

SENATE BILL REPORT

EHB 2185

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 31, 2005

Title: An act relating to residence modifications for injured workers.

Brief Description: Establishing residence modifications standards.

Sponsors: Representatives Newhouse, Conway and Condotta.

Brief History: Passed House: 3/15/05, 96-0.

Committee Activity: Labor, Commerce, Research & Development: 3/28/05, 3/31/05 [DPA].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass as amended.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Brown, Hewitt, Honeyford, Keiser and Prentice.

Staff: Jennifer Strus (786-7316)

Background: The workers' compensation program provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. If a worker sustains a catastrophic injury, the Department of Labor and Industries (L&I) is authorized to pay, or to order a self-insured employer to pay up to a statutory maximum to modify a worker's residence when modifications are reasonable and necessary to meet the needs of the worker. The statutory maximum is the amount of the state's average annual wage, which is \$38,794 beginning July 1, 2004.

Under L&I policy, residence modifications are reasonable and necessary if all of the following are met:

- The modification is necessary to meet the worker's needs for safety, mobility, and activities of daily living.
- The contractor's proposed plan will satisfy the necessary modification.
- The home is structurally sound.

Necessary modifications may include, but are not limited to:

- structures, such as walkways and driveways;
- equipment, such as door knobs, toilet seats, or grab bars; and
- air conditioners or purifiers, where medically necessary.

Appliances are not considered residence modifications.

Summary of Amended Bill: Within nine months after the bill's effective date, the Director of L&I must adopt rules to establish guidelines and processes for residence modification for catastrophically injured workers. The rules must at least address:

- the process for a catastrophically injured worker to access residence modification benefits under RCW 51.36; and
- how L&I can address the needs and preferences of an injured worker on a case-by-case basis taking into account information provided by the worker. In determining the needs and requirements of the worker, including whether a modification is medically necessary, L&I must consider all available information about the medical condition and physical restrictions of the injured worker, including the opinion of the worker's attending health services provider.

The rules should be based upon nationally accepted guidelines and publication addressing adaptive residential housing. L&I, in developing rules, must consider two publications, one published by the United States Department of Veterans Affairs entitled "Handbook for Design: Specially Adapted Housing" and the second published by Barrier Free Environments, Inc. Entitled "The Accessible Housing Design File."

In developing the rules, the Director must consult with interested persons, including persons with expertise in the rehabilitation of catastrophically disabled persons and modifications for adaptive housing.

By December 2007, the L&I Director must report to the appropriate committees of the Legislature on the rules adopted under these provisions.

Amended Bill Compared to Original Bill: The rules adopted by L&I must establish guidelines and processes rather than standards for residence modification for catastrophically injured workers. The rules must also address how an injured worker access residence modifications as well as requiring L&I to consider all available information about the worker's medical condition and physical restrictions. The rules must be based on nationally accepted guidelines and publications addressing adaptive residential housing. The two specifically mentioned publications were added. The date for the report to the Legislature was extended.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: A person suffering a catastrophic injury on the job who has worked with L&I to modify his home has been frustrated by L&I claims managers. They have ignored letters from designers this person used. Room size and door frame size are standard modifications for persons who must use a wheelchair, yet L&I denied the request for modification. The amendments suggested by AWB speak clearly to the processes to be adopted. The bill is about appearances of equity and conformity. This bill will improve these processes. Although a very small amount of the premiums paid by workers and employers will be used to fund these changes, it is well worth the money.

Testimony Against: None.

Who Testified: PRO: Representative Newhouse, prime sponsor; Henry Shinkelshoek, citizen; Amber Carter, Association of Washington Business; Rick Slunaker, Associated General Contractors. OTHER: Vickie Kennedy, L&I.