

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5850

Chapter 492, Laws of 2009

(partial veto)

61st Legislature
2009 Regular Session

HUMAN TRAFFICKING

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 22, 2009
YEAS 37 NAYS 12

BRAD OWEN

President of the Senate

Passed by the House April 17, 2009
YEAS 50 NAYS 48

FRANK CHOPP

Speaker of the House of Representatives

Approved May 14, 2009, 12:05 p.m., with
the exception of Section 4 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **ENGROSSED SECOND
SUBSTITUTE SENATE BILL 5850** as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 18, 2009

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5850

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington **61st Legislature** **2009 Regular Session**

By Senate Ways & Means (originally sponsored by Senators Kohl-Welles, Swecker, Keiser, Franklin, Kline, Hargrove, Fraser, Tom, Regala, Prentice, McAuliffe, and Shin)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to protecting workers from human trafficking
2 violations; amending RCW 18.71.080, 18.83.090, and 18.225.040; adding
3 a new chapter to Title 19 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Domestic employers of foreign workers" means a person or
8 persons residing in the state of Washington who recruit or employ a
9 foreign worker to perform work in Washington state.

10 (2) "Foreign worker" or "worker" means a person who is not a
11 citizen of the United States and who comes to Washington state based on
12 an offer of employment. "Foreign worker" or "worker" does not include
13 persons who hold an H-1B visa and come to work in the state.

14 (3) "International labor recruitment agency" means a corporation,
15 partnership, business, or other legal entity, whether or not organized
16 under the laws of the United States or any state, that does business in
17 the United States and offers Washington state entities engaged in the
18 employment or recruitment of foreign workers, employment referral

1 services involving citizens of a foreign country or countries by acting
2 as an intermediary between these foreign workers and Washington
3 employers.

4 NEW SECTION. **Sec. 2.** (1) Domestic employers of foreign workers
5 and international labor recruitment agencies must provide a disclosure
6 statement as described in this section to foreign workers who have been
7 referred to or hired by a Washington employer.

8 (2) The disclosure statement must:

9 (a) Be provided in English or, if the worker is not fluent or
10 literate in English, another language that is understood by the worker;

11 (b) State that the worker may be considered an employee under the
12 laws of the state of Washington and is subject to state worker health
13 and safety laws and may be eligible for workers' compensation insurance
14 and unemployment insurance;

15 (c) State that the worker may be subject to both state and federal
16 laws governing overtime and work hours, including the minimum wage act
17 under chapter 49.46 RCW;

18 (d) Include an itemized listing of any deductions the employer
19 intends to make from the worker's pay for food and housing;

20 (e) Include an itemized listing of the international labor
21 recruitment agency's fees;

22 (f) State that the worker has the right to control over his or her
23 travel and labor documents, including his or her visa, at all times and
24 that the employer may not require the employee to surrender those
25 documents to the employer or to the international labor recruitment
26 agency while the employee is working in the United States, except as
27 otherwise required by law or regulation or for use as supporting
28 documentation in visa applications;

29 (g) Include a list of services or a hot line a worker may contact
30 if he or she thinks that he or she may be a victim of trafficking.

31 (3) The department of labor and industries may create a model
32 disclosure form and post the model form on its web site so that
33 domestic employers of foreign workers and international labor
34 recruitment agencies may download the form, or mail the form upon
35 request. The disclosure statement must be given to the worker no later
36 than the date that the worker arrives at the place of employment in
37 Washington.

1 NEW SECTION. **Sec. 3.** For purposes of establishing personal
2 jurisdiction under this chapter, an international labor recruitment
3 agency or a domestic employer of a foreign worker is deemed to be doing
4 business in Washington and is subject to the jurisdiction of the courts
5 of Washington state if the agency or employer contracts for employment
6 services with a Washington resident or is considered to be doing
7 business under any other provision or rule of law.

8 ****NEW SECTION. Sec. 4. The legislature finds that the practices***
9 ***covered by this chapter are matters vitally affecting the public***
10 ***interest for the purpose of applying the consumer protection act,***
11 ***chapter 19.86 RCW. A violation of this chapter is not reasonable in***
12 ***relation to the development and preservation of business and is an***
13 ***unfair or deceptive act in trade or commerce and an unfair method of***
14 ***competition for the purpose of applying the consumer protection act,***
15 ***chapter 19.86 RCW.***

**Sec. 4 was vetoed. See message at end of chapter.*

16 **Sec. 5.** RCW 18.71.080 and 1996 c 191 s 52 are each amended to read
17 as follows:

18 (1) Every person licensed to practice medicine in this state shall
19 pay licensing fees and renew his or her license in accordance with
20 administrative procedures and administrative requirements adopted as
21 provided in RCW 43.70.250 and 43.70.280. The commission may establish
22 rules governing mandatory continuing education requirements which shall
23 be met by physicians applying for renewal of licenses. The rules shall
24 provide that mandatory continuing education requirements may be met in
25 part by physicians showing evidence of the completion of approved
26 activities relating to professional liability risk management.

