

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5614**

Chapter 93, Laws of 1999

56th Legislature  
1999 Regular Session

WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT CITATION--  
UNPREVENTABLE EMPLOYEE MISCONDUCT

EFFECTIVE DATE: 7/25/99

Passed by the Senate March 10, 1999  
YEAS 45 NAYS 0

BRAD OWEN  
**President of the Senate**

Passed by the House April 8, 1999  
YEAS 95 NAYS 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

FRANK CHOPP  
**Speaker of the  
House of Representatives**

Approved April 22, 1999

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5614** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK  
**Secretary**

FILED

April 22, 1999 - 3:55 p.m.

**Secretary of State  
State of Washington**

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**SENATE BILL 5614**

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Passed Legislature - 1999 Regular Session

**State of Washington                      56th Legislature                      1999 Regular Session**

**By** Senators Hochstatter, Oke, T. Sheldon and Heavey

Read first time 01/29/1999. Referred to Committee on Labor & Workforce Development.

1            AN ACT Relating to restricting Washington industrial safety and  
2 health act citations as a result of employee misconduct; and amending  
3 RCW 49.17.120.

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

5            **Sec. 1.** RCW 49.17.120 and 1973 c 80 s 12 are each amended to read  
6 as follows:

7            (1) If upon inspection or investigation the director or his or her  
8 authorized representative believes that an employer has violated a  
9 requirement of RCW 49.17.060, or any safety or health standard  
10 promulgated by rule adopted by the director, or the conditions of any  
11 order granting a variance pursuant to this chapter, (~~he~~) the director  
12 shall with reasonable promptness issue a citation to the employer.  
13 Each citation shall be in writing and shall describe with particularity  
14 the nature of the violation, including a reference to the provisions of  
15 the statute, standard, rule, regulation, or order alleged to have been  
16 violated. In addition, the citation shall fix a reasonable time for  
17 the abatement of the violation.

1       (2) The director may prescribe procedures for the issuance of a  
2 notice in lieu of a citation with respect to de minimis violations  
3 which have no direct or immediate relationship to safety or health.

4       (3) Each citation, or a copy or copies thereof, issued under the  
5 authority of this section and RCW 49.17.130 shall be prominently  
6 posted, at or near each place a violation referred to in the citation  
7 occurred or as may otherwise be prescribed in regulations issued by the  
8 director. The director shall provide by rule for procedures to be  
9 followed by an employee representative upon written application to  
10 receive copies of citations and notices issued to any employer having  
11 employees who are represented by such employee representative. Such  
12 rule may prescribe the form of such application, the time for renewal  
13 of applications, and the eligibility of the applicant to receive copies  
14 of citations and notices.

15       (4) No citation may be issued under this section or RCW 49.17.130  
16 after the expiration of six months following a compliance inspection,  
17 investigation, or survey revealing any such violation.

18       (5)(a) No citation may be issued under this section if there is  
19 unpreventable employee misconduct that led to the violation, but the  
20 employer must show the existence of:

21       (i) A thorough safety program, including work rules, training, and  
22 equipment designed to prevent the violation;

23       (ii) Adequate communication of these rules to employees;

24       (iii) Steps to discover and correct violations of its safety rules;  
25 and

26       (iv) Effective enforcement of its safety program as written in  
27 practice and not just in theory.

28       (b) This subsection (5) does not eliminate or modify any other  
29 defenses that may exist to a citation.

Passed the Senate March 10, 1999.

Passed the House April 8, 1999.

Approved by the Governor April 22, 1999.

Filed in Office of Secretary of State April 22, 1999.