
SENATE BILL 6119

State of Washington

56th Legislature

2000 Regular Session

By Senators Fairley, Heavey, Fraser, Prentice, Gardner and Kline

Read first time 01/10/2000. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to civil penalties for employment and labor law
2 violations; amending RCW 49.12.130, 49.12.170, 49.12.175, 49.24.060,
3 49.24.380, 49.28.030, 49.28.084, 49.28.110, 49.38.060, 49.40.030,
4 49.44.010, 49.44.020, 49.44.030, 49.44.040, 49.44.050, 49.44.060,
5 49.44.080, 49.44.110, 49.44.130, 49.46.100, 49.48.020, 49.48.040,
6 49.52.050, and 49.52.090; reenacting and amending RCW 43.79A.040;
7 adding a new section to Title 49 RCW; and prescribing penalties.

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

9 **Sec. 1.** RCW 49.12.130 and 1913 c 174 s 16 are each amended to read
10 as follows:

11 Any employer who discharges, or in any other manner discriminates
12 against any employee because such employee has testified or is about to
13 testify, or because such employer believes that said employee may
14 testify in any investigation or proceedings relative to the enforcement
15 of RCW 49.12.010 through 49.12.180, shall be ~~((deemed guilty of a~~
16 ~~misdemeanor and upon conviction thereof, shall be punished by a fine of~~
17 ~~from twenty-five dollars to one hundred dollars for each such~~
18 ~~misdemeanor))~~ subject to a civil penalty of not more than one thousand
19 dollars.

1 **Sec. 2.** RCW 49.12.170 and 1994 c 164 s 21 are each amended to read
2 as follows:

3 Except as otherwise provided in RCW 49.12.390 or 49.12.410, any
4 employer employing any person for whom a minimum wage or standards,
5 conditions, and hours of labor have been specified, at less than said
6 minimum wage, or under standards, or conditions of labor or at hours of
7 labor prohibited by the rules and regulations of the director; or
8 violating any other of the provisions of chapter 16, Laws of 1973 2nd
9 ex. sess., shall be (~~deemed guilty of a misdemeanor, and shall, upon~~
10 ~~conviction thereof, be punished by a fine of not less than twenty five~~
11 ~~dollars nor~~) subject to a civil penalty of not more than one thousand
12 dollars.

13 **Sec. 3.** RCW 49.12.175 and 1943 c 254 s 1 are each amended to read
14 as follows:

15 Any employer in this state, employing both males and females, who
16 shall discriminate in any way in the payment of wages as between sexes
17 or who shall pay any female a less wage, be it time or piece work, or
18 salary, than is being paid to males similarly employed, or in any
19 employment formerly performed by males, shall be (~~guilty of a~~
20 ~~misdemeanor~~) subject to a civil penalty of not more than one thousand
21 dollars. If any female employee shall receive less compensation
22 because of being discriminated against on account of her sex, and in
23 violation of this section, she shall be entitled to recover in a civil
24 action the full amount of compensation that she would have received had
25 she not been discriminated against. In such action, however, the
26 employer shall be credited with any compensation which has been paid to
27 her upon account. A differential in wages between employees based in
28 good faith on a factor or factors other than sex shall not constitute
29 discrimination within the meaning of RCW 49.12.010 through 49.12.180.

30 **Sec. 4.** RCW 49.24.060 and 1937 c 131 s 7 are each amended to read
31 as follows:

32 Violation of or noncompliance with any provision of (~~this~~
33 ~~article~~) RCW 49.24.010 through 49.24.070 by any employer, manager,
34 superintendent, foreman or other person having direction or control of
35 such work shall be (~~a gross misdemeanor punishable by a fine of not~~
36 ~~less than two hundred and fifty dollars or by imprisonment for not more~~
37 ~~than one year or by both such fine and imprisonment~~) subject to a

1 civil penalty of not less than one thousand dollars nor more than five
2 thousand dollars.

3 **Sec. 5.** RCW 49.24.380 and 1941 c 194 s 31 are each amended to read
4 as follows:

5 Every person violating any of the provisions of RCW 49.24.080
6 through 49.24.380 shall be ~~((guilty of a misdemeanor))~~ subject to a
7 civil penalty of not more than one thousand dollars.

8 **Sec. 6.** RCW 49.28.030 and 1899 c 101 s 3 are each amended to read
9 as follows:

10 Any contractor, subcontractor, or agent of contractor or
11 subcontractor, foreman or employer who shall violate the provisions of
12 RCW 49.28.010 through 49.28.030, shall be ~~((deemed guilty of~~
13 ~~misdemeanor and upon conviction shall be fined in a sum not less than~~
14 ~~twenty five dollars nor more than two hundred dollars, or with~~
15 ~~imprisonment in the county jail for a period of not less than ten days~~
16 ~~nor more than ninety days, or both such fine and imprisonment, at the~~
17 ~~discretion of the court))~~ subject to a civil penalty of not more than
18 one thousand dollars.

