

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5599

Chapter 374, Laws of 1999

56th Legislature
1999 Regular Session

TEMPORARY AGRICULTURAL WORKER HOUSING

EFFECTIVE DATE: 7/25/99

Passed by the Senate April 22, 1999
YEAS 43 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 16, 1999
YEAS 95 NAYS 0

CLYDE BALLARD
Speaker of the
House of Representatives

FRANK CHOPP
Speaker of the
House of Representatives

Approved May 17, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5599** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 17, 1999 - 3:49 p.m.

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE SENATE BILL 5599

AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

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 as effective as the standards
13 developed under the Washington industrial safety and health act,
14 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 as effective as the standards adopted under the
31 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 (Labor camps and farmworker housing--Inspector--
24 Interagency agreement for inspections) and 1998 c 245 s 74, 1995 c 399
25 s 75, & 1990 c 253 s 2; and

26 (2) RCW 70.54.110 (New housing for agricultural workers to comply
27 with board of health regulations) and 1995 c 220 s 11, 1990 c 253 s 4,
28 & 1969 ex.s. c 231 s 1.

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

Passed the Senate April 22, 1999.

Passed the House April 16, 1999.

Approved by the Governor May 17, 1999.

Filed in Office of Secretary of State May 17, 1999.