

SSB 5412 - H COMM AMD

By Committee on Labor & Workforce Development

NOT ADOPTED 02/29/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.87.020 and 2003 c 143 s 10 are each amended to  
4 read as follows:

5 (1) The purpose of this chapter is to provide for safety of life  
6 and limb, to promote safety awareness, and to ensure the safe design,  
7 mechanical and electrical operation, and inspection of conveyances, and  
8 performance of conveyance work, and all such operation, inspection, and  
9 conveyance work subject to the provisions of this chapter shall be  
10 reasonably safe to persons and property and in conformity with the  
11 provisions of this chapter and the applicable statutes of the state of  
12 Washington, and all orders, and rules of the department. The use of  
13 unsafe and defective conveyances imposes a substantial probability of  
14 serious and preventable injury to employees and the public exposed to  
15 unsafe conditions. The prevention of these injuries and protection of  
16 employees and the public from unsafe conditions is in the best interest  
17 of the people of this state. It is the policy of the legislature that  
18 employees should be protected from workplace reprisal or retaliatory  
19 action for the opposition to or reporting in good faith of practices  
20 that may violate the provisions of this chapter and the rules  
21 promulgated hereunder, or of the safety, installation, repair, or  
22 maintenance policies of their employers. Personnel performing work  
23 covered by this chapter must, by documented training or experience or  
24 both, be familiar with the operation and safety functions of the  
25 components and equipment. Training and experience must include, but  
26 not be limited to, recognizing the safety hazards and performing the  
27 procedures to which the personnel performing conveyance work covered by  
28 this chapter are assigned in conformance with the requirements of this  
29 chapter. This chapter establishes the minimum standards for personnel  
30 performing conveyance work.

1 (2) This chapter is not intended to prevent the use of systems,  
2 methods, or devices of equivalent or superior quality, strength, fire  
3 resistance, code effectiveness, durability, and safety to those  
4 required by this chapter, provided that there is technical  
5 documentation to demonstrate the equivalency of the system, method, or  
6 device, as prescribed in this chapter and the rules adopted under this  
7 chapter.

8 (3) In any suit for damages allegedly caused by a failure or  
9 malfunction of the conveyance, conformity with the rules of the  
10 department is prima facie evidence that the conveyance work, operation,  
11 and inspection is reasonably safe to persons and property.

12 **Sec. 2.** RCW 70.87.010 and 2009 c 128 s 1 are each reenacted and  
13 amended to read as follows:

14 The definitions in this section apply throughout this chapter  
15 unless the context clearly requires otherwise.

16 (1) "Advisory committee" means the elevator advisory committee as  
17 described in this chapter.

18 (2) "Alteration" means any change to equipment, including its  
19 parts, components, and/or subsystems, other than maintenance, repair,  
20 or replacement.

21 (3) "Automobile parking elevator" means an elevator: (a) Located  
22 in either a stationary or horizontally moving hoistway; (b) used  
23 exclusively for parking automobiles where, during the parking process,  
24 each automobile is moved either under its own power or by means of a  
25 power-driven transfer device onto and off the elevator directly into  
26 parking spaces or cubicles in line with the elevator; and (c) in which  
27 persons are not normally stationed on any level except the receiving  
28 level.

29 (4) "Belt manlift" means a power driven endless belt provided with  
30 steps or platforms and a hand hold for the transportation of personnel  
31 from floor to floor.

32 (5) "Casket lift" means a lift that (a) is installed at a mortuary,  
33 (b) is designed exclusively for carrying of caskets, (c) moves in  
34 guides in a basically vertical direction, and (d) serves two or more  
35 floors or landings.

36 (6) "Conveyance" means an elevator, escalator, dumbwaiter, belt

1 manlift, automobile parking elevator, moving walk, and other elevating  
2 devices, as defined in this section.

3 (7) "Conveyance work" means the alteration, construction,  
4 dismantling, erection, installation, maintenance, relocation, and  
5 wiring of a conveyance.

6 (8) "Department" means the department of labor and industries.

7 (9) "Director" means the director of the department or his or her  
8 representative.

9 (10) "Dumbwaiter" means a hoisting and lowering mechanism equipped  
10 with a car (a) that moves in guides in a substantially vertical  
11 direction, (b) the floor area of which does not exceed nine square  
12 feet, (c) the inside height of which does not exceed four feet, (d) the  
13 capacity of which does not exceed five hundred pounds, and (e) that is  
14 used exclusively for carrying materials.

