

# SENATE BILL REPORT

## EHB 1837

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As Reported by Senate Committee On:  
Labor, Commerce & Tribal Affairs, February 24, 2022

**Title:** An act relating to restoring the state's ability to address work-related musculoskeletal injuries.

**Brief Description:** Restoring the state's ability to address work-related musculoskeletal injuries.

**Sponsors:** Representatives Bronoske, Ortiz-Self, Berry and Pollet.

**Brief History:** Passed House: 2/14/22, 50-48.

**Committee Activity:** Labor, Commerce & Tribal Affairs: 2/23/22, 2/24/22 [DPA, DNP].

### Brief Summary of Amended Bill

- Removes the restriction on the regulation of work-related musculoskeletal disorders and ergonomics, except for home offices.
- Prohibits the Department of Labor and Industries from adopting more than one industry or occupation standard per year until January 1, 2027.
- Limits the first rule to employers with employees performing janitorial and building cleaning services.

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## SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS

**Majority Report:** Do pass as amended.

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

**Minority Report:** Do not pass.

Signed by Senators King, Ranking Member; Braun, Rivers and Schoesler.

**Staff:** Susan Jones (786-7404)

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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.*

**Background:** In 2000, the Department of Labor and Industries (L&I) adopted specific workplace ergonomics regulations requiring employers to reduce worker exposure to specific workplace hazards that cause or contribute to work-related musculoskeletal disorders.

Initiative 841, passed by the voters in 2003, repealed the existing ergonomics regulations. The initiative also prohibited L&I from adopting similar regulations or otherwise regulating working practices to prevent musculoskeletal disorders, until and to the extent required by the federal government.

L&I retains general authority to enforce against ergonomic-related workplace hazards under the general duty clause of the Washington Industrial Safety and Health Act (WISHA), which requires employers to furnish employees with a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to the employees.

**Summary of Amended Bill:** The restrictions on the adoption of new or amended rules dealing with musculoskeletal disorders, or that deal with the same or similar activities as the repealed state ergonomics regulations under WISHA are removed, except that the restriction remains for employee home offices until and to the extent required by the federal government.

Prior to January 1, 2027, L&I is limited to adopting standards focusing on a particular industry or occupation and may not adopt more than one standard in any 12-month period. The first rule is limited to employers with employees performing janitorial and building cleaning services. When adopting an industry or occupation-specific rule, L&I must report the criteria for selecting the specific industry or occupation that is subject to the rule. The limit on rule making does not apply to rules adopted or amended where required by the federal Occupational Safety and Health Administration.

Legislative findings and intentions are made.

**EFFECT OF LABOR, COMMERCE & TRIBAL AFFAIRS COMMITTEE AMENDMENT(S):**

- Prohibits L&I from adopting more than one industry or occupation standard per year until January 1, 2027. Limits the first rule to employers with employees performing janitorial and building cleaning services. Requires L&I when adopting an industry or occupation specific rule to report the criteria for selecting the specific industry that is subject to the rule.
- Replaces intent section language regarding the severity of work-related musculoskeletal injuries with findings regarding a decline in such injuries over a specified period.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**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 Engrossed House Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: We have come a long way over the last 20 years, including the science and understanding of ergonomics and how repetitive motions and musculoskeletal injuries are impacting workers in a diverse sector of different workplaces. The bill will have a positive benefit for workers to work more safely and address those injuries.

Workers told stories of injuries and pain from repetitive motions, including from janitorial workers, and injuries and having to choose to be out of work for repeated surgeries and recovery at a reduce workers' compensation wages. Some workers had to choose to recover or return to work early and risk further injuries. Clearer rules would help these workers. This bill is about prevention. The current authority doesn't provide prevention and clarity of the rules. Certain industries have a high rate of injuries.

There is a strong correlation between pain and addiction of opioids. Many workers report chronic pain. There were more than 1200 overdose deaths last year. These regulations can help businesses save money and help with the opioid crisis.

CON: Employers are not against ergonomics or safety. They are against unreasonable regulations. Twenty years later, there is no scientific consensus on causes and cures of repetitive motions and injuries. L&I's rules couldn't answer the question of how many motions are too many. They still cannot do that today. Business understands that safety pays and cares about their workers. Targeted technical assistance is the answer especially to small businesses and is already available. A one-size fits all regulation is not the answer.

There has been a decrease in these injuries over the year. Washington has one of the best records in this area. L&I already has the general rule. It will only result in more cost to everyone, especially small businesses.

OTHER: The general rule is not preventative and only used in the worst situation after many injuries. This is not very transparent for employers. The bill does not react to the prior rules. For each dollar of WC cost, an employer has additional costs with reduced work, and hiring new workers and employees have many costs related to these injuries.

**Persons Testifying:** PRO: Representative Dan Bronoske, Prime Sponsor; Nickeia Hunter; Robert Bernard; Jonathan Rosen, National Clearinghouse for Worker Safety and Health

Training; Ma Cruz Del Villar de Amador, SEIU 6; Bryan Hunter, Sheetmetal Workers Local 66; Joe Kendo, Washington State Labor Council; Kerry Breakfield; Darlene Johansen; AJ Johnson; Janell Hodkinson; Cindy Hall.

CON: Amber Carter, Identity Clark County; John Meier, Employer Resources Northwest; Patrick Connor, NFIB; Samantha Louderback, Washington Hospitality Association; Jim King, Independent Business Association; Amy Brackenbury, NW Career Colleges Federation; Robert Battles, Association of Washington Business (AWB); Mandi Kime, AGC of Washington; Tom Kwieciak, WA Farm Bureau, Building Industry Association of WA; Carolyn Logue, Washington Food Industry Association; David Streeter, Washington State Hospital Association; Bruce Beckett, Washington Retail Association; Scott Dilley, Washington State Dairy Federation; Terri Dow; Laurie Layne.

OTHER: Craig Blackwood, Labor & Industries, Division of Occupational Safety & Health; Dr. Dave Bonauto, Labor & Industries - Safety & Health Assessment & Research for Prevention.

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