



# Small Business Compliance Toolkit

What Every Small Business in  
Washington Needs to Know



*In partnership with the Department  
of Labor & Industries for employer  
outreach and education.*







# What is Labor & Industries?

The [Department of Labor & Industries \(L&I\)](#) is a diverse state agency dedicated to the safety, health, and security of Washington's 3.3 million workers. They help employers meet safety and health standards, and inspect workplaces when alerted to hazards.



Washington State Department of  
**Labor & Industries**

Their rules and enforcement programs help ensure workers are paid what they are owed and are safe on the job, children's and teens' work hours are limited, and consumers are protected from unsound building practices.

This toolkit has been created to assist new and existing small businesses to become and remain in compliance with Labor & Industries standards.



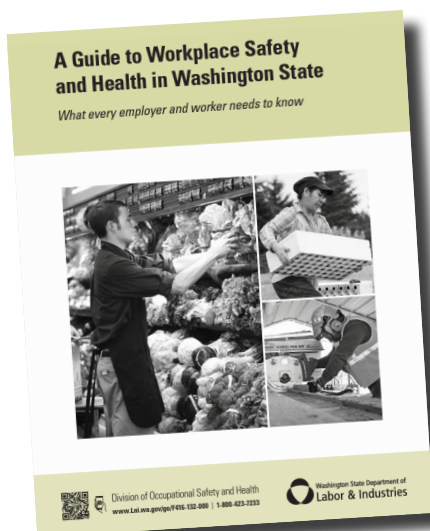
# REQUIRED Accident Prevention Program



Every employer in Washington State is required to create a written [Accident Prevention Program \(APP\)](#) to address the safety and health hazards found in their workplace. Many employers consider their APP as their cornerstone safety program. You may also need to create [additional safety programs](#) depending on the hazards in your workplace.

Identifying hazards is the first step to creating an APP. Resources, like the [Job Hazard Analysis](#) or the [Workplace Hazard Basics course](#), are available to help you with that task. Other tools include program [templates](#) that require customizing in order to meet requirements.

An effective safety program engages workers and ensures they are properly trained, participate in safety meetings or committees, and share their ideas and concerns to improve workplace safety. This will help you prevent costly workplace injuries and keep workers working.



## To meet the APP requirements, businesses must:

- Develop a formal, written accident prevention program
- Develop, supervise, implement, and enforce safety and health training programs that are effective in practice
- Make sure your accident prevention program is effective in practice

# Labor & Industries Consulting Program

L&I's Consultation Program offers confidential, no-fee, professional advice, and assistance to Washington businesses. These services can help you find and fix hazards in your workplace and strengthen your safety program.

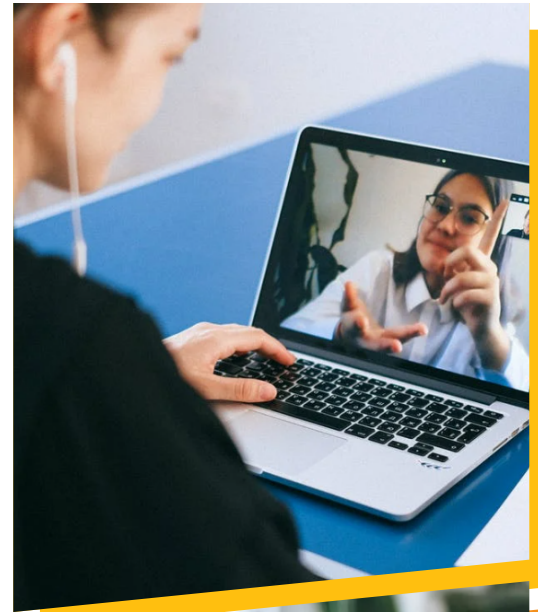
[Call a consultant](#) near you or [request an onsite consultation](#) to schedule any of the following services:

- Safety and Health Consultation
- Risk Management Consultation
- Ergonomic Consultation

## **A consultation can help you:**

- Keep workers safe
- Stay compliant with Washington Industrial Safety and Health Act (WISHA) rules
- Implement best practices
- Create and maintain an effective safety program
- Keep your worker's comp premiums as low as possible
- Prevent hidden costs of workplace injury claims

L&I consultants' recommendations help you create a safer and healthier work environment and can enhance job performance and productivity. And, as a result, you may see reduced absences and avoid short- or long-term disabilities.