19 **Sec. 7.** RCW 49.28.084 and 1937 c 129 s 4 are each amended to read
20 as follows:

21 Any employer violating RCW 49.28.080 through 49.28.082 shall be
22 ~~((guilty of a misdemeanor))~~ subject to a civil penalty of not more than
23 one thousand dollars.

24 **Sec. 8.** RCW 49.28.110 and 1953 c 271 s 2 are each amended to read
25 as follows:

26 Any person violating the provisions of RCW 49.28.100 ~~((is guilty of~~
27 ~~a misdemeanor))~~ shall be subject to a civil penalty of not more than
28 one thousand dollars.

29 **Sec. 9.** RCW 49.38.060 and 1984 c 89 s 6 are each amended to read
30 as follows:

31 Any person who violates this chapter ~~((is guilty of a gross~~
32 ~~misdemeanor))~~ shall be subject to a civil penalty of not less than one
33 thousand dollars nor more than five thousand dollars.

1 **Sec. 10.** RCW 49.40.030 and 1919 c 191 s 3 are each amended to read
2 as follows:

3 Every employee who with intent to defraud shall have secured
4 advances of money or supplies under a contract for reasonable labor and
5 who with intent to defraud shall willfully fail to perform sufficient
6 labor to compensate for such advances and supplies made under such
7 contract shall be (~~(guilty of a gross misdemeanor)~~) subject to a civil
8 penalty of not less than one thousand dollars nor more than five
9 thousand dollars.

10 **Sec. 11.** RCW 49.44.010 and 1899 c 23 s 1 are each amended to read
11 as follows:

12 Every person in this state who shall willfully and maliciously,
13 send or deliver, or make or cause to be made, for the purpose of being
14 delivered or sent or part with the possession of any paper, letter or
15 writing, with or without name signed thereto, or signed with a
16 fictitious name, or with any letter, mark or other designation, or
17 publish or cause to be published any statement for the purpose of
18 preventing any other person from obtaining employment in this state or
19 elsewhere, and every person who shall willfully and maliciously
20 "blacklist" or cause to be "blacklisted" any person or persons, by
21 writing, printing or publishing, or causing the same to be done, the
22 name, or mark, or designation representing the name of any person in
23 any paper, pamphlet, circular or book, together with any statement
24 concerning persons so named, or publish or cause to be published that
25 any person is a member of any secret organization, for the purpose of
26 preventing such person from securing employment, or who shall willfully
27 and maliciously make or issue any statement or paper that will tend to
28 influence or prejudice the mind of any employer against the person of
29 such person seeking employment, or any person who shall do any of the
30 things mentioned in this section for the purpose of causing the
31 discharge of any person employed by any railroad or other company,
32 corporation, individual or individuals, shall(~~(, on conviction thereof,~~
33 ~~be adjudged guilty of misdemeanor and punished by a fine of not less~~
34 ~~than one hundred dollars nor more than one thousand dollars, or by~~
35 ~~imprisonment in the county jail for not less than ninety days nor more~~
36 ~~than one year, or by both such fine and imprisonment)) be subject to a
37 civil penalty of not more than one thousand dollars.~~

1 **Sec. 12.** RCW 49.44.020 and 1909 c 249 s 424 are each amended to
2 read as follows:

3 Every person who shall give, offer or promise, directly or
4 indirectly, any compensation, gratuity or reward to any duly
5 constituted representative of a labor organization, with intent to
6 influence him in respect to any of his acts, decisions or other duties
7 as such representative, or to induce him to prevent or cause a strike
8 by the employees of any person or corporation, shall be (~~guilty of a~~
9 ~~gross misdemeanor~~) subject to a civil penalty of not less than one
10 thousand dollars nor more than five thousand dollars.

11 **Sec. 13.** RCW 49.44.030 and 1909 c 249 s 425 are each amended to
12 read as follows:

13 Every person who, being the duly constituted representative of a
14 labor organization, shall ask or receive, directly or indirectly, any
15 compensation, gratuity or reward, or any promise thereof, upon any
16 agreement or understanding that any of his acts, decisions or other
17 duties as such representative, or any act to prevent or cause a strike
18 of the employees of any person or corporation shall be influenced
19 thereby, shall be (~~guilty of a gross misdemeanor~~) subject to a civil
20 penalty of not less than one thousand dollars nor more than five
21 thousand dollars.

