

---

ENGROSSED SUBSTITUTE SENATE BILL 5599

---

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Commerce, Trade, Housing & Financial Institutions (originally sponsored by Senators Prentice, Deccio, Rasmussen, Jacobsen, Hale and Winsley; by request of Governor Locke)

Read first time 02/15/1999.

1 AN ACT Relating to agricultural worker protection regulatory  
2 duties; amending RCW 70.114A.020, 70.114A.060, 70.114A.081, and  
3 43.70.335; adding new sections to chapter 70.114A RCW; adding new  
4 sections to chapter 49.17 RCW; adding a new section to chapter 43.70  
5 RCW; creating a new section; and repealing RCW 43.70.330 and 70.54.110.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.114A  
8 RCW to read as follows:

9 The department and the department of labor and industries shall  
10 adopt joint rules for the licensing, operation, and inspection of  
11 temporary worker housing, and the enforcement thereof. These rules  
12 shall establish standards that are at least as effective as the  
13 standards developed under the Washington industrial safety and health  
14 act, chapter 49.17 RCW.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.17 RCW  
16 to read as follows:

17 The department and the department of health shall adopt joint rules  
18 for the licensing, operation, and inspection of temporary worker

1 housing, and the enforcement thereof. For the purposes of this section  
2 "temporary worker housing" has the same meaning as given in RCW  
3 70.114A.020.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.114A  
5 RCW to read as follows:

6 By December 1, 1999, the department and the department of labor and  
7 industries shall jointly establish a formal agreement that identifies  
8 the roles of each of the two agencies with respect to the enforcement  
9 of temporary worker housing operation standards.

10 The agreement shall, to the extent feasible, provide for inspection  
11 and enforcement actions by a single agency, and shall include measures  
12 to avoid multiple citations for the same violation.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.17 RCW  
14 to read as follows:

15 By December 1, 1999, the department and the department of health  
16 shall jointly establish a formal agreement that identifies the roles of  
17 each of the two agencies with respect to the enforcement of temporary  
18 worker housing operation standards.

19 The agreement shall, to the extent feasible, provide for inspection  
20 and enforcement actions by a single agency, and shall include measures  
21 to avoid multiple citations for the same violation.

22 For the purposes of this section, "temporary worker housing" has  
23 the same meaning as provided in RCW 70.114A.020.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.114A  
25 RCW to read as follows:

26 (1) The department and the department of labor and industries are  
27 directed to engage in joint rule making to establish standards for  
28 cherry harvest temporary labor camps. These standards may include some  
29 variation from standards that are necessary for longer occupancies,  
30 provided they are at least as effective as the standards adopted under  
31 the Washington industrial safety and health act, chapter 49.17 RCW. As  
32 used in this section "cherry harvest temporary labor camp" means a  
33 place where housing and related facilities are provided to agricultural  
34 employees by agricultural employers for no more than twenty-one days in  
35 any one calendar year. Temporary labor camps licensed under this  
36 section may be occupied for more than twenty-one days if the following

1 conditions are met: (a) The secretary or an authorized representative  
2 and the local health jurisdiction determine that the health and safety  
3 interests of the worker occupants would be better served by extending  
4 the occupancy than closing the camp at the end of the initial twenty-  
5 one day period; and (b) the operator requests an extension at least  
6 three days prior to the expiration of the initial twenty-one day  
7 period. The extended occupancy shall not exceed seven days.

8 (2) Facilities licensed under rules adopted under this section may  
9 not be used to provide housing for agricultural employees who are  
10 nonimmigrant aliens admitted to the United States for agricultural  
11 labor or services of a temporary or seasonal nature under section  
12 1101(a)(15)(H)(ii)(a) of the immigration and nationality act (8 U.S.C.  
13 Sec. 1101(a)(15)(H)(ii)(a)).

14 (3) This section has no application to temporary worker housing  
15 constructed in conformance with codes listed in RCW 19.27.031 or  
16 70.114A.081.

17 **Sec. 6.** RCW 70.114A.020 and 1995 c 220 s 2 are each amended to  
18 read as follows:

19 The definitions in this section apply throughout this chapter.

20 (1) "Agricultural employee" means any person who renders personal  
21 services to, or under the direction of, an agricultural employer in  
22 connection with the employer's agricultural activity.

