**2266.E AMS KEIS S5538.1 - NOT FOR FLOOR USE**

**EHB 2266** - S AMD **751**

By Senator Keiser

**ADOPTED 02/27/2024**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  In addition to the primary safety and health hazards faced by all construction workers, there are safety and health issues specific to construction workers who menstruate and/or express milk. As an ongoing effort to address labor shortages in the construction industry, as well as to continue recruiting and retaining underrepresented workers in the construction trades, the legislature intends to address some of the basic barriers faced by these construction workers.

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

(1) The director shall adopt rules, pursuant to this section, to address safety and health issues specific to workers performing construction activities who menstruate or express milk, or both. The rules must be included in the rules governing construction safety standards and must be applicable only to employers in the construction industry.

(2) The rules adopted pursuant to this section must require employers in the construction industry to provide workers, performing construction activities and who menstruate, with:

(a) A minimum size bathroom, accessible on the worksite, that is equivalent to a standard sized portable chemical toilet, or access to a permanent structure with a bathroom. The bathroom must have an internal latch to be secured from inadvertent entry;

(b) Adequate time to accommodate for multiple layers of clothing while using the bathroom; and

(c) An adequate and convenient supply of menstrual hygiene products available at no cost to the workers. Menstrual hygiene products must either be located in all gender-neutral bathrooms and bathrooms designated for workers who menstruate, or provided in kits for each worker who needs such product.

(3) The rules adopted pursuant to this section must require employers in the construction industry to provide reasonable accommodations for workers performing construction activities to express milk. The department must identify minimum reasonable accommodations that include alternatives for worksites of varying numbers of employees. Reasonable accommodations means providing:

(a) Flexible work scheduling, including scheduling breaks and permitting work patterns that provide time for the expression of milk;

(b) A location, other than a bathroom, that is convenient and sanitary for the worker to express milk. The location must be private and lockable, if possible, and free from intrusion;

(c) Convenient hygienic refrigeration on the worksite for the storage of milk; and

(d) A convenient water source for the worker to clean and wash hands and milk expression equipment. The water source must be in a private location near the location where milk is expressed.

(4) On multi-employer worksites, each employer is responsible for ensuring that facilities for their own workers are provided.

(5)(a) Until thirty days after the date the department's adopted rule is filed with the code reviser, or July 1, 2025, whichever date is later, the department may not impose any monetary penalties for violations of this section. This subsection does not prohibit the department from receiving complaints, conducting inspections, issuing citations with no assessed penalty, and fixing reasonable time for abatement of the violation.

(b) When the department's final rules under this section are published by the code reviser in the State Register, the department, in partnership with relevant labor organizations and the office of minority and women's business enterprises, shall conduct educational outreach to construction employers on the rights and responsibilities established in this section."

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On page 1, line 2 of the title, after "milk;" strike the remainder of the title and insert "adding a new section to chapter 49.17 RCW; and creating a new section."

EFFECT: (1) Removes the term "reasonable accommodations" for the rules for workers performing construction activities and who menstruate.

(2) Requires that for the Department of Labor and Industries' (L&I) rules for workers performing construction activities and expressing milk, L&I must identify minimum reasonable accommodations that include alternatives for worksites of varying number of employees. Provides that for reasonable accommodations, the location to express milk must be lockable, if possible (rather than lockable).