
HOUSE BILL 2875

State of Washington

55th Legislature

1998 Regular Session

By Representatives Conway, Cole, Wood, Dickerson, Chopp, Kenney, Cody, Gombosky, Quall, O'Brien, Veloria, Constantine, Dunshee, Linville, Costa, H. Sommers, Butler, Murray, Ogden, Cooper, Keiser and Anderson

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1 AN ACT Relating to equity in employment for part-time employees;
2 amending RCW 49.12.005 and 49.12.360; adding a new section to chapter
3 49.12 RCW; creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that while the economy
6 is producing many new jobs, the general public remains insecure about
7 the condition of the economy. In spite of modest wage growth in the
8 past year, family incomes remain below their 1989 level in real
9 dollars. Facing increased competition, businesses have worked to
10 reduce their costs. One result is an increase in part-time and
11 temporary employment. Another result is the decline in benefits for
12 all workers.

13 The legislature further finds that the availability of a wide range
14 of employee benefits has been declining in recent years for all
15 categories of employees. Employee benefits for part-time workers,
16 already much lower than those for full-time workers, are also in
17 decline. In addition, in many industries, part-time employees receive
18 much lower pay than full-time employees performing essentially the same
19 work. Part-time employment has grown from sixteen to over twenty-five

1 percent of the civilian nonagricultural economy over the last twenty-
2 five years.

3 The legislature intends that employers provide the benefits to
4 their part-time employees comparable on a prorated basis to those it
5 provides to full-time employees, and that employers provide part-time
6 wages that are equitable when compared to full-time employee wages.

7 **Sec. 2.** RCW 49.12.005 and 1994 c 164 s 13 are each amended to read
8 as follows:

9 For the purposes of this chapter:

10 (1) The term "benefits" means accrual of seniority, credits for
11 length of service, holidays, vacations, sick leave, and disability
12 leave.

13 (2) The term "department" means the department of labor and
14 industries.

15 ((+2)) (3) The term "director" means the director of the
16 department of labor and industries, or the director's designated
17 representative.

18 ((+3)) (4) The term "employer" means any person, firm,
19 corporation, partnership, business trust, legal representative, or
20 other business entity which engages in any business, industry,
21 profession, or activity in this state and employs one or more employees
22 and for the purposes of RCW 49.12.270 through 49.12.295 also includes
23 the state, any state institution, any state agency, political
24 subdivisions of the state, and any municipal corporation or quasi-
25 municipal corporation.

26 ((+4)) (5) The term "employee" means an employee who is employed
27 in the business of the employee's employer whether by way of manual
28 labor or otherwise.

29 ((+5)) (6) The term "conditions of labor" shall mean and include
30 the conditions of rest and meal periods for employees including
31 provisions for personal privacy, practices, methods and means by or
32 through which labor or services are performed by employees and includes
33 bona fide physical qualifications in employment, but shall not include
34 conditions of labor otherwise governed by statutes and rules and
35 regulations relating to industrial safety and health administered by
36 the department.

37 ((+6)) (7) The term "part-time employee" means an individual who
38 is regularly scheduled to work less than thirty-five hours per week.

1 (8) The term "prorate" means to offer to part-time employees the
2 proportion of each benefit offered to full-time employees, which for
3 each benefit is equal to the ratio of part-time hours worked to full-
4 time hours worked.

5 (9) For the purpose of chapter 16, Laws of 1973 2nd ex. sess. a
6 minor is defined to be a person of either sex under the age of eighteen
7 years.

8 NEW SECTION. Sec. 3. A new section is added to chapter 49.12 RCW
9 to read as follows:

10 (1) Every employer who offers benefits to any of its full-time
11 employees shall offer the same benefits to all part-time employees on
12 a prorated basis by prorating the employer's share of the premium
13 contribution. Nothing in this section shall diminish or otherwise
14 affect the requirements, guarantees, or protections under any
15 collective bargaining agreement, company policy, or state or federal
16 law that provides for greater or additional benefits than those
17 required under this section.