27 (2) The office of crime victims advocacy shall supply the
28 commission with information on methods of recognizing victims of human
29 trafficking, what services are available for these victims, and where
30 to report potential trafficking situations. The information supplied
31 must be culturally sensitive and must include information relating to
32 minor victims. The commission shall disseminate this information to
33 licensees by: Providing the information on the commission's web site;
34 including the information in newsletters; holding trainings at meetings
35 attended by organization members; or through another distribution

1 method determined by the commission. The commission shall report to
2 the office of crime victims advocacy on the method or methods it uses
3 to distribute information under this subsection.

4 (3) The commission, in its sole discretion, may permit an applicant
5 who has not renewed his or her license to be licensed without
6 examination if it is satisfied that such applicant meets all the
7 requirements for licensure in this state, and is competent to engage in
8 the practice of medicine.

9 **Sec. 6.** RCW 18.83.090 and 1996 c 191 s 68 are each amended to read
10 as follows:

11 (1) The board shall establish rules governing mandatory continuing
12 education requirements which shall be met by any psychologist applying
13 for a license renewal.

14 (2) The office of crime victims advocacy shall supply the board
15 with information on methods of recognizing victims of human
16 trafficking, what services are available for these victims, and where
17 to report potential trafficking situations. The information supplied
18 must be culturally sensitive and must include information relating to
19 minor victims. The board shall disseminate this information to
20 licensees by: Providing the information on the board's web site;
21 including the information in newsletters; holding trainings at meetings
22 attended by organization members; or through another distribution
23 method determined by the board. The board shall report to the office
24 of crime victims advocacy on the method or methods it uses to
25 distribute information under this subsection.

26 (3) Administrative procedures, administrative requirements, and
27 fees for renewal and reissue of licenses shall be established as
28 provided in RCW 43.70.250 and 43.70.280.

29 **Sec. 7.** RCW 18.225.040 and 2001 c 251 s 4 are each amended to read
30 as follows:

31 In addition to any other authority provided by law, the secretary
32 has the authority to:

33 (1) Adopt rules under chapter 34.05 RCW necessary to implement this
34 chapter. Any rules adopted shall be in consultation with the
35 committee;

1 (2) Establish all licensing, examination, and renewal fees in
2 accordance with RCW 43.70.250;

3 (3) Establish forms and procedures necessary to administer this
4 chapter;

5 (4) Issue licenses to applicants who have met the education,
6 training, and examination requirements for licensure and to deny a
7 license to applicants who do not meet the requirements;

8 (5) Hire clerical, administrative, investigative, and other staff
9 as needed to implement this chapter, and hire individuals licensed
10 under this chapter to serve as examiners for any practical
11 examinations;

12 (6) Administer and supervise the grading and taking of examinations
13 for applicants for licensure;

14 (7) Determine which states have credentialing requirements
15 substantially equivalent to those of this state, and issue licenses to
16 individuals credentialed in those states without examinations;

17 (8) Implement and administer a program for consumer education in
18 consultation with the committee;

19 (9) Adopt rules implementing a continuing education program in
20 consultation with the committee;

21 (10) The office of crime victims advocacy shall supply the
22 committee with information on methods of recognizing victims of human
23 trafficking, what services are available for these victims, and where
24 to report potential trafficking situations. The information supplied
25 must be culturally sensitive and must include information relating to
26 minor victims. The committee shall disseminate this information to
27 licensees by: Providing the information on the committee's web site;
28 including the information in newsletters; holding trainings at meetings
29 attended by organization members; or through another distribution
30 method determined by the committee. The committee shall report to the
31 office of crime victims advocacy on the method or methods it uses to
32 distribute information under this subsection;

33 (11) Maintain the official record of all applicants and licensees;
34 and

35 ((+11)) (12) Establish by rule the procedures for an appeal of an
36 examination failure.

1 NEW SECTION. **Sec. 8.** Sections 1 through 4 of this act constitute
2 a new chapter in Title 19 RCW.

3 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this
4 act, referencing this act by bill or chapter number, is not provided by
5 June 30, 2009, in the omnibus appropriations act, this act is null and
6 void.

 Passed by the Senate April 22, 2009.

 Passed by the House April 17, 2009.

 Approved by the Governor May 14, 2009, with the exception of
 certain items that were vetoed.

 Filed in Office of Secretary of State May 18, 2009.

 Note: Governor's explanation of partial veto is as follows:

"I have approved, except for Section 4, Engrossed Second Substitute
Senate Bill 5850 entitled:

"AN ACT Relating to protecting workers from human trafficking
violations."

Section 4 applies the Consumer Protection Act, chapter 19.86 RCW, to
violations of this law. The Consumer Protection Act is ill suited to
responding to these types of issues. Employment activities are
already well regulated by the Department of Labor and Industries.
Violations of this law would be better directed to the statutes
administered by that agency.

For these reasons, I have vetoed Section 4 of Engrossed Second
Substitute Senate Bill 5850. With the exception of Section 4,
Engrossed Second Substitute Senate Bill 5850 is approved."