

HOUSE BILL REPORT

SSB 5995

As Reported by House Committee On:

Commerce & Labor

Title: An act relating to collective bargaining agreements in the construction trades concerning meal and rest periods.

Brief Description: Regarding collective bargaining agreements in the construction trades.

Sponsors: Senate Committee on Commerce & Trade (originally sponsored by Senators Honeyford and Keiser).

Brief History:

Committee Activity:

Commerce & Labor: 3/26/03, 4/3/03 [DPA].

Brief Summary of Substitute Bill (As Amended by House Committee)

- Allows a collective bargaining agreement covering construction workers to supersede rest and meal period rules of the Department of Labor and Industries.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Assistant Ranking Minority Member; Crouse, Holmquist, Hudgins, Kenney and McCoy.

Staff: Chris Cordes (786-7103).

Background:

Under the Washington Industrial Welfare Act (IWA), it is unlawful for an employer to employ workers under conditions of labor that are detrimental to their health. The Department of Labor and Industries (Department) is authorized to conduct investigations into employment conditions and to adopt rules establishing employment standards. Employers may apply for a variance from these rules for good cause.

The Department's rules governing rest and meal periods require a paid rest period of at

least 10 minutes for each four hours of working time. The rules also specify that an employee may not be required to work more than three hours without a rest period. Scheduled rest periods are not required, however, if the nature of the work allows employees to take intermittent rest periods equivalent to the rules' requirements. Employees must be allowed a meal period of at least 30 minutes.

Another provision of the IWA states that the law does not interfere with or diminish the right of employees to bargain collectively with their employers concerning wages or conditions of employment. This provision was at issue in a 2002 lawsuit brought by freight company employees covered by a collective bargaining agreement containing provisions inconsistent with the Department's rest break rule. The Washington Supreme Court concluded that the IWA did not allow a collective bargaining agreement to decrease the frequency of workers' rest periods, especially without compliance with the statutory process for seeking a variance.

Summary of Amended Bill:

For employees in the construction trades, the Department's rules for rest and meal periods may be superseded by a collective bargaining agreement negotiated under the National Labor Relations Act if the collective bargaining agreement covering those employees specifically requires rest and meal periods and prescribes requirements concerning those rest and meal periods.

Amended Bill Compared to Substitute Bill:

Under the amended bill: (1) The provisions apply to all construction workers, not just to those working with hot asphalt or other materials or construction processes that do not allow scheduled breaks; (2) the collective bargaining agreement must be negotiated under the National Labor Relations Act; (3) the agreement must specifically require rest and meal periods; and (4) technical changes are made, including that the agreement will "supersede" the rules, rather than "modify" the rules.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill responds to a court case that affected long-standing practices in the construction industry. The parties are asking to clarify that if employers and employees agree on a different way to address meal and rest breaks in the construction

industry, then the agreement is valid. If there is no agreement or the agreement is not specific about breaks, then the Department of Labor and Industries rules would apply. There is no intent to reduce worker protections. It is typical for some processes, such as asphalt paving and other similar construction work, to require continuous operation without formal breaks. Also, work like paving is generally performed at night with restricted working hours. It is safest for workers and the public, and more cost-effective and convenient for the public, to perform the work with as little lost productivity as possible. Workers understand this and want to get jobs done quickly so that the public can get back on the road. The workers bargain premium pay for working through breaks and still get other breaks at a later time. The bill was developed in cooperation with labor and management in the construction industry in order to preserve the status quo.

Testimony Against: None.

Testified: (In support) Senator Honeyford, prime sponsor; Rick Slunaker, Associated General Contractors of Washington; Timothy Lee, Lakeside Industries; and Larry Archer, International Union of Operating Engineers and Washington State Building and Construction Trades Council.

(Information only) Elaine Fisher, Department of Labor and Industries.