

# SENATE BILL REPORT

## SHB 1206

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As Passed Senate, March 29, 2021

**Title:** An act relating to protecting temporary workers.

**Brief Description:** Protecting temporary workers.

**Sponsors:** House Committee on Labor & Workplace Standards (originally sponsored by Representatives Berry, Bronoske, Ramos, Fitzgibbon, Davis, Lovick, Thai, Ortiz-Self, Ormsby, Simmons, Chopp, Callan, Valdez, Macri and Harris-Talley; by request of Department of Labor & Industries).

**Brief History:** Passed House: 2/23/21, 67-30.

**Committee Activity:** Labor, Commerce & Tribal Affairs: 3/10/21, 3/17/21 [DP, DNP, w/oRec].

**Floor Activity:** Passed Senate: 3/29/21, 38-11.

### Brief Summary of Bill

- Establishes specific standards under the Washington Industrial Safety and Health Act for staffing agencies and worksite employers in the construction and manufacturing industries regarding training, assessing hazards, sharing information, and other requirements.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

**Majority Report:** Do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair, Labor; Stanford, Vice Chair, Commerce & Tribal Affairs; King, Ranking Member; Robinson and Saldaña.

**Minority Report:** Do not pass.

Signed by Senators Honeyford and Schoesler.

**Minority Report:** That it be referred without recommendation.

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

Signed by Senator Braun.

**Staff:** Matt Shepard-Koningsor (786-7627)

**Background:** Washington Industrial Safety and Health Act. Washington is a state plan state for purposes of the federal Occupational Safety and Health Administration. As such, Washington assumes responsibility for occupational safety and health in the state under the Washington Industrial Safety and Health Act (WISHA). The Department of Labor and Industries (L&I) administers WISHA and must adopt rules to provide safe and healthful employment. L&I has adopted general standards applying to most industries, in addition to standards applying only to specific industries.

If the L&I director determines an employer has violated a safety or health standard, the director, in most cases, generally issues a citation and may impose a civil penalty. When two or more employers may share liability for violations, such as in the case of staffing agencies providing temporary workers, L&I applies policies outlined in a directive.

A staffing agency must ensure its employees receive all required training and personal protective equipment (PPE), but may fulfill its obligation by taking reasonable steps to ensure the worksite employer provides the training and PPE. The worksite employer may be cited for violations when it is responsible for supervising or controlling the staffing agency's employees. In some cases, both employers may be cited.

**Summary of Bill:** Provisions specific to temporary workers in construction and manufacturing industries are adopted. A staffing agency is an employer as defined under WISHA and classified under the North American Industry Classification System as temporary help services, that recruits and hires its own employees and temporarily assigns them to work for another organization under the other organization's supervision to support, supplement, provide assistance, or perform special assignments. A worksite employer is an entity that contracts with a staffing agency to provide temporary employment in the construction and manufacturing industries.

Staffing Agency Responsibilities. Before assigning an employee to a worksite employer, a staffing agency must:

- inquire about the worksite employer's safety and health practices and hazards at the actual workplace to assess the safety conditions, worker's tasks, and the worksite employer's safety program, and the agency may visit the actual worksite;
- provide general awareness safety training to the employee for recognized industry hazards the employee may encounter at the worksite, in the preferred language of the employee and provided at no cost to the employee;
- transmit a general description of the training program at the start of the contract;
- provide the employee with L&I's hotline number for reporting safety concerns; and
- inform the employee who to report safety concerns to at the workplace.

Worksite Employer Responsibilities. Before the employee engages in work for the worksite employer, the worksite employer must:

- document and inform the staffing agency about anticipated job hazards;
- review the staffing agency's training to determine if it addresses recognized hazards for the worksite employer's industry;
- provide specific training tailored to the particular hazards at the workplace; and
- document and maintain records of site-specific training, and within three business days of providing training, provide confirmation to the staffing agency.

If the worksite employer changes job tasks or work location and new hazards may be encountered, the worksite employer must inform the staffing agency and employee of job hazards not previously covered and update PPE and training for the new job tasks, if necessary.

A worksite employer that supervises a staffing agency employee must provide worksite specific training to the employee and allow a staffing agency to visit any worksite where the staffing agency's employees are or will be working, to observe and confirm the worksite employer's training and information related to the job tasks, safety and health practices, and hazards.

Other. Either a staffing agency or employee may refuse a new job task if the task has not been reviewed or the employee has not been trained on the new task. Neither a staffing agency nor a worksite employer may retaliate against an employee who reports safety concerns.

L&I is granted rulemaking authority to implement the act.

The provisions do not diminish existing responsibilities of the worksite employer or the staffing agency. Both entities are responsible for compliance with WISHA and other employment laws.

**Appropriation:** None.

**Fiscal Note:** Available.

**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:** PRO: There are large differences in safety training between temporary workers and comparable permanent workers. Temporary workers are twice as likely to be injured at their workplace. The injury differential is more pronounced for temporary workers in the construction and manufacturing industries. Both the staffing agencies and worksite employers need to take responsibility for the safety of these workers.

This bill would codify many Occupational Safety and Health Administration rules. This bill will increase communication between the staffing agencies and the worksite employers to close safety training gaps. This is common sense legislation that protects workers.

OTHER: This bill codifies what staffing agencies already do.

**Persons Testifying:** PRO: Representative Liz Berry, Prime Sponsor; Dave DeSario, Temp Worker Justice; Jane Dale, Washington State Association for Justice; Mike Foley, Labor & Industries; Tammy Fellin, Labor & Industries; Joe Kendo, Washington State Labor Council, AFL-CIO.

OTHER: Natalie McNair, TrueBlue, Inc.; Darlene Seiber, PeopleReady.

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