15 (11) "Elevator" means a hoisting or lowering machine equipped with  
16 a car or platform that moves in guides and serves two or more floors or  
17 landings of a building or structure;

18 (a) "Passenger elevator" means an elevator (i) on which passengers  
19 are permitted to ride and (ii) that may be used to carry freight or  
20 materials when the load carried does not exceed the capacity of the  
21 elevator;

22 (b) "Freight elevator" means an elevator (i) used primarily for  
23 carrying freight and (ii) on which only the operator, the persons  
24 necessary for loading and unloading, and other employees approved by  
25 the department are permitted to ride;

26 (c) "Sidewalk elevator" means a freight elevator that: (i)  
27 Operates between a sidewalk or other area outside the building and  
28 floor levels inside the building below the outside area, (ii) does not  
29 have a landing opening into the building at its upper limit of travel,  
30 and (iii) is not used to carry automobiles;

31 (d) "Hand elevator" means an elevator utilizing manual energy to  
32 move the car;

33 (e) "Inclined elevator" means an elevator that travels at an angle  
34 of inclination of seventy degrees or less from the horizontal;

35 (f) "Multideck elevator" means an elevator having two or more  
36 compartments located one immediately above the other;

37 (g) "Observation elevator" means an elevator designed to permit  
38 exterior viewing by passengers while the car is traveling;

- 1 (h) "Power elevator" means an elevator utilizing energy other than  
2 gravitational or manual to move the car;
- 3 (i) "Electric elevator" means an elevator where the energy is  
4 applied by means of an electric driving machine;
- 5 (j) "Hydraulic elevator" means an elevator where the energy is  
6 applied by means of a liquid under pressure in a cylinder equipped with  
7 a plunger or piston;
- 8 (k) "Direct-plunger hydraulic elevator" means a hydraulic elevator  
9 having a plunger or cylinder directly attached to the car frame or  
10 platform;
- 11 (l) "Electro-hydraulic elevator" means a direct-plunger elevator  
12 where liquid is pumped under pressure directly into the cylinder by a  
13 pump driven by an electric motor;
- 14 (m) "Maintained-pressure hydraulic elevator" means a direct-plunger  
15 elevator where liquid under pressure is available at all times for  
16 transfer into the cylinder;
- 17 (n) "Roped hydraulic elevator" means a hydraulic elevator having  
18 its plunger or piston connected to the car with wire ropes or  
19 indirectly coupled to the car by means of wire ropes and sheaves;
- 20 (o) "Rack and pinion elevator" means a power elevator, with or  
21 without a counterweight, that is supported, raised, and lowered by a  
22 motor or motors that drive a pinion or pinions on a stationary rack  
23 mounted in the hoistway;
- 24 (p) "Screw column elevator" means a power elevator having an  
25 uncounterweighted car that is supported, raised, and lowered by means  
26 of a screw thread;
- 27 (q) "Rooftop elevator" means a power passenger or freight elevator  
28 that operates between a landing at roof level and one landing below and  
29 opens onto the exterior roof level of a building through a horizontal  
30 opening;
- 31 (r) "Special purpose personnel elevator" means an elevator that is  
32 limited in size, capacity, and speed, and permanently installed in  
33 structures such as grain elevators, radio antenna, bridge towers,  
34 underground facilities, dams, power plants, and similar structures to  
35 provide vertical transportation of authorized personnel and their tools  
36 and equipment only;
- 37 (s) "Workmen's construction elevator" means an elevator that is not

1 part of the permanent structure of a building and is used to raise and  
2 lower workers and other persons connected with, or related to, the  
3 building project;

4 (t) "Boat launching elevator" means a conveyance that serves a boat  
5 launching structure and a beach or water surface and is used for the  
6 carrying or handling of boats in which people ride;

7 (u) "Limited-use/limited-application elevator" means a power  
8 passenger elevator where the use and application is limited by size,  
9 capacity, speed, and rise, intended principally to provide vertical  
10 transportation for people with physical disabilities.

11 (12) "Elevator contractor" means any person, firm, or company that  
12 possesses an elevator contractor license in accordance with this  
13 chapter and who is engaged in the business of performing conveyance  
14 work covered by this chapter.

15 (13) "Elevator contractor license" means a license that is issued  
16 to an elevator contractor who has met the qualification requirements  
17 established in RCW 70.87.240.

18 (14) "Elevator helper/apprentice" means a person who works under  
19 the general direction of a licensed elevator mechanic. A license is  
20 not required to be an elevator helper/apprentice.

21 (15) "Elevator mechanic" means any person who possesses an elevator  
22 mechanic license in accordance with this chapter and who is engaged in  
23 performing conveyance work covered by this chapter.

24 (16) "Elevator mechanic license" means a license that is issued to  
25 a person who has met the qualification requirements established in RCW  
26 70.87.240.

27 (17) "Escalator" means a power-driven, inclined, continuous  
28 stairway used for raising and lowering passengers.

29 (18) "Existing installations" means an installation defined as an  
30 "installation, existing" in this chapter or in rules adopted under this  
31 chapter.

32 (19) "Inspector" means an elevator inspector of the department or  
33 an elevator inspector of a municipality having in effect an elevator  
34 ordinance pursuant to RCW 70.87.200.

35 (20) "License" means a written license, duly issued by the  
36 department, authorizing a person, firm, or company to carry on the  
37 business of performing conveyance work or to perform conveyance work  
38 covered by this chapter.

1 (21) "Licensee" means the elevator mechanic or elevator contractor.

2 (22) "Maintenance" means a process of routine examination,  
3 lubrication, cleaning, servicing, and adjustment of parts, components,  
4 and/or subsystems for the purpose of ensuring performance in accordance  
5 with this chapter. "Maintenance" includes repair and replacement, but  
6 not alteration.