23 (2) "Agricultural employer" means any person engaged in  
24 agricultural activity, including the growing, producing, or harvesting  
25 of farm or nursery products, or engaged in the forestation or  
26 reforestation of lands, which includes but is not limited to the  
27 planting, transplanting, tubing, precommercial thinning, and thinning  
28 of trees and seedlings, the clearing, piling, and disposal of brush and  
29 slash, the harvest of Christmas trees, and other related activities.

30 (3) "Department" means the department of health.

31 ~~((+2))~~ (4) "Dwelling unit" means a shelter, building, or portion  
32 of a building, that may include cooking and eating facilities, that is:

33 (a) Provided and designated by the operator as either a sleeping  
34 area, living area, or both, for occupants; and

35 (b) Physically separated from other sleeping and common-use areas.

36 ~~((+3))~~ (5) "Enforcement" and "enforcement actions" include the  
37 authority to levy and collect fines.

1       (6) "Facility" means a sleeping place, drinking water, toilet,  
2 sewage disposal, food handling installation, or other installations  
3 required for compliance with this chapter.

4       (~~(4)~~) (7) "Occupant" means a temporary worker or a person who  
5 resides with a temporary worker at the housing site.

6       (~~(5)~~) (8) "Operator" means a person holding legal title to the  
7 land on which temporary worker housing is located. However, if the  
8 legal title and the right to possession are in different persons,  
9 "operator" means a person having the lawful control or supervision over  
10 the temporary worker housing under a lease or other arrangement.

11       (~~(6)~~) (9) "Temporary worker" means (~~(a person)~~) an agricultural  
12 employee employed intermittently and not residing year-round at the  
13 same site.

14       (~~(7)~~) (10) "Temporary worker housing" means a place, area, or  
15 piece of land where sleeping places or housing sites are provided by an  
16 agricultural employer for his or her agricultural employees or by  
17 another person, including a temporary worker housing operator, who is  
18 providing such accommodations for employees, for temporary, seasonal  
19 occupancy(~~(, and includes "labor camps" under RCW 70.54.110)~~).

20       **Sec. 7.** RCW 70.114A.060 and 1995 c 220 s 6 are each amended to  
21 read as follows:

22       The secretary of the department or authorized representative may  
23 inspect housing covered by chapter 220, Laws of 1995, to enforce  
24 temporary worker housing rules adopted by the state board of health  
25 prior to the effective date of this act or the department, or when the  
26 secretary or representative has reasonable cause to believe that a  
27 violation of temporary worker housing rules adopted by the state board  
28 of health prior to the effective date of this act or the department is  
29 occurring or is being maintained. If the buildings or premises are  
30 occupied as a residence, a reasonable effort shall be made to obtain  
31 permission from the resident. If the premises or building is  
32 unoccupied, a reasonable effort shall be made to locate the owner or  
33 other person having charge or control of the building or premises and  
34 request entry. If consent for entry is not obtained, for whatever  
35 reason, the secretary or representative shall have recourse to every  
36 remedy provided by law to secure entry.

1       **Sec. 8.** RCW 70.114A.081 and 1998 c 37 s 2 are each amended to read  
2 as follows:

3       (1) The department shall adopt by rule a temporary worker building  
4 code in conformance with the temporary worker housing standards  
5 developed under the Washington industrial safety and health act,  
6 chapter 49.17 RCW, (~~the rules adopted by the state board of health~~  
7 ~~under RCW 70.54.110,~~) and the following guidelines:

8       (a) The temporary worker building code shall provide construction  
9 standards for shelter and associated facilities that are safe, secure,  
10 and capable of withstanding the stresses and loads associated with  
11 their designated use, and to which they are likely to be subjected by  
12 the elements;

13       (b) The temporary worker building code shall permit and facilitate  
14 designs and formats that allow for maximum affordability, consistent  
15 with the provision of decent, safe, and sanitary housing;

16       (c) In developing the temporary worker building code the department  
17 of health shall consider:

18       (i) The need for dormitory type housing for groups of unrelated  
19 individuals; and

20       (ii) The need for housing to accommodate families;

21       (d) The temporary worker building code shall incorporate the  
22 opportunity for the use of construction alternatives and the use of new  
23 technologies that meet the performance standards required by law;

24       (e) The temporary worker building code shall include standards for  
25 heating and insulation appropriate to the type of structure and length  
26 and season of occupancy;

27       (f) The temporary worker building code shall include standards for  
28 temporary worker housing that are to be used only during periods when  
29 no auxiliary heat is required; and

30       (g) The temporary worker building code shall provide that persons  
31 operating temporary worker housing consisting of four or fewer dwelling  
32 units or combinations of dwelling units, dormitories, or spaces that  
33 house nine or fewer occupants may elect to comply with the provisions  
34 of the temporary worker building code, and that unless the election is  
35 made, such housing is subject to the codes adopted under RCW 19.27.031.

