

SENATE BILL REPORT

SHB 2538

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 23, 2006

Title: An act relating to authorizing the department to request and superior court to grant warrants pursuant to chapter 49.17 RCW.

Brief Description: Authorizing the department to request and superior court to grant warrants pursuant to chapter 49.17 RCW.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Hudgins and McCoy; by request of Department of Labor & Industries).

Brief History: Passed House: 2/10/06, 98-0.

Committee Activity: Labor, Commerce, Research & Development: 2/21/06, 2/23/06 [DP, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: That it be referred without recommendation.

Signed by Senators Parlette, Ranking Minority Member and Honeyford.

Staff: John Dziedzic (786-7784)

Background: The Department of Labor and Industries (L&I) is required by the State Constitution, the Washington Industrial Safety and Health Act (WISHA), and related federal laws (such as Occupational Safety and Health Administration) to assure that employers in Washington provide workers with safe workplaces. As part of this responsibility, L&I officials frequently seek to enter private property to inspect work sites for consultative or enforcement purposes.

Until recently, L&I policy and practice generally provided that if an employer did not consent to allow an L&I inspector to enter a work site, an inspector had the discretion to seek a search warrant from a Superior Court. Litigation was commenced in 2003 challenging the authority of Superior Courts to issue warrants pursuant to WISHA.

Summary of Bill: As a general rule, L&I is required to obtain consent from the owner, manager, operator, or on-site person in charge of a workplace prior to conducting a WISHA inspection, and may enter work site grounds, in a safe manner, to request such consent at a reasonably recognizable entry point, unless the employer has designated an entry point. L&I may apply to a court of competent jurisdiction for a search warrant to conduct a WISHA inspection, and the court is authorized to issue a warrant for such purpose.

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: The substitute language represents an extensively negotiated agreement between labor and business clarifying: (1) how and when L&I inspectors conduct WISHA inspections; and (2) the authority of superior courts to issue search warrants for such inspections.

Testimony Against: More specific standards need to be established for judicial review of warrant requests to avoid abuses of the warrant process and prevent intimidation by government officials.

Who Testified: PRO: Gary Weeks, Department of Labor and Industries.

CON: Doug Neyhart, Rental Housing Assn. of Puget Sound.