
SENATE BILL 5583

State of Washington

56th Legislature

1999 Regular Session

By Senators Franklin, Fairley and Kline

Read first time 01/28/1999. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to unfair practices with respect to eligibility for
2 employment-based benefits; adding a new section to chapter 49.44 RCW;
3 and creating new sections.

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

5 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS. The legislature finds
6 that part-time, temporary, leased, and other contingent workers are
7 increasing in numbers. Under state laws and employer policies, these
8 contingent workers are less likely than other workers to receive
9 employment-based benefits. Consequently, employers may terminate
10 employees, limit contract terms, or take other action solely to avoid
11 providing or continuing to provide employment-based benefits.

12 NEW SECTION. **Sec. 2.** LEGISLATIVE INTENT. The legislature intends
13 that the purpose of this act is to prohibit employers from terminating
14 employees, limiting their contracts, or taking other action solely to
15 avoid providing or continuing to provide employment-based benefits to
16 which employees are entitled under state law or employer policies. It
17 is not the intent of the legislature that this act relate to or affect

1 employment-based benefits subject to the federal Employee Retirement
2 Income Security Act.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.44 RCW
4 to read as follows:

5 (1) It is an unfair practice for any employer to:

6 (a) Terminate any employee solely to avoid providing or continuing
7 to provide employment-based benefits to which the employee would become
8 or is entitled under any state law or any employer policy;

9 (b) Limit the term of a contract with an employee solely to avoid
10 providing employment-based benefits to which the employee would become
11 entitled under any state law or any employer policy; or

12 (c) Include any other language in a contract with an employee that
13 requires the employee to forego employment-based benefits to which the
14 employee would become or is entitled under any state law or any
15 employer policy.

16 (2) The definitions in this subsection apply throughout this
17 section unless the context clearly requires otherwise.

18 (a) "Employee" means a person who is providing services for
19 compensation to an employer, unless the person is free from the
20 employer's direction and control over the performance of work. This
21 definition shall be interpreted consistent with common law.

22 (b) "Employer" means: (i) Any person, firm, corporation,
23 partnership, business trust, legal representative or other business
24 entity which engages in any business, industry, profession, or
25 activity; (ii) any unit of local government including, but not limited
26 to, a county, city, town, municipal corporation, quasi-municipal
27 corporation, or political subdivision; and (iii) the state, state
28 institutions, and state agencies.

29 (c) "Employment-based benefits" means any benefits to which an
30 employee may become or is entitled under any state law or any employer
31 policy.

32 (3) Any employee deeming himself or herself terminated or otherwise
33 harmed in violation of subsection (1) of this section may bring a civil
34 action in a court of competent jurisdiction. If the employee prevails,
35 he or she shall be awarded:

36 (a) Either six months' wages or treble the actual damages sustained
37 by the employee as a result of being terminated or otherwise harmed in
38 violation of subsection (1) of this section, whichever is greater;

1 (b) Costs of suit or arbitration; and
2 (c) Reasonable attorneys' fees.

3 NEW SECTION. **Sec. 4.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 5.** Captions used in this act are not any part
8 of the law.

--- END ---