22 **Sec. 14.** RCW 49.44.040 and 1909 c 249 s 371 are each amended to
23 read as follows:

24 Every person who shall obtain employment or appointment to any
25 office or place of trust, by color or aid of any false or forged letter
26 or certificate of recommendation, shall be (~~guilty of a misdemeanor~~)
27 subject to a civil penalty of not more than one thousand dollars.

28 **Sec. 15.** RCW 49.44.050 and 1909 c 249 s 372 are each amended to
29 read as follows:

30 Every employment agent or broker who, with intent to influence the
31 action of any person thereby, shall misstate or misrepresent verbally,
32 or in any writing or advertisement, any material matter relating to the
33 demand for labor, the conditions under which any labor or service is to
34 be performed, the duration thereof or the wages to be paid therefor,
35 shall be (~~guilty of a misdemeanor~~) subject to a civil penalty of not
36 more than one thousand dollars.

1 **Sec. 16.** RCW 49.44.060 and 1909 c 249 s 426 are each amended to
2 read as follows:

3 Every person who shall give, offer or promise, directly or
4 indirectly, any compensation, gratuity or reward to any agent, employee
5 or servant of any person or corporation, with intent to influence his
6 action in relation to his principal's, employer's or master's business,
7 shall be (~~guilty of a gross misdemeanor~~) subject to a civil penalty
8 of not less than one thousand dollars nor more than five thousand
9 dollars.

10 **Sec. 17.** RCW 49.44.080 and 1909 c 249 s 281 are each amended to
11 read as follows:

12 Every person who shall willfully and maliciously, either alone or
13 in combination with others, break a contract of service or employment,
14 knowing or having reasonable cause to believe that the consequence of
15 his so doing will be to endanger human life or to cause grievous bodily
16 injury, or to expose valuable property to destruction or serious
17 injury, shall be (~~guilty of a misdemeanor~~) subject to a civil penalty
18 of not more than one thousand dollars.

19 **Sec. 18.** RCW 49.44.110 and 1961 c 180 s 2 are each amended to read
20 as follows:

21 Any person violating the provisions of RCW 49.44.100 shall be
22 (~~guilty of a gross misdemeanor~~) subject to a civil penalty of not
23 less than one thousand dollars nor more than five thousand dollars.

24 **Sec. 19.** RCW 49.44.130 and 1985 c 426 s 2 are each amended to read
25 as follows:

26 (1) Any person violating the provisions of RCW 49.44.120 shall be
27 (~~guilty of a misdemeanor~~) subject to a civil penalty of not more than
28 one thousand dollars.

29 (2) As used in this section, "person" includes any individual,
30 firm, corporation, or agency or political subdivision of the state.

31 (3) Nothing in this section or RCW 49.44.120 may be construed as
32 limiting any statutory or common law rights of any person illegally
33 denied employment or continued employment under RCW 49.44.120 for
34 purposes of any civil action or injunctive relief.

1 **Sec. 20.** RCW 49.46.100 and 1959 c 294 s 10 are each amended to
2 read as follows:

3 (1) Any employer who hinders or delays the director or his
4 authorized representatives in the performance of his duties in the
5 enforcement of this chapter, or refuses to admit the director or his
6 authorized representatives to any place of employment, or fails to
7 make, keep, and preserve any records as required under the provisions
8 of this chapter, or falsifies any such record, or refuses to make any
9 record accessible to the director or his authorized representatives
10 upon demand, or refuses to furnish a sworn statement of such record or
11 any other information required for the proper enforcement of this
12 chapter to the director or his authorized representatives upon demand,
13 or pays or agrees to pay wages at a rate less than the rate applicable
14 under this chapter, or otherwise violates any provision of this chapter
15 or of any regulation issued under this chapter shall be deemed in
16 violation of this chapter and shall(~~(, upon conviction therefor, be~~
17 ~~guilty of a gross misdemeanor~~)) be subject to a civil penalty of not
18 less than one thousand dollars nor more than five thousand dollars.

19 (2) Any employer who discharges or in any other manner
20 discriminates against any employee because such employee has made any
21 complaint to his employer, to the director, or his authorized
22 representatives that he has not been paid wages in accordance with the
23 provisions of this chapter, or that the employer has violated any
24 provision of this chapter, or because such employee has caused to be
25 instituted or is about to cause to be instituted any proceeding under
26 or related to this chapter, or because such employee has testified or
27 is about to testify in any such proceeding shall be deemed in violation
28 of this chapter and shall, upon conviction therefor, be guilty of a
29 gross misdemeanor.

30 **Sec. 21.** RCW 49.48.020 and 1971 ex.s. c 55 s 2 are each amended to
31 read as follows:

32 Any person, firm, or corporation which violates any of the
33 provisions of RCW 49.48.010 through 49.48.030 and 49.48.060 shall be
34 (~~guilty of a misdemeanor~~)) subject to a civil penalty of not more than
35 one thousand dollars.

