

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1352

Chapter 89, Laws of 1991

52nd Legislature
1991 Regular Session

LABOR AND INDUSTRIES DEPARTMENT--PROTECTION OF CONFIDENTIAL
INFORMATION

EFFECTIVE DATE: 7/28/91

Passed by the House April 28, 1991
Yeas 98 Nays 0

JOE KING
Speaker of the
House of Representatives

Passed by the Senate April 28, 1991
Yeas 48 Nays 0

JOEL PRITCHARD
President of the Senate

Approved May 9, 1991

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1352** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 9, 1991 - 11:21 a.m.

Secretary of State
State of Washington

ENGROSSED HOUSE BILL 1352

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1991 Regular Session

State of Washington **52nd Legislature** **1991 Regular Session**

By Representatives Jones, Vance, Cole, Wynne, Moyer, Miller, Paris, Ballard, May, Basich, Forner and Silver; by request of Department of Labor & Industries.

Read first time January 28, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to confidential information acquired by the
2 department of labor and industries through research, experiments,
3 demonstrations, and employer-requested services; and amending RCW
4 49.17.210, 49.17.250, and 51.36.060.

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

6 **Sec. 1.** RCW 49.17.210 and 1973 c 80 s 21 are each amended to read
7 as follows:

8 The director is authorized to conduct, either directly or by grant
9 or contract, research, experiments, and demonstrations as may be of aid
10 and assistance in the furtherance of the objects and purposes of this
11 chapter. Employer identity, employee identity, and personal
12 identifiers of voluntary participants in research, experiments, and
13 demonstrations shall be deemed confidential and shall not be open to
14 public inspection. Information obtained from such voluntary activities
15 shall not be deemed to be medical information for the purpose of RCW

1 51.36.060 and shall be deemed confidential and shall not be open to
2 public inspection. The director, in his or her discretion, is
3 authorized to grant a variance from any rule or regulation or portion
4 thereof, whenever he or she determines that such variance is necessary
5 to permit an employer to participate in an experiment approved by the
6 director, (~~which~~) and the experiment is designed to demonstrate or
7 validate new and improved techniques to safeguard the health or safety
8 of employees. Any such variance shall require that all due regard be
9 given to the health and safety of all employees participating in any
10 experiment.

11 **Sec. 2.** RCW 49.17.250 and 1973 c 80 s 25 are each amended to read
12 as follows:

13 (1) In carrying out (~~his~~) the responsibilities for the
14 development of a voluntary compliance program under the authority of
15 RCW 49.17.050(8) and the rendering of advisory and consultative
16 services to employers, the director may grant an employer's application
17 for advice and consultation, and for the purpose of affording such
18 consultation and advice visit the employer's work place. Such
19 consultation and advice shall be limited to the matters specified in
20 the request affecting the interpretation and applicability of safety
21 and health standards to the conditions, structures, machines,
22 equipment, apparatus, devices, materials, methods, means, and practices
23 in the employer's work place. The director in granting any requests
24 for consultative or advisory service may provide for an alternative
25 means of affording consultation and advice other than on-site
26 consultation.

27 (2) The director, or (~~his~~) an authorized representative, (~~may~~)
28 will make recommendations regarding the elimination of any hazards
29 disclosed within the scope of the on-site consultation. No visit to an

1 employer's work place shall be regarded as an inspection or
2 investigation under the authority of this chapter, and no notices or
3 citations shall be issued, nor, shall any civil penalties be assessed
4 upon such visit, nor shall any authorized representative of the
5 director designated to render advice and consult with employers under
6 the voluntary compliance program have any enforcement authority:
7 PROVIDED, That in the event an on-site visit discloses a serious
8 violation of a health and safety standard as defined in RCW
9 49.17.180(6), and the hazard of such violation is either not abated by
10 the cooperative action of the employer, or, is not subject to being
11 satisfactorily abated by the cooperative action of the employer, the
12 director shall either invoke the administrative restraining authority
13 provided in RCW 49.17.130 or seek the issuance of injunctive process
14 under the authority of RCW 49.17.170 or invoke both such remedies.

15 (3) Nothing in this section shall be construed as providing
16 immunity to any employer who has made application for consultative
17 services during the pendency of the granting of such application from
18 inspections or investigations conducted under RCW 49.17.070 or any
19 inspection conducted as a result of a complaint, nor immunity from
20 inspections under RCW 49.17.070 or inspections resulting from a
21 complaint subsequent to the conclusion of the consultative period.
22 This section shall not be construed as requiring an inspection under
23 RCW 49.17.070 of any work place which has been visited for consultative
24 purposes. However, in the event of a subsequent inspection, the
25 director, or ((his)) an authorized representative, may in his or her
26 discretion take into consideration any information obtained during the
27 consultation visit of that work place in determining the nature of an
28 alleged violation and the amount of penalties to be assessed, if any.
29 Such rules and regulations to be promulgated pursuant to this section
30 shall provide that in all instances of serious violations as defined in

1 RCW 49.17.180(6) which are disclosed in any consultative period, shall
2 be corrected within a specified period of time at the expiration of
3 which an inspection will be conducted under the authority of RCW
4 49.17.070. All employers requesting consultative services shall be
5 advised of the provisions of this section and the rules adopted by the
6 director relating to the voluntary compliance program. Information
7 obtained by the department as a result of employer-requested
8 consultation and training services shall be deemed confidential and
9 shall not be open to public inspection. Within thirty days of receipt,
10 the employer shall make voluntary services reports available to
11 employees or their collective bargaining representatives for review.
12 Employers may satisfy the availability requirement by requesting a copy
13 of the reports from the department. The director may provide by rule
14 for the frequency, manner, and method of the rendering of consultative
15 services to employers, and for the scheduling and priorities in
16 granting applications consistent with the availability of personnel,
17 and in such a manner as not to jeopardize the enforcement requirements
18 of this chapter.

19 **Sec. 3.** RCW 51.36.060 and 1989 c 12 s 17 are each amended to read
20 as follows:

21 Physicians examining or attending injured workers under this title
22 shall comply with rules and regulations adopted by the director, and
23 shall make such reports as may be requested by the department or self-
24 insurer upon the condition or treatment of any such worker, or upon any
25 other matters concerning such workers in their care. Except under RCW
26 49.17.210 and 49.17.250, all medical information in the possession or
27 control of any person and relevant to the particular injury in the
28 opinion of the department pertaining to any worker whose injury or
29 occupational disease is the basis of a claim under this title shall be

1 made available at any stage of the proceedings to the employer, the
2 claimant's representative, and the department upon request, and no
3 person shall incur any legal liability by reason of releasing such
4 information.

Passed the House April 28, 1991.

Passed the Senate April 28, 1991.

Approved by the Governor May 9, 1991.

Filed in Office of Secretary of State May 9, 1991.