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**SUBSTITUTE HOUSE BILL 2484**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Walkinshaw, Moscoso, Ortiz-Self, Sells, Reykdal, Robinson, Pollet, Kilduff, Ryu, Frame, Ormsby, Fitzgibbon, Kuderer, Sawyer, Bergquist, Gregerson, and Stanford)

READ FIRST TIME 02/05/16.

1       AN ACT Relating to requiring inspections, specialized training,  
2 and other enhanced workplace standards on dairy farms; amending RCW  
3 49.17.160; adding new sections to chapter 49.17 RCW; and prescribing  
4 penalties.

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

6       NEW SECTION.   **Sec. 1.**   A new section is added to chapter 49.17  
7 RCW to read as follows:

8       (1) The department shall adopt permanent rules that take effect  
9 no later than June 30, 2018, establishing training requirements for  
10 dairy farm employees. At a minimum, the rules must:

11       (a) Require that dairy farm employers ensure that their employees  
12 complete agriculture safety training, at no cost to the employee. The  
13 rules must include reasonable time frames in which all employees  
14 working on a dairy farm must complete training. Time frames for  
15 completing training may be different depending on whether an employee  
16 will be working directly with animals or operating heavy equipment  
17 and whether an employee was employed before or after the effective  
18 date of the rule;

19       (b) Provide that a certificate of completion must be issued to  
20 participants who successfully complete the training. A certificate of  
21 completion is sufficient proof that the employee has received the

1 training required under this section. An employer may rely on the  
2 certificate as proof that the employee has received the training  
3 required by this section. A certificate of completion must be renewed  
4 every three years; and

5 (c) Provide that the employer must have at least one supervisor  
6 present on site who has completed the agriculture safety training,  
7 and that for every ten dairy farm employees working on site, there  
8 must be at least one supervisor who has completed the agriculture  
9 safety training.

10 (2) The agriculture safety training required under this section  
11 must be developed by the department specifically for the agricultural  
12 industry and must include segments to address common dairy issues and  
13 hazards.

14 (3)(a) To meet the needs of employers and employees, the training  
15 may be provided by the department, community-based nonprofit  
16 organizations throughout the state, and dairy employers, in  
17 coordination with dairy farm employer and employee organizations and  
18 associations.

19 (b) The department shall regularly audit training provided by  
20 organizations and employers to ensure that the department's  
21 curriculum, standards, and certification guidelines are followed.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.17  
23 RCW to read as follows:

24 (1) The department shall adopt permanent rules that take effect  
25 no later than June 30, 2018, establishing a dairy safety emphasis  
26 unit within the department.

27 (2) Among other duties and responsibilities, the dairy safety  
28 emphasis unit must:

29 (a) Ensure that every dairy farm in the state is inspected at  
30 least once every three years for compliance with safety and health  
31 standards governing dairy farms;

32 (b) Ensure that inspections of dairy farms are made without  
33 advanced notice;

34 (c) Ensure compliance by dairy farm employers of agricultural  
35 training requirements established in section 1 of this act;

36 (d) Provide consultation and advisory services, under RCW  
37 49.17.250, to dairy farm employers to improve compliance; and

38 (e) Create easily accessible educational materials for dairy farm  
39 employers and employees focusing on safety and health.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 49.17  
2    RCW to read as follows:

3        (1) The department shall adopt permanent rules that take effect  
4    no later than June 30, 2018, establishing safety and health standards  
5    for dairy farms to ensure safe dairy workplaces.

6        (2) The rules must address dairy specific safety and health  
7    issues and hazards, including such issues and hazards as:

8        (a) Unmarked, unlit, and unfenced manure pits;

9        (b) Air quality due to chemicals and animal waste particulates;

10       (c) Crushing and stomping hazards due to working in close  
11    proximity with animals;

12       (d) Heavy equipment operation hazards;

13       (e) Slipping, tripping, and falling hazards;

14       (f) Crushing hazards due to the built environment; and

15       (g) Standards for drinking water, bathrooms, and washing  
16    facilities for dairy farm employees.

17       (3) If there are exemptions from the agricultural safety  
18    standards that would apply to dairy farm employers as a result of the  
19    creation of dairy specific rules, the dairy farm rules must  
20    specifically reference those exemptions.

21       **Sec. 4.**    RCW 49.17.160 and 2010 c 8 s 12013 are each amended to  
22    read as follows:

23       (1) No person shall discharge or in any manner discriminate  
24    against any employee because such employee has filed any complaint or  
25    instituted or caused to be instituted any proceeding under or related  
26    to this chapter, or has testified or is about to testify in any such  
27    proceeding or because of the exercise by such employee on behalf of  
28    himself or herself or others of any right afforded by this chapter.

29       (2) Any employee who believes that he or she has been discharged  
30    or otherwise discriminated against by any person in violation of this  
31    section may, within thirty days after such violation occurs, file a  
32    complaint with the director alleging such discrimination. For  
33    employees of dairy farms, the employee may, within ninety days after  
34    such violation occurs, file a complaint with the director. Upon  
35    receipt of such complaint, the director shall cause such  
36    investigation to be made as he or she deems appropriate. If upon such  
37    investigation, the director determines that the provisions of this  
38    section have been violated, he (~~of~~~~or~~) or she shall bring an  
39    action in the superior court of the county wherein the violation is

1 alleged to have occurred against the person or persons who is alleged  
2 to have violated the provisions of this section. If the director  
3 determines that the provisions of this section have not been  
4 violated, the employee may institute the action on his or her own  
5 behalf within thirty days of such determination. In any such action  
6 the superior court shall have jurisdiction, for cause shown, to  
7 restrain violations of subsection (1) of this section and order all  
8 appropriate relief including rehiring or reinstatement of the  
9 employee to his or her former position with back pay. For actions  
10 regarding an employee of a dairy farm, additional remedies include  
11 both damages in an amount equal to three times the amount of back  
12 wages owed to the employee, regardless of whether the employee is  
13 rehired or reinstated to his or her former position, and a civil  
14 penalty of one thousand dollars, to be paid to the director for  
15 deposit in the supplemental pension fund established by RCW  
16 51.44.033.

17 (3) Within ninety days of the receipt of the complaint filed  
18 under this section, the director shall notify the complainant of his  
19 or her determination under subsection (2) of this section.

20 (4)(a) For actions regarding an employee of a dairy farm, there  
21 is a rebuttable presumption that the employer violated this section  
22 if the discriminatory act or discharge occurred within ninety days of  
23 the employee filing a complaint or instituting any proceeding or  
24 causing any proceeding to be instituted under this chapter or within  
25 ninety days of testifying in any proceeding under this chapter or  
26 exercising his or her rights under this chapter.

27 (b) The employer may rebut the presumption with clear and  
28 convincing evidence that the discharge or act alleged to be  
29 discrimination was taken for a permissible purpose.

30 (c) Discriminatory acts may include denying a promotion,  
31 demoting, failing to rehire after seasonal interruption of work,  
32 threatening, penalizing, engaging in unfair immigration-related  
33 practices, filing a false report with a government agency, or other  
34 act of retaliation against the employee.

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