18 (2) Any employee to whom this section applies may complain to the
19 director that an employer is violating this section. If the director
20 finds that an employer has violated any of the requirements of this
21 section, a citation shall be issued to the employer. The citation and
22 a proposed penalty assessment shall be given to the highest management
23 official available at the workplace or be mailed to the employer at the
24 workplace. In addition, the department shall mail a copy of the
25 citation and proposed penalty assessment to the central personnel
26 office of the employer.

27 An employer shall be assessed a civil penalty of not more than one
28 thousand dollars per violation. The director shall consider any
29 violation of this section affecting any individual employee to be a
30 separate violation for purposes of imposing penalties. The employer
31 shall pay the amount assessed within thirty days of receipt of the
32 assessment or notify the director of his or her intent to appeal the
33 citation or the assessment penalty as provided in subsection (3) of
34 this section.

35 (3) Every employer shall pay the employer's part-time employees at
36 the same rate of pay as the employer's full-time employees when
37 part-time employees perform the same or comparable work as full-time
38 employees.

1 (4) A person, firm, or corporation aggrieved by an action taken or
2 decision made by the department under this section may appeal the
3 action or decision to the director by filing notice of the appeal with
4 the director within thirty days of the department's action or decision.
5 A notice of appeal filed under this section shall stay the
6 effectiveness of a citation or notice of the assessment of a penalty
7 pending review of the appeal by the director. Upon receipt of an
8 appeal, a hearing shall be held according to chapter 34.05 RCW. The
9 director shall issue all final orders after the hearing. The final
10 orders are subject to appeal according to chapter 34.05 RCW. Orders
11 not appealed within the period specified in chapter 34.05 RCW are final
12 and binding.

13 (5) Any employer who violates this section is liable to any
14 adversely affected employee for benefits lost, and any other cost
15 incurred or damages suffered because of the employer's violation. Any
16 one or more employees may maintain an action to recover damages
17 pursuant to this section in any court of competent jurisdiction for
18 herself or himself and any other employees similarly situated. In any
19 action brought pursuant to this subsection in which the court finds
20 there was a violation of this section by an employer, and that an
21 employer knew or should have known that its actions were or would be a
22 violation of this section, the court shall award the plaintiff or
23 plaintiffs, besides any damages awarded under this subsection,
24 reasonable attorneys' fees, and the costs of the action. Any action
25 arising under this section shall be made within two years after the
26 date of the alleged violation. However, if there is alleged to be a
27 continuing pattern or practice of violations, an action shall be made
28 within two years of the most recent alleged violation.

29 **Sec. 4.** RCW 49.12.360 and 1989 1st ex.s. c 11 s 23 are each
30 amended to read as follows:

31 (1) An employer must grant an adoptive parent or a stepparent, at
32 the time of birth or initial placement for adoption of a child under
33 the age of six, the same leave under the same terms as the employer
34 grants to biological parents. As a term of leave, an employer may
35 restrict leave to those living with the child at the time of birth or
36 initial placement.

37 (2) An employer must grant the same leave upon the same terms for
38 men as it does for women.

1 (3) The department shall administer and investigate violations of
2 this section. Notices of infraction, penalties, and appeals shall be
3 administered in the same manner as violations under RCW 49.12.285.

4 (4) For purposes of this section, "employer" includes all private
5 and public employers listed in RCW 49.12.005(~~(+3)~~)(4).

6 (5) For purposes of this section, "leave" means any leave from
7 employment granted to care for a newborn or a newly adopted child at
8 the time of placement for adoption.

9 (6) Nothing in this section requires an employer to:

10 (a) Grant leave equivalent to maternity disability leave; or

11 (b) Establish a leave policy to care for a newborn or newly placed
12 child if no such leave policy is in place for any of its employees.

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