# What to Know Before Hiring a Contractor

## Do Your Homework

- Use L&I's [contractor verification tool](#) to make sure your contractor meets state requirements:
  - a. Verify the contractor has an active license.
  - b. Ensure the contractor is bonded and insured for damages that may occur.
  - c. Check that they maintain a safe job site or have corrected any violations.
  - d. Review a contractor's license history for previous lawsuits or license violations.
  - e. [Watch: Verify a Contractor for Consumers](#)
- [Hire Smart](#) – Use this step-by-step guide to walk you through the contracting process.
- [ProtectMyHome](#) – Get some helpful tips for home improvement projects.

## Plan Ahead

- Get at least 3 written bids and compare them carefully.


## Be Smart

- Get references, and stay alert for scams.
- Get a written contract, and make sure you understand the terms.

## Protect Yourself

- Consider requesting a performance bond for larger projects.





# Who Qualifies for Minimum Wage

Most jobs qualify for the [minimum wage](#). Employers must pay employees the minimum wage for all hours worked as defined by state law. Hours worked includes opening and closing a business, required trainings, and meetings.

**Employers can also pay some workers less than the state minimum wage, including:**

- Minors 14 to 15 years old (no less than 85% of minimum wage)
- Workers who meet certain criteria (see below)
- Jobs that are exempt from the Minimum Wage Act.

**Employers can apply for a [sub-minimum wage](#) certificate in the following areas:**

- Certificated on-the-job learners (no less than 85% of minimum wage).
- Certificated student workers and student learners (no less than 75% of minimum wage).
- Certificated workers with disabilities.
- Certain apprentices.

**Tips and Service Charges** Employers must pay all [tips and service charges](#) to employees, as defined under the Minimum Wage Act. Businesses may not use tips and service charges paid to an employee as part of an employee's hourly minimum wage.





# Equal Pay & Opportunities Act

[Equal Pay and Opportunities Act](#) prohibits gender pay discrimination and promotes fairness among workers by addressing business practices that contribute to income disparities between genders. Both employees and applicants have rights under this law.

**Equal Pay** Gender cannot be a reason for pay differences between employees with similar jobs. Determining if employees have similar jobs is based on skill, effort, and responsibility, not based on job titles. Differences in pay for similar jobs may be acceptable only in certain circumstances.

**Acceptable Reasons for a Difference in Pay** Unequal compensation between employees of different genders may be acceptable if the difference is not based on gender. **Acceptable** factors for differences in pay may include:

- Differences in education, training, or experience.
- Seniority.
- Merit/work performance.
- Measuring earnings by quantity or quality of production.
- Regional differences in compensation.
- Differences in local minimum wages.
- Job related factors consistent with business need.





# Equal Pay & Opportunities Act (continued)

Employers bear the burden of proof to justify why pay differences exist. An employee's previous wage or salary history cannot be used to justify gender pay differences.

**Wage and Salary History Privacy** Employers cannot seek the wage or salary history of an applicant. An employer may confirm an applicant's salary after the employer negotiates and makes an offer of employment, including pay, to the applicant. Employees can voluntarily disclose their wage or salary history to prospective employers.

**Open Wage Discussions** Employers cannot prohibit employees from disclosing, comparing, or discussing their wages or the wages of other employees. Wage non-disclosure agreements for employees are prohibited. Employers can require employees who have access to other employees' wage information as part of their job duties, to keep that information confidential.

## **Access to Minimum Wage or Salary Information for Applicants**

Employers must provide an applicant who is offered a position with the minimum wage or salary of the position they are applying for, if requested by the applicant. Employers with fewer than 15 employees do not have to meet this requirement.

Beginning Jan. 1, 2023, employers will have to include some required information in their job postings. That includes a wage/salary range and a general description of all benefits and other compensation. These requirements apply only to employers with 15 or more employees. The changes are part of [Engrossed Substitute Senate Bill 5761](#) that amends portions of Washington's Equal Pay and Opportunities Act. L&L's Employment Standards Program anticipates developing an administrative policy to help employers better understand the requirements of this legislation.



# Workplace Policies

## Rest Breaks, Meal Periods & Schedules

Employees must be allowed a paid rest period, free from duties, of at least 10 minutes for every 4 hours worked.

**Additionally:**

- Employees cannot be required to work more than 3 hours without a rest break.
- Breaks must be scheduled as close to the midpoint of a work period as possible.
- Employers can require workers to stay on the job site during a rest break.
- Rest breaks taken are considered “hours worked” when calculating paid sick leave and overtime.

