

SENATE BILL REPORT

ESSB 5258

As Amended by House, April 10, 2019

Title: An act relating to preventing the sexual harassment and sexual assault of certain isolated workers.

Brief Description: Preventing the sexual harassment and sexual assault of certain isolated workers.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Keiser, Wellman, Saldaña, Randall, Das, Dhingra, Cleveland, Conway, Wilson, C., Darneille, Kuderer, Takko, Salomon, Hasegawa and Hunt).

Brief History:

Committee Activity: Labor & Commerce: 1/21/19, 1/24/19 [DPS, w/oRec, DNP].

Floor Activity:

Passed Senate: 2/13/19, 47-0.

Passed House: 4/10/19, 57-35.

Brief Summary of Engrossed First Substitute Bill

- Requires certain employers who employ custodians, security guards, hotel or motel housekeepers, or room-service employees who spend a majority of their working hours alone to adopt a sexual harassment policy, provide sexual harassment training, provide a list of resources to employees, and to provide panic buttons to each isolated worker.
- Requires the Department of Labor and Industries to establish procedures for licensing property service contractors.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5258 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senator Walsh.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass.
Signed by Senator King, Ranking Member.

Staff: Jarrett Sacks (786-7448)

Background: Federal law and the Washington Law Against Discrimination (WLAD) prohibit discrimination in employment based on sex. Sexual harassment is a form of sex discrimination under WLAD and Title VII of the Civil Rights Act of 1964.

WLAD is administered by the Washington State Human Rights Commission (HRC). The HRC investigates complaints that allege unfair practices in violation of the WLAD. If the HRC finds that there is reasonable cause to believe that discrimination has occurred, it must first try to eliminate the unfair practice via conference and conciliation. If the parties do not reach an agreement, the HRC must refer the matter to an administrative judge for a determination

Summary of Engrossed First Substitute Bill: Every hotel, motel, retail, behavioral health, or custodial employer, or property services contractor, who employs a custodian, security guard, hotel or motel housekeeper, or room-service employee who spends a majority of their working hours alone, or whose primary work responsibility involves working without another coworker present, must:

- adopt a sexual harassment policy;
- provide mandatory sexual harassment and sexual assault training;
- provide a list of resources for the employer's employees to utilize—at a minimum these resources must include contact information for the Equal Employment Opportunity Commission, the Washington State Human Rights Commission, and local advocacy groups focused on preventing sexual harassment and sexual assault; and
- provide a panic button to each worker that spends a majority of their working hours alongside two or fewer coworkers at a location not their home—L&I must publish advice and guidance for employers with 50 or fewer employees relating to providing panic buttons.

The Department of Labor and Industries (L&I) must establish, by rule, procedures for licensing property service contractors. The rules must require that a property service contractor provide the following information to L&I:

- the total number of employees employed by the property service contractor;
- the physical address of the work location or locations at which janitorial services are provided by an employee of the property service contractor; and
- demographic data that is voluntarily provided by employees relating to race, sex, sexual orientation, national origin, marital status, and age.

A property service contractor is any person that for pay, recruits, solicits, supplies, or employs workers:

- to perform labor for another person to provide services that include janitorial services; or
- on behalf of an employer to provide services that include janitorial services.

The definition of property service contractor includes individuals who subcontract to provide workers to perform services that include janitorial services.

Hotels and motels with 60 or more rooms must meet the requirements of the bill by January 1, 2020. All other businesses must meet the requirements of the bill by January 1, 2021.

Appropriation: None.

Fiscal Note: Requested on January 15, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Custodians, security guards, and hotel and motel housekeepers work for long hours alone in isolation and are vulnerable to sexual harassment and assault. They are provided no training or resources and are afraid of retaliation. Many times, isolated workers have no way to call for help. A survey showed that 53 percent of housekeepers have experienced sexual harassment or sexual assault and that 95 percent felt safer when provided a panic button. Providing a panic button will make isolated employees safer. The industry supports training and panic buttons and supports making its employees safer. The bill could be made stronger by providing for anti-retaliation for groups not covered by WLAD.

OTHER: The HRC developed best practices for isolated workers, many of which are included in the bill. The bill should apply to all health workers and agricultural workers should be added.

Persons Testifying: PRO: Giovanna Orecchio, Service Employees International Union Local 6; Corin Dugas-Goodman, Service Employees International Union Local 6; Rahama Hassan, Service Employees International Union Local 6; Andrea Piper-Wentland, citizen; Andrew Kashyap, Legal Voice; Hong Zhang, UNITE HERE Local 8; Julia Gorton, Washington Hospitality Association; Anna Boone, Seattle Hotel Alliance.

OTHER: Laura Lindstrand, Washington Human Rights Commission.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Removes behavioral health and custodial employers and adds security guard entities.
- Defines employee as a janitor, security guard, hotel or motel housekeeper, or room service attendant.
- Provides that the training, resources, and panic button requirements of the bill only apply to those defined as an employee.
- Provides that employees do not have to work in a location that is not her or his home in order to be supplied a panic button.

- Exempts licensed security guard companies from the panic button requirement.
- Removes the requirement that L&I license property service contractors and changes some types of information property service contractors must disclose to L&I.
- Modifies the definition of property service contractor.