36       (2) In adopting the temporary worker building code, the department  
37 shall make exceptions to the codes listed in RCW 19.27.031 and chapter  
38 19.27A RCW, in keeping with the guidelines set forth in this section.  
39 The initial temporary worker building code adopted by the department

1 shall be substantially equivalent with the temporary worker building  
2 code developed by the state building code council as directed by  
3 section 8, chapter 220, Laws of 1995.

4 (3) The temporary worker building code authorized and required by  
5 this section shall be enforced by the department.

6 The department shall have the authority to allow minor variations  
7 from the temporary worker building code that do not compromise the  
8 health or safety of workers. Procedures for requesting variations and  
9 guidelines for granting such requests shall be included in the rules  
10 adopted under this section.

11 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.70 RCW  
12 to read as follows:

13 For the purposes of RCW 43.70.335, 43.70.337, and 43.70.340,  
14 "temporary worker housing" has the same meaning as provided in RCW  
15 70.114A.020.

16 **Sec. 10.** RCW 43.70.335 and 1998 c 37 s 5 are each amended to read  
17 as follows:

18 (1) Any person providing temporary worker housing consisting of  
19 five or more dwelling units, or any combination of dwelling units,  
20 dormitories, or spaces that house ten or more occupants, or any person  
21 providing temporary worker housing who makes the election to comply  
22 with the temporary worker building code under RCW 70.114A.081(1)(g),  
23 shall secure an annual operating license prior to occupancy and shall  
24 pay a fee according to RCW 43.70.340. The license shall be  
25 conspicuously displayed on site.

26 (2) Licenses issued under this chapter may be suspended or revoked  
27 upon the failure or refusal of the person providing temporary worker  
28 housing to comply with (~~the provisions of RCW 70.54.110, or of any~~)  
29 rules adopted under this section or chapter 70.114A RCW by the  
30 department. All such proceedings shall be governed by the provisions  
31 of chapter 34.05 RCW.

32 (3) The department may assess a civil fine in accordance with RCW  
33 43.70.095 for failure or refusal to obtain a license prior to occupancy  
34 of temporary worker housing. The department may refund all or part of  
35 the civil fine collected once the operator obtains a valid operating  
36 license.

1 (4) Civil fines under this section shall not exceed twice the cost  
2 of the license plus the cost of the initial on-site inspection for the  
3 first violation of this section, and shall not exceed ten times the  
4 cost of the license plus the cost of the initial on-site inspection for  
5 second and subsequent violations within any five-year period. The  
6 department may adopt rules as necessary to assure compliance with this  
7 section.

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.114A  
9 RCW to read as follows:

10 The department shall prepare a report to the legislature on  
11 utilization of the temporary worker building code authorized by RCW  
12 70.114A.081. The report shall include the number of housing units,  
13 number of families or individuals housed, number of growers obtaining  
14 permits, the geographic distribution of the permits, and  
15 recommendations of changes in the temporary worker building code  
16 necessary to avoid health and safety problems for the occupants. The  
17 report shall be transmitted to the senate committee on commerce, trade,  
18 housing and financial institutions and the house of representatives  
19 committee on economic development, housing and trade by December 15,  
20 2000, and an update shall be transmitted every two years thereafter.

21 NEW SECTION. **Sec. 12.** The following acts or parts of acts are  
22 each repealed:

23 (1) RCW 43.70.330 and 1998 c 245 s 74, 1995 c 399 s 75, & 1990 c  
24 253 s 2; and

25 (2) RCW 70.54.110 and 1995 c 220 s 11, 1990 c 253 s 4, & 1969 ex.s.  
26 c 231 s 1.

27 NEW SECTION. **Sec. 13.** Rules adopted under RCW 70.54.110 prior to  
28 the effective date of this act shall remain in effect until modified.

--- END ---