

DOSH DIRECTIVE

Division of Occupational Safety and Health
Department of Labor and Industries
Keeping Washington Safe and Working

1.19

Homeowners as General Contractors

Date: July 3, 2012

I. Purpose

This Directive establishes enforcement policies related to DOSH jurisdiction over homeowners who are “acting as the general contractor” in building their own homes.

II. Scope and Application

This Directive applies to all DOSH operations statewide. It replaces all previous instructions on this issue, whether formal or informal.

III. Background

DOSH operates under the Washington Industrial Safety and Health Act (WISHA), which is found in Chapter 49.17 of the Revised Code of Washington (RCW). The primary obligation of RCW 49.17.060 states that “Each employer: (1) Shall furnish to each of his or her employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his employees . . .; and (2) Shall comply with the rules, regulations, and orders promulgated under this chapter.”

In determining the scope of RCW 49.17.060 as it relates to homeowners acting as general contractors, the statute clearly defines "employer" in part as "any person, firm, corporation, partnership, business trust, legal representative or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons" (RCW 49.17.020(4), emphasis added).

IV. Enforcement Policies

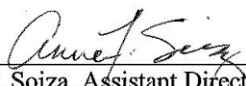
- A. CSHOs may issue homeowners citations for violating safety and health requirements whenever they are functioning as general contractors, and the CSHO determines that:
 - 1. The essence of the contract (whether written or verbal) is the contractor’s personal labor, **and**

2. The homeowner is in some manner controlling or directing the contractor's day-to-day activities. Examples may include:
 - a. Directing and/or supervising the contractor on how to do the work
 - b. Setting specific work hours, such as:
 - Workday start and end times
 - Lunch or rest breaks
 - c. Controlling how payment, whether monetary or another form of compensation, occurs.
 - d. Supplying materials, tools or equipment required to complete work activities.

- B. CSHOs should not issue "parallel citations" to homeowners acting as general contractors using the *Stute Decision*.

- C. CSHOS should not issue homeowners citations for violations of the safety and health standards for either of the following:
 1. Doing business with an unregistered contractor. The homeowner is not responsible for a contractor's violation of the contractor registration law.

 2. Employing any person to do gardening, maintenance, or repair in or about the homeowner's private home or any other activities not subject to workers' compensation requirements under the provisions of RCW 51.12.020(2).

Approved: 
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Division of Occupational Safety and Health
Department of Labor and Industries

For more information about this or other DOSH Directives, contact the Division of Occupational Safety & Health at 360-902-5436 or PO Box 44610, Olympia, WA 98504-4610. Policy information is also available on the DOSH website: <http://www.lni.wa.gov/Safety-health>.