

# HOUSE BILL REPORT

## ESHB 2647

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### As Amended by the Senate

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

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

**Sponsors:** By House Committee on Commerce & Labor (originally sponsored by 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].

**Floor Activity:**

Passed House: 2/15/00, 92-5.

Senate Amended.

Passed Senate: 2/28/00, 39-6.

House Refused to Concur.

Senate Receded.

Senate Amended.

Passed Senate: 3/7/00, 41-3.

<p><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>· Requires flaggers working on road construction to be provided with devices that show a view of the area behind the flagger.</li></ul>
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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 Bill:**

The Department of Labor and Industries must revise its safety and health standards governing flaggers used in traffic control operations. These revised rules must take effect no later than July 1, 2000, and must be designed to improve safety options available to traffic control operations. In developing the rules, the department must consult with the Washington State Department of Transportation and other persons interested in improving the safety of traffic control operations.

By September 15, 2000, the director must report to legislative committees on the revised traffic control operations rules.

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

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**EFFECT OF SENATE AMENDMENT(S):** The Senate amendment adds: (1) a requirement for the Transportation Commission and the Utilities and Transportation Commission, in addition to the Department of Labor and Industries, to adopt revised flagger safety rules. These rules must initially be adopted as emergency rules and

take effect June 1, 2000, instead of July 1, 2000. These emergency rules must remain in effect until the permanent rules are adopted. In addition to improving options for safety, the rules must ensure that flaggers have adequate visual warning of objects approaching from behind. (A report on the rules to the Senate Labor & Workforce Development Committee and the House Commerce & Labor Committee continues to be required by September 15, 2000.)

(2) a requirement for these agencies to adopt permanent rules by March 1, 2001, that address flagger safety, visual warning of objects approaching from behind, and, with respect to the UTC rules, employment qualifications for flaggers. The agencies must coordinate and make their rules consistent to the extent possible. The agencies must report on the permanent rules to the committees by April 22, 2001.

(3) technical amendments to several statutes referring to flaggers to make the statutes gender neutral.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after the adjournment of session in which bill is passed, except for Section 1, 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.