

# SENATE BILL REPORT

## SB 5217

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As of January 23, 2023

**Title:** An act relating to the state's ability to regulate certain industries and risk classes to prevent musculoskeletal injuries and disorders.

**Brief Description:** Concerning the state's ability to regulate certain industries and risk classes to prevent musculoskeletal injuries and disorders.

**Sponsors:** Senators Dhingra, Kauffman, Keiser, Kuderer, Lovelett, Nguyen, Nobles, Pedersen, Valdez and Wilson, C..

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/24/23.

### Brief Summary of Bill

- Repeals the law prohibiting the Department of Labor and Industries (L&I) from adopting rules related to ergonomics or musculoskeletal disorders.
- Limits the adoption of new rules to no more than one set of rules for an industry or risk class within a 12-month period and only for industries or risk classes where workers' compensation claims involved musculoskeletal injuries and disorders which are at a rate greater than two times the overall state claim rate for these types of injuries and disorders over a recent five-year period.
- Requires certain reporting regarding these rules by L&I.
- Allows L&I to provide certain funding to employers to purchase additional equipment needed to comply with these newly adopted rules.

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### SENATE COMMITTEE ON LABOR & COMMERCE

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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.*

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

**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Initiative 841, passed by the voters in 2003, repealed the existing ergonomics regulations.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 Bill:** The law repealing the ergonomics regulations and 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 repealed.

L&I may adopt rules related to preventing musculoskeletal injuries and disorders that provide standards for an industry or risk class, subject to the following:

- L&I is limited to adopting no more than one set of rules related to preventing musculoskeletal injuries and disorders for an industry or risk class that previously did not have rules related to preventing musculoskeletal injuries and disorders within a 12-month period;
- rules providing standards may only be adopted for industries or risk classes where compensable workers' compensation claims involved musculoskeletal injuries and disorders with a rate greater than two times the overall state claim rate for these types of injuries and disorders over a recent five-year period; and
- L&I may not adopt any new or amended rules dealing with musculoskeletal injuries and disorders for employee home offices, until comparable rules are required by Congress or the federal Occupational Safety and Health Administration.

L&I must:

- within 90 days of filing a preproposal statement of inquiry for specific rules, provide a report to the Legislature, which includes the criteria used to select the specific industry or rate risk class subject to the rules and a description of the rule-making procedures to be followed;
- at least annually, publish a list of industries and risk classes eligible for this rule-making.

L&I may provide funding to employers to purchase additional equipment that may be needed to comply with these newly adopted rules. The maximum amount of funding each year is 2 percent of the premiums paid into the accident fund in the prior year from the risk classes that include employers subject to an adopted rule. Only employers who pay premiums to the state fund and are subject to a rule adopted under this act are eligible for funding.

Definitions of industry and risk classification are included. Legislative findings are made.

**Appropriation:** None.

**Fiscal Note:** Requested on January 13, 2023.

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

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