rule.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect July 1, 2000, except for section 2, relating to rule-making, which takes effect immediately.

**Testimony For:** Flaggers on highway construction projects work in an extremely dangerous environment where the situation changes rapidly and the flagger can easily be distracted. Giving flaggers an inexpensive tool to monitor the traffic behind them is cost effective and will improve flaggers' safety. This is not micro-management, but a first step in improving safety. There is a proven record for these signs with mirrors because some flaggers are already using them. Some employers have voluntarily started providing the signs. The specific accident that prompted this bill was investigated and the backup alarm on the truck was working properly. The bill should be expanded to cover both public and private road construction.

(Concerns) This is an issue that should be taken very seriously because there is a large concern about flagger safety and a need to prevent more accidents. However, the signs with mirrors may not be the best solution because the reflected light could distract drivers or the flagger. This could raise liability concerns. The issue should be studied and recommendations adopted after determining the best safety tool. For example, a mirror on a bike helmet might be considered.

**Testimony Against:** None.

**Testified:** (In support) Representative Aaron Reardon, prime sponsor; Richard Vendl, Dan O'Connor, Laborers International Union, Local #292; Allan Darr, Washington State Building and Construction Trades Council; Dan McMurdie, Department of Labor and Industries; Chuck Jewell, Joint Council of Teamsters, Local #38; Dan Sexton, Washington State Association of Plumbers and Pipefitters; and Larry Archer; International Union of Operating Engineers.

(With concerns) Rex Swartz, Department of Transportation.