7 (23) "Material hoist" means a hoist that is not a part of a  
8 permanent structure used to raise or lower materials during  
9 construction, alteration, or demolition. It is not applicable to the  
10 temporary use of permanently installed personnel elevators as material  
11 hoists.

12 (24) "Material lift" means a lift that (a) is permanently  
13 installed, (b) is comprised of a car or platform that moves in guides,  
14 (c) serves two or more floors or landings, (d) travels in a vertical or  
15 inclined position, (e) is an isolated, self-contained lift, (f) is not  
16 part of a conveying system, and (g) is installed in a commercial or  
17 industrial area not accessible to the general public or intended to be  
18 operated by the general public.

19 (25) "Moving walk" means a passenger carrying device (a) on which  
20 passengers stand or walk and (b) on which the passenger carrying  
21 surface remains parallel to its direction of motion.

22 (26) "One-man capacity manlift" means a single passenger, hand-  
23 powered counterweighted device, or electric-powered device, that  
24 travels vertically in guides and serves two or more landings.

25 (27) "Owner" means any person having title to or control of a  
26 conveyance, as guardian, trustee, lessee, or otherwise.

27 (28) "Permit" means a permit issued by the department: (a) To  
28 perform conveyance work, other than maintenance; or (b) to operate a  
29 conveyance.

30 (29) "Person" means this state, a political subdivision, any public  
31 or private corporation, any firm, or any other entity as well as an  
32 individual.

33 (30) "Personnel hoist" means a hoist that is not a part of a  
34 permanent structure, is installed inside or outside buildings during  
35 construction, alteration, or demolition, and used to raise or lower  
36 workers and other persons connected with, or related to, the building  
37 project. The hoist may also be used for transportation of materials.

1 (31) "Platform" means a rigid surface that is maintained in a  
2 horizontal position at all times when in use, and upon which passengers  
3 stand or a load is carried.

4 (32) "Private residence conveyance" means a conveyance installed in  
5 or on the premises of a single-family dwelling and operated for  
6 transporting persons or property from one elevation to another.

7 (33) "Public agency" means a county, incorporated city or town,  
8 municipal corporation, state agency, institution of higher education,  
9 political subdivision, or other public agency and includes any  
10 department, bureau, office, board, commission or institution of such  
11 public entities.

12 (34) "Repair" means the reconditioning or renewal of parts,  
13 components, and/or subsystems necessary to keep equipment in compliance  
14 with this chapter.

15 (35) "Replacement" means the substitution of a device, component,  
16 and/or subsystem in its entirety with a unit that is basically the same  
17 as the original for the purpose of ensuring performance in accordance  
18 with this chapter.

19 (36) "Single-occupancy farm conveyance" means a hand-powered  
20 counterweighted single-occupancy conveyance that travels vertically in  
21 a grain elevator and is located on a farm that does not accept  
22 commercial grain.

23 (37) "Stairway chair lift" means a lift that travels in a basically  
24 inclined direction and is designed for use by individuals with  
25 disabilities.

26 (38) "Wheelchair lift" means a lift that travels in a vertical or  
27 inclined direction and is designed for use by individuals with  
28 disabilities.

29 (39) "Employee" means any person employed by an elevator  
30 contractor.

31 (40) "Whistleblower" means any employee who in good faith reports  
32 practices or opposes practices that may violate the provisions of this  
33 chapter or the rules promulgated hereunder, or of the safety,  
34 installation, repair, or maintenance policies of his or her employer.  
35 The term also means (a) an employee who is believed to have reported  
36 such practices but who, in fact, has not reported such practices or (b)  
37 an employee who has assisted in the reporting of practices or has

1 provided testimony or information in connection with the reporting of  
2 practices.

3 (41) "Workplace reprisal or retaliatory action" includes actions  
4 such as discharge or in any manner discrimination against any employee  
5 who has reported or filed any complaint or instituted or caused to be  
6 instituted any proceeding under or related to this chapter, or has  
7 testified or is about to testify in any such proceeding or because of  
8 the exercise by such employee on behalf of himself or herself or others  
9 of any right or responsibility afforded by this chapter.

10 NEW SECTION. Sec. 3. A new section is added to chapter 70.87 RCW  
11 to read as follows:

12 (1) It is an unfair practice under chapter 49.60 RCW for an  
13 elevator contractor to subject an employee who is a whistleblower to  
14 workplace reprisal or retaliatory action as a result of the employee  
15 being a whistleblower.

16 (2) The identity of a whistleblower who reports, in good faith, to  
17 the department or to a political subdivision that regulates  
18 conveyances, practices that may violate the provisions of this chapter  
19 or the rules promulgated hereunder must remain confidential. The  
20 provisions of RCW 4.24.500 through 4.24.520, providing certain  
21 protections to persons who communicate to government agencies, apply to  
22 such reports."

23 Correct the title.

EFFECT: Specifies that subjecting a whistleblower to reprisal or  
retaliatory action as a result of the whistleblowing activity is an  
unfair practice under the Washington Law Against Discrimination, which  
gives the Human Rights Commission the authority to investigate a  
complaint and pursue remedies.

--- END ---