
**Labor & Workforce Development
Committee**

SSB 5412

Brief Description: Providing remedies for whistleblowers in the conveyance work industry.

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Keiser, Kohl-Welles, Kline, Roach, Conway, Hobbs and Chase).

Brief Summary of Substitute Bill

- Provides a remedy for workplace reprisal or retaliatory action for whistleblowers employed by elevator contractors.

Hearing Date: 2/17/12

Staff: Oliver Stiefel and Joan Elgee (786-7106).

Background:

Elevator Regulation

A conveyance is an elevator, escalator, dumbwaiter, belt manlift, automobile parking elevator, moving walk, or other elevating device. The Department of Labor and Industries (Department) administers and enforces state laws providing for the safe operation, installation, inspection, and repair of conveyances. In general, these laws require owners to obtain permits from the Department before conveyances are built, installed, moved, or altered. These activities must be performed by licensed elevator contractors employing a licensed elevator mechanic. In addition, all conveyances must have operating permits and are subject to annual safety inspections by the Department. Intent language states that the use of unsafe and defective conveyances creates a substantial probability of serious and preventable injury to employees who use or work with conveyances as well as to the public who may be exposed to unsafe conditions.

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.

Employees who work on or with conveyances must be familiar with their operation and safety functions. Familiarity must be documented by training or experience that includes recognizing safety hazards and performing procedures in compliance with laws and regulations relating to conveyances.

Whistleblower Protection

Protection for whistleblowers is available in some circumstances under current law. For example, a person who reports alleged improper governmental action or improper quality of healthcare, and who is subject to workplace reprisal or retaliatory action, may have the remedies under the Washington Law Against Discrimination (WLAD), which include reinstatement and back pay.

Summary of Bill:

The legislative purpose of the conveyance statute is amended to state that employees should be protected from workplace retaliatory action for the opposition to or reporting in good faith of practices that may violate state laws and rules or employer policies governing conveyances.

An employee is any person employed by an elevator contractor. A whistleblower is any employee who reports in good faith or opposes practices of his or her employer that may violate state laws and rules or employer policies governing conveyances. A whistleblower is also an employee believed to have, but has not in fact, reported improper practices, or an employee who has assisted in the reporting of or proceedings regarding such practices.

Workplace reprisal or retaliatory action includes actions such as the discharge of or discrimination against an employee who has reported, filed a complaint, or testified on the unsafe design, operation, and inspection of conveyances.

An employee who is a whistleblower who has been subjected to workplace reprisal or retaliatory action has remedies provided under the WLAD. The identity of a whistleblower must remain confidential. A whistleblower who communicates to an appropriate governmental agency in good faith is immune from civil liability based upon the communication to the agency regarding any matter reasonably of concern to that agency.

Appropriation: None.

Fiscal Note: Requested February 14, 2012.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.