

# HOUSE BILL ANALYSIS

## SB 6536

**Brief Description:** Prescribing employer obligations to furnish wearing apparel.

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**Sponsors:** Senators Horn, Heavey, Schow, Snyder, Goings, McDonald, Benton, Winsley, Oke and Haugen.

Hearing: February 19, 1998

### **BACKGROUND:**

The Department of Labor and Industries is authorized by statute to adopt rules establishing employment standards for the protection of the safety, health, and welfare of employees and ensuring that wages satisfy the minimum wage prescribed by state law.

For several years, a rule established by the department required employers to furnish uniforms or other clothing of a specific style or color that was required by the employer. Required clothing that was usual and customary or conformed to a general dress standard was the responsibility of the employee. In recent years, this rule has been subject to attempts to clarify its application.

In January 1997, the department adopted a new rule that requires employers to furnish and maintain uniforms when the cost to the employee of obtaining or maintaining the uniform reduces the employee's wage rate below the applicable minimum wage in any payroll week or overtime compensation required by the state minimum wage act. A uniform is apparel required to be worn during the course of employment that has an employer-designated logo or an employer-designated style or color where no other color options are allowed. Under the rule, black and white are considered colors. Maintenance of a uniform includes professional laundering and repair costs.

The rule declares that employer-designated apparel required to be worn at work is not a uniform if it is usually and customarily worn outside the job and conforms to a general dress standard allowing choice of style and color. Apparel considered personal protective equipment under Washington's Industrial Safety and Health Act (WISHA) rules administered by the Department of Labor and Industries is not a uniform.

For purposes of implementing this and similar rules, the department has interpreted the term

employer– to exclude public employers unless specifically included in the statute.

**SUMMARY OF BILL:**

If an employer requires an employee to wear a uniform, the employer must furnish or compensate the employee for such apparel. A uniform is apparel of a distinctive style and quality that, when worn outside the workplace, clearly identifies the person as an employee of a specific employer. A uniform is also apparel marked with the employer's logo, apparel representing an ethnic tradition or historical time period, or formal apparel.

An employer is not required to furnish or compensate an employee for apparel of a common color that conforms to a general dress code or style. Common color is limited to specific colors or their light or dark variations. An employer may require an employee to obtain two sets of required apparel to reflect the seasonal changes in weather conditions.

If an employer changes the color of required apparel during a two-year period, the employer must furnish or compensate the employees affected by the change for the apparel.

The department is authorized to adopt rules using negotiated rule-making that defines apparel that conforms to a general dress code or style. This rule-making authority expires January 1, 2000.

Personal protective equipment required for employee protection under WISHA is not deemed to be employee wearing apparel.

The application of this bill applies to public employers as well as private employers. The terms, conditions or practices contained in a collective bargaining agreement in effect at the time this bill becomes law are not altered by the provisions of this bill until the expiration date of the agreement.

**RULES AUTHORITY:** The bill does contain provisions addressing the rule making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which bill is passed.