In some jobs, “mini” rest breaks can be taken instead of a scheduled rest break. These “mini” rest breaks must total at least 10 minutes over a 4-hour period.



**Restroom Breaks** Employees must be provided “reasonable access” to bathrooms and toilet facilities. Employers cannot restrict use of bathroom or toilet facilities to rigid time schedules (e.g., only during scheduled breaks), or impose unreasonable time use restrictions.

**Meal Periods** Employees must be allowed a meal period when they work more than five hours in a shift. A meal period must be at least 30 minutes long and start between the second and fifth hour of the shift. Depending on the length of the shift and the timing of the meal period provided, employees may also be entitled to additional meal periods.

**Schedules** For most employees, there are no state requirements regulating how and when they are scheduled. An employer has the right to change an employee’s schedule at any time, with or without notice. Employers are not required to give weekends or holidays off and can schedule mandatory overtime.

**There are scheduling and overtime restrictions for:**

- Certain health care workers.
- Large retailers, food service providers, and full-service restaurants in the City of Seattle.

You can find out more [here](#).

# Pregnancy Accommodations

## Job-Protected Leave Options for Pregnant Employees

[Pregnancy accommodations](#) make it easier and safer for an employee to continue working. Employers must make efforts to accommodate reasonable requests from a worker or work restrictions recommended by their physician.

To file a complaint or if you have questions about this law, contact the Attorney General's Office or call 833-660-4877. L&I does not have enforcement authority under this law.

## Prohibited Actions

Employers may not:

- Refuse to consider an accommodation from a pregnant employee.
- Fail to implement reasonable accommodations.
- Retaliate against a pregnant employee who requests an accommodation or a change in work environment, or who has made a complaint under this law.
- Deny employment opportunities to an otherwise-qualified employee if the denial is based on their need for reasonable accommodation.
  - This could include hiring, opportunities for promotion, compensation, etc.
- Require a pregnant employee to take leave if other solutions can be provided.







# Non-Compete Agreements

[Washington's non-competition agreement](#) law governs when a non-competition agreement may be considered valid or enforceable under state law.

**Earnings Thresholds** One aspect to the restrictions in Washington's non-competition law is related to earnings. Only employees or independent contractors who earn more than the thresholds established by law can be held to non-competition agreements. If an employee or independent contractor has earnings less than the threshold specified under law, the non-compete agreements is considered void and unenforceable.

**Other Elements of the Non-Competition Agreement Law** In addition to the earnings thresholds established by law, the law also establishes other restrictions on non-competition agreements in Washington. **These other restrictions include:**

- A provision in a non-competition agreement signed by a Washington-based employee or independent contractor is void and unenforceable when the agreement requires the worker to adjudicate the agreement outside of Washington and when the agreement denies the worker protections established by the law.
- Franchisors may not prevent franchisees from hiring employees of the franchisor or other franchisees of the same franchisor.
- Employers are generally not permitted to prohibit employees earning less than twice the state minimum wage from having an additional employment; this restriction is subject to some limitations.

# Isolated Worker Protections



An [isolated worker](#) is defined as an employee who works as a: janitor, security guard, hotel or motel housekeeper or room service attendant and spends a majority of their working hours alone without another coworker present.

Employers in these industries must take required precautions to prevent sexual harassment and assault.

**Hotels, motels, retail employers, security guard entities, and property services contractors must:**

- Adopt a sexual harassment policy.
- Provide mandatory training to managers, supervisors, and employees to prevent sexual harassment, assault, and discrimination, and educate the workforce about protections for employees who report law violations.
- Provide a list of resources for employees to report harassment and assault.
- Provide a panic button to certain workers.

**Resources** At a minimum, employers impacted by this law must provide employees with contact information for the [U.S. Equal Employment Opportunity Commission](#), the [Washington State Human Rights Commission](#), and local advocacy groups focused on preventing sexual harassment and sexual assault.

## Panic Buttons

- A panic button is an “emergency contact device” designed to be carried by the user and to summon immediate on-scene assistance from a security guard, coworker, or other employer-designated personnel.
- Employees who must be provided panic buttons include janitors, some security guards, hotel or motel housekeepers, and room service attendants who:
- Spend a majority of their working hours alone, or
- Whose primary work responsibility involves working without another coworker present.
- The Washington State Department of Labor and Industries has developed and published [guidance](#) for employers relating to the panic button requirement.





# Do I Need a Workers' Comp Account?

If you have workers, whether they are employees or [independent contractors](#), you might be required to provide workers' compensation. To check if your workers should be covered go to [Independent Contractors](#) for more information.

