

HOUSE BILL REPORT

SSB 5254

As Reported by House Committee On:
Labor & Workplace Standards
Appropriations

Title: An act relating to the use of protective devices and equipment during a public health emergency.

Brief Description: Concerning the use of protective devices and equipment during a public health emergency.

Sponsors: Senate Committee on Labor, Commerce & Tribal Affairs (originally sponsored by Senators Salomon, Darneille, Frockt, Hasegawa, Keiser, Saldaña, Stanford and Wilson, C.).

Brief History:

Committee Activity:

Labor & Workplace Standards: 3/16/21, 3/19/21 [DP];
Appropriations: 3/30/21, 4/1/21 [DP].

Brief Summary of Substitute Bill

- Provides that an employer who does not require employees to wear specific personal protective equipment (PPE), must accommodate an employee's or contractor's voluntary use of specific PPE, during a public health emergency and when other conditions are met.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 7 members: Representatives Sells, Chair; Berry, Vice Chair; Hoff, Ranking Minority Member; Mosbrucker, Assistant Ranking Minority Member; Bronoske, Harris and Ortiz-Self.

Staff: Trudes Tango (786-7384).

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:

Under the Washington Industrial Safety and Health Act (WISHA), which is administered by the Department of Labor and Industries (Department), an employer must provide a workplace free from recognized hazards. The Department has adopted general safety standards that apply to most industries and has safety standards that apply only to specific industries.

Employers must provide their employees with appropriate protective measures for workplace hazards. For certain hazards, personal protective equipment (PPE) must be provided. By Department rule, PPE must be provided at no cost to the employee if: (1) the type of PPE would not reasonably or normally be worn away from the workplace, such as single use or disposable PPE; and (2) the PPE is required to comply with safety and health standards to protect employees from: hazardous processes; environmental hazards; physical, chemical, or radiological hazards; or mechanical irritants that could cause injury to the function of any body part through absorption, inhalation, or physical contact.

Summary of Substitute Bill:

An employer who does not require employees or contractors to wear a specific type of personal protective equipment must accommodate its employee's or contractor's voluntary use of that specific type of protective device or equipment, including gloves, goggles, face shields, and face masks, as the employee or contractor deems necessary. The requirement applies only during a public health emergency and when:

- the voluntary use of protective devices and equipment does not introduce hazards to the work environment and is consistent with the WISHA and the Department's rules as of the effective date of the bill;
- the use of facial coverings does not interfere with an employer's security requirements; and
- the use of protective devices and equipment does not conflict with standards for that specific type of equipment established by the Department or the Department of Health.

An employer may verify that voluntary use of personal protective equipment meets all regulatory requirements for workplace health and safety. An employer may not seek a variance from the requirement of the bill.

"Public health emergency" means a declaration or order relating to controlling and preventing the spread of any infectious or contagious disease that covers the jurisdiction where the individual or business performs work and issued: (1) by the President of the United States declaring a national or regional emergency; (2) by the Governor declaring a state of emergency; or (3) by a local public health officer's order.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill simply ensures that employees are able to wear protective equipment when it is not required by employers, as long as it does not interfere with the work environment. It seems like common sense, but there have been incidents early on in the pandemic where employers would not let employees wear masks because it might scare customers away.

(Opposed) None.

Persons Testifying: Joe Kendo, Washington State Labor Council, American Federation of Labor and Congress of Industrial Organizations.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Staff: Mary Mulholland (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Labor & Workplace Standards:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) There is no fiscal impact. During the COVID-19 pandemic, some citizens in various jobs were discouraged from bringing their own personal protective equipment (PPE) to work out of fear that the PPE would scare customers or patients. There should at the very least be a law that allows workers to wear the PPE if they choose.

(Opposed) None.

Persons Testifying: Senator Salomon, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.