

HOUSE BILL REPORT

HB 1989

As Reported By House Committee On:

Commerce & Labor

Title: An act relating to employment in the construction industry.

Brief Description: Changing provisions related to employment in the construction industry.

Sponsors: Representatives Lisk, Ebersole and Patterson.

Brief History:

Committee Activity:

Commerce & Labor: 2/27/95, 3/1/95 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Cairnes; Fuhrman; Goldsmith and Horn.

Minority Report: Do not pass. Signed by 4 members: Representatives Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cody and Cole.

Staff: Chris Cordes (786-7117).

Background:

Third party liability under industrial insurance

Injured workers covered by industrial insurance, or their beneficiaries, are compensated for their injuries under the industrial insurance provisions and are not permitted to sue their employers for damages. However, a worker may file a damage suit against a "third party," if the third party is not the injured worker's co-worker. Workers who are working on the same job site, but who are employed by different employers are not considered to be co-workers.

Third party immunity is granted to design professionals who perform professional services for a construction project, unless the professional assumes responsibility for

safety by contract or actually exercised control over that part of the premises where the worker was injured. Design professionals include licensed or authorized architects, engineers, land surveyors, or landscape architects.

Industrial insurance premium payments by workers

The industrial insurance law requires all employers, except self-insured employers and employers of workers licensed by the Horse Racing Commission, to deduct one-half of the medical aid fund premium from the wages of their workers. All employers, except those whose employees are licensed by the Horse Racing Commission, also deduct one-half of the supplemental pension premium from workers' wages.

Safety requirements under the Washington Industrial Safety and Health Act

Under the Washington Industrial Safety and Health Act, general contractors are responsible for provision of a safe workplace for their own employees, and for compliance with all safety regulations with respect to all employees on a construction job site. Washington courts have determined that a subcontractor's employee has a cause of action against the general contractor if the injury was caused by a violation of a specific safety regulation at the construction job site.

In 1993, the Department of Labor and Industries issued a regional directive, developed in consultation with labor and management representatives in the construction industry and related industries. The regional directive establishes guidelines for assessing the compliance of general contractors with the requirements for safety applying to the subcontractor's employees.

Summary of Substitute Bill:

Third party liability under industrial insurance for injuries at construction sites

The immunity from liability for workplace injuries for third parties performing services at a construction site is modified.

An injured worker or the worker's beneficiary is not permitted to seek damages for industrial injuries or occupational diseases occurring in the course of employment at a construction project from the owner or developer of the project, or any person performing work, furnishing materials, or providing services for the project, including design professionals, construction managers, general or prime contractors, suppliers, subcontractors of any tier, or their employees. This prohibition applies whether the work is performed at the site under a single contract or multiple contracts.

This immunity does not apply to: