

# DOSH Workplace Safety and Health Jurisdiction

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- We want to make sure no one is overexposed to lead
- We want to make sure anyone who works around lead doesn't take it home
  - Or anywhere else
- We want to make sure employers and employees have the information they need to stay safe and healthy at work



## Objectives

- Review the state law that gives DOSH authority to adopt and enforce workplace safety and health rules
- Review when and where DOSH has jurisdiction over workplace safety and health
- Review where DOSH has jurisdiction over the public
- Answer questions



## The Washington State Industrial Safety and Health Act (WISH Act)

- RCW 49.17.010 Purpose. The legislature finds that personal injuries and illnesses ***arising out of conditions of employment*** impose a substantial burden upon ***employers and employees*** in terms of lost production, wage loss, medical expenses, and payment of benefits under the industrial insurance act.



## The Washington State Industrial Safety and Health Act (WISH Act)

- (cont.) Therefore, in the public interest for the welfare of the people of the state of Washington and ***in order to assure***, insofar as may reasonably be possible, ***safe and healthful working conditions for every man and woman working in the state of Washington***, the legislature in the exercise of its police power, and in keeping with the mandates of Article II, section 35 of the state Constitution...



## The Washington State Industrial Safety and Health Act (WISH Act)

- (cont.) ***declares its purpose*** by the provisions of this chapter ***to create, maintain, continue, and enhance the industrial safety and health program of the state***, which program shall equal or exceed the standards prescribed by the Occupational Safety and Health Act of 1970 (Public Law 91-596, 84 Stat. 1590).



## Washington State Constitution - Article II, section 35

- **PROTECTION OF EMPLOYEES.** The *legislature shall pass necessary laws for the protection of persons working* in mines, factories and other employments dangerous to life or deleterious to health; and *fix pains and penalties for the enforcement of the same.*



## Definition of employer – RCW 49.17.020(4)

- 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 and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: PROVIDED, That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.





## This includes (and is not limited to)

- Private employers
- City, County and State Government agencies
- Construction contractors
- Non-profit organizations
- Temporary staffing agencies
- Schools, colleges and universities



## Not included (and not limited to)

- Federal government
- Active duty military
- Tribal employers working on tribal lands
- Vessels operating on navigable waters
- Sole owner businesses without employees
  - who haven't selected industrial insurance coverage



## Definition of employee – RCW 49.17.020(5)

- An employee of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his or her personal labor for an employer under this chapter whether by way of manual labor or otherwise.



## **This includes (and is not limited to)**

- Hourly and minimum wage employees
- Salaried employees
- Employees paid by commission or piece work
- Managers and supervisors
- City, County and State workers
- Volunteer firefighters



## Not included (and not limited to)

- Federal government employees
- Active duty military personnel
- Employees working on tribal lands
- Crewmembers on vessels operating on navigable waters
- The public



## RCW 49.17 The WISH Act

- Grants the Department of Labor and Industries authority to enter into an agreement with the Occupational Safety and Health Administration (OSHA) to be the workplace safety and health administrator for the State of Washington
  - DOSH carries out these duties for the department



## RCW 49.17 The WISH Act

- Authority granted to DOSH to:
  - Adopt workplace safety and health rules
  - Conduct workplace safety and health inspections to make sure employers comply with those rules
- This authority exists where there is an employer/employee relationship
  - This does not extend to the public unless authority has been granted by another statute



## Statutes granting authority over public safety

- The legislature has granted DOSH jurisdiction over public safety in specific areas
  - RCW 49.26 Health and Safety – Asbestos
  - RCW 49.70 Worker and Community Right to Know Act
  - RCW 49.17.420 Construction Crane Certification Program
  - RCW 70.74 Washington State Explosives Act
  - RCW 88.04 Charter Boat Safety Act





## Bottom line for DOSH jurisdiction

- DOSH doesn't have the authority to enforce safety and health rules where an employer/employee relationship doesn't exist
- DOSH workplace safety and health rules cover all employees equally regardless of gender, age etc



## What about minors?

- Minors under 18 are already prohibited from jobs that could expose them to lead
  - Possible exposure to bodily fluids, or radioactive and hazardous substances
  - Exposures require the use of respiratory or hearing protection
- Youths must be 14 years old to work at non-agricultural jobs, with limited exceptions to work at family businesses



## Review

- DOSH has been granted authority over worker safety and health in Washington State
- DOSH has limited authority over public safety outside of the employer/employee relationship
- DOSH safety and health rules apply equally to all employees regardless of age or gender



Washington State Department of  
Labor & Industries



# Questions