**What is Workers' Compensation?** Workers' compensation insurance (also known as Industrial Insurance) provides wage replacement and medical benefits to workers injured on the job. Workers' compensation is no-fault insurance, which means in most cases your business cannot be sued when a work-related injury or illness occurs.

**Private Workers' Compensation** Washington State does not allow private workers' compensation coverage. You must purchase your coverage from L&I or be a certified [self-insured employer](#). Learn more about [Self-Insurance](#).

## What does workers' compensation pay for?

- Approved medical, hospital, and related services due to workplace injuries or occupational illnesses
- Partial wage replacement for those who are unable to work because of their injuries or occupational illnesses
- Employers purchase workers' compensation through L&I

Employers submit quarterly reports and premium payments based on their industry and workers' hours. Just like other types of insurance, claims are paid for by premiums collected. Learn [How to Get a Workers' Compensation Account](#).

## Workers' Compensation Advisory Committee (WCAC)

Members advise and serve as a sounding board for the Director of L&I and the Assistant Director for Insurance Services on matters pertaining to the state's workers' compensation system. See the [WCAC Meeting Schedule & Minutes](#) and [WCAC Members](#) for more information.



# Stay at Work Program

Stay at Work (WSAW) is one of L&I's financial incentive programs. They reimburse employers for some of their costs when they provide temporary, light-duty jobs for workers while they heal. Offering your employee light duty work could help you avoid a compensable claim and unnecessary work disability.

## Eligible employers can be reimbursed for:

- 50% of the worker's base wages, up to \$10,000; or 66 days worked in the light duty job, whichever comes first.
- Some of the cost for training, tools, or clothing needed to do the light duty job.

## Here's how:

1. Read the Activity Prescription Form or medical records for medical restrictions provided by the attending provider due to accepted conditions.
2. Complete the [Employer's Job Description Form \(Spanish version\)](#) based on given restrictions using job duties or tasks you have available.
3. Send the job description to the attending provider for their approval.
4. Offer the light-duty job to your employee.
5. Apply for wage and expense reimbursements online.

## Send the following when you apply:

### *For wages*

- Employee's work restrictions, if not in the claim file.
- Provider-signed [Employer's Job Description Form \(Spanish version\)](#).
- Date you offered light duty work to your employee.
- Copies of pay stubs and daily timesheets.

### *For expenses*

- Employee's work restrictions, if not in the claim file.
- Provider-signed [Employer's Job Description Form \(Spanish version\)](#).
- Date you offered light duty work to your employee.
- Dated, itemized receipts.

**Questions?** Email: [StayAtWork@Lni.wa.gov](mailto:StayAtWork@Lni.wa.gov) • Toll-free: 866-406-2482 • Phone: 360-902-4411



# About Retrospective Rating (Retro)

[Retrospective Rating \(Retro\)](#) is a safety incentive program offered by L&I. In Retro, you can potentially earn a partial refund of your workers' compensation premiums if you reduce workplace injuries and lower associated claim losses.

Any employer with an industrial insurance account in good standing may qualify to participate— either as a member of a Retro group or as an individual business. Other factors can affect eligibility as well.

**Why Consider Retro?** Any time one of your employees is injured, it costs your company. The loss can be in production, hiring and training a replacement, rescheduling work, or the loss of a project or job. Plus, the injury can cause your workers' compensation premium rates to go up.

In Retro, you have an opportunity to turn your good safety performance into a refund from L&I by preventing injuries and engaging in proactive claims management.

**How Retro Works** Retrospective rating is simply another way of calculating your premium, after the fact or “retroactively.”

A Retro coverage period lasts 12 months and can begin any calendar quarter. About 9 months after a coverage period ends, L&I looks back at your (or your group's) actual experience and calculates a retrospective premium (retro premium) for that 12-month coverage year. If your retro premium for the coverage year is below what is expected, you can potentially earn a partial refund of the difference between the retro premium and the standard premium. This evaluation occurs three times for the coverage year, about 12 months apart.

Being in Retrospective Rating requires a commitment to improve safety and prevent injuries in the workplace. If your calculated retro premium is higher than the amount of standard premium you paid, it could result in your having to pay an additional amount (assessment). There is a pre-selected limit to this assessment, but it's important that you recognize and understand this risk.

**Contact Retrospective Rating** Email: [Retro@Lni.wa.gov](mailto:Retro@Lni.wa.gov) • Phone: 360-902-4851





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