
Commerce & Labor Committee

HB 1553

Brief Description: Describing educational visits to small agricultural employers.

Sponsors: Representatives Buri, Linville, Armstrong, Grant, Condotta, Orcutt, Quall, Kretz, Wallace, Haigh, Crouse and Morrell.

Brief Summary of Bill
<ul style="list-style-type: none">Prohibits the Department of Labor and Industries, when making initial visits to agricultural employers with ten or fewer full-time employees, from conducting safety and health inspections or investigations, issuing notices or citations, or assessing civil penalties.

Hearing Date: 2/24/05

Staff: Jill Reinmuth (786-7134).

Background:

The Washington Industrial Safety and Health Act (WISHA) is the state's industrial safety and health program. Its purpose is to assure safe and healthful conditions for workers. It applies to every employer who hires one or more employees or independent contractors for personal labor in most industries.

Relationship Between Federal Law and State Law

Washington is a "state plan state" under the federal Occupational Safety and Health Act (OSHA). As a state plan state, Washington is authorized to assume responsibility for occupational safety and health in the state. To maintain its status, Washington's safety and health standards must be at least as effective as those standards adopted or recognized under OSHA.

Federal Administration

The federal Occupational Safety and Health Administration (Administration) administers OSHA. However, in riders to various appropriations acts, Congress has restricted the Administration's authority to enforce OSHA with respect to small farms. Most recently, the Consolidated Appropriations Act, 2005 (P.L. 108-447, effective December 8, 2004) specifies that none of the funds appropriated for the Administration may be expended to enforce safety and health standards applicable to any person engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees.

State Administration

The Department of Labor and Industries (Department) administers and enforces the WISHA. The Department's authority to enforce WISHA with respect to small farms is not restricted. Some Department representatives provide consultation and advice to help employers comply with the WISHA. Other Department representatives conduct inspections or investigations to ensure compliance with the WISHA.

Consultation

Department representatives may visit a workplace to provide consultation and advice. The scope of this consultation and advice is limited to matters specified in the employer's request.

Department representatives providing consultation and advice do not have enforcement authority, and may not issue citations or assess civil penalties. Department representatives may make recommendations about eliminating hazards disclosed during these visits. If there is a substantial probability of death or serious physical harm to an employee and the hazard is not abated or corrected, Department representatives may issue an order of immediate restraint related to the hazard. Also, in the event of a subsequent visit for compliance purposes, Department representatives may consider information obtained during the consultation visit.

Compliance

Department representatives also may visit a workplace to conduct an inspection or an investigation. These visits may occur in response to a complaint about safety and health conditions in the workplace, a referral from another government entity, or an injury or fatality. These visits also may occur as part of a series of programmed inspections.

If Department representatives find that safety or health standards are violated, they must issue citations describing the hazard and specifying a reasonable time for abatement or correction of the hazard. If there is a substantial probability of death or serious physical harm to an employee, Department representatives must issue a citation and may issue an order of immediate restraint related to the hazard. Department representatives may assess civil penalties against employers who violate safety and health standards.

Summary of Bill:

Changes are made to the Department of Labor and Industries' authority under the Washington Industrial Safety and Health Act. These changes apply only to initial visits by Department representatives to the workplaces of agricultural employers with ten or fewer full-time employees.

Department representatives are prohibited from conducting inspections or investigations, issuing notices and citations, or assessing civil penalties. Instead, they only may provide occupational safety and health education, offer consultation and advice, and make recommendations about eliminating hazards disclosed during these visits.

Department representatives are required to give employers a reasonable opportunity to abate hazards disclosed during these visits, and to offer assistance in correcting the hazards. They may require the owner to correct the hazards and send a statement that the hazards have been abated, or visit a second time to determine whether the hazards have been abated.

Rule-Making Authority: The bill does not address the rulemaking powers of an agency.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.