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

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

FRANK CHOPP
Speaker of the House of Representatives

Approved April 22, 1999

GARY LOCKE
Governor of the State of Washington

Secretary of State
State of Washington

FILED

April 22, 1999 - 3:55 p.m.
AN ACT Relating to restricting Washington industrial safety and health act citations as a result of employee misconduct; and amending RCW 49.17.120.

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

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

(1) If upon inspection or investigation the director or his or her authorized representative believes that an employer has violated a requirement of RCW 49.17.060, or any safety or health standard promulgated by rule adopted by the director, or the conditions of any order granting a variance pursuant to this chapter, (he) the director shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation.
(2) The director may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health.

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

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

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

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

(ii) Adequate communication of these rules to employees;

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

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

(b) This subsection (5) does not eliminate or modify any other 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.