36 **Sec. 22.** RCW 49.48.040 and 1987 c 172 s 1 are each amended to read
37 as follows:

1 (1) The department of labor and industries may:

2 (a) Upon obtaining information indicating an employer may be
3 committing a violation under chapters 39.12, 49.46, and 49.48 RCW,
4 conduct investigations to ensure compliance with chapters 39.12, 49.46,
5 and 49.48 RCW;

6 (b) Order the payment of all wages owed the workers and institute
7 actions necessary for the collection of the sums determined owed; and

8 (c) Take assignments of wage claims and prosecute actions for the
9 collection of wages of persons who are financially unable to employ
10 counsel when in the judgment of the director of the department the
11 claims are valid and enforceable in the courts.

12 (2) The director of the department or any authorized representative
13 may, for the purpose of carrying out RCW 49.48.040 through 49.48.080:

14 (a) Issue subpoenas to compel the attendance of witnesses or parties
15 and the production of books, papers, or records; (b) administer oaths
16 and examine witnesses under oath; (c) take the verification of proof of
17 instruments of writing; and (d) take depositions and affidavits. If
18 assignments for wage claims are taken, court costs shall not be payable
19 by the department for prosecuting such suits.

20 (3) The director shall have a seal inscribed "Department of Labor
21 and Industries--State of Washington" and all courts shall take judicial
22 notice of such seal. Obedience to subpoenas issued by the director or
23 authorized representative shall be enforced by the courts in any
24 county.

25 (4) The director or authorized representative shall have free
26 access to all places and works of labor. Any employer or any agent or
27 employee of such employer who refuses the director or authorized
28 representative admission therein, or who, when requested by the
29 director or authorized representative, willfully neglects or refuses to
30 furnish the director or authorized representative any statistics or
31 information pertaining to his or her lawful duties, which statistics or
32 information may be in his or her possession or under the control of the
33 employer or agent, shall be (~~guilty of a misdemeanor~~) subject to a
34 civil penalty of not more than one thousand dollars.

35 **Sec. 23.** RCW 49.52.050 and 1941 c 72 s 1 are each amended to read
36 as follows:

1 Any employer or officer, vice principal or agent of any employer,
2 whether said employer be in private business or an elected public
3 official, who:

4 (1) Shall collect or receive from any employee a rebate of any part
5 of wages theretofore paid by such employer to such employee; or

6 (2) Willfully and with intent to deprive the employee of any part
7 of his wages, shall pay any employee a lower wage than the wage such
8 employer is obligated to pay such employee by any statute, ordinance,
9 or contract; or

10 (3) Shall willfully make or cause another to make any false entry
11 in any employer's books or records purporting to show the payment of
12 more wages to an employee than such employee received; or

13 (4) Being an employer or a person charged with the duty of keeping
14 any employer's books or records shall willfully fail or cause another
15 to fail to show openly and clearly in due course in such employer's
16 books and records any rebate of or deduction from any employee's wages;
17 or

18 (5) Shall willfully receive or accept from any employee any false
19 receipt for wages;

20 shall be (~~guilty of a misdemeanor~~) subject to a civil penalty of not
21 more than one thousand dollars.

22 **Sec. 24.** RCW 49.52.090 and 1935 c 29 s 1 are each amended to read
23 as follows:

24 Every person, whether as a representative of an awarding or public
25 body or officer, or as a contractor or subcontractor doing public work,
26 or agent or officer thereof, who takes or receives, or conspires with
27 another to take or receive, for his own use or the use of any other
28 person acting with him any part or portion of the wages paid to any
29 laborer, workman or mechanic, including a piece worker and working
30 subcontractor, in connection with services rendered upon any public
31 work within this state, whether such work is done directly for the
32 state, or public body or officer thereof, or county, city and county,
33 city, town, township, district or other political subdivision of the
34 said state or for any contractor or subcontractor engaged in such
35 public work for such an awarding or public body or officer, shall be
36 (~~guilty of a gross misdemeanor~~) subject to a civil penalty of not
37 less than one thousand dollars nor more than five thousand dollars.

1 NEW SECTION. **Sec. 25.** A new section is added to Title 49 RCW to
2 read as follows:

3 The labor and employment law enforcement account is created in the
4 custody of the state treasurer. All monetary penalties collected under
5 this title shall be deposited into the account. Expenditures from the
6 account may be used only for the purposes of administering and
7 enforcing this title. Only the director or the director's designee may
8 authorize expenditures from the account. The account is subject to
9 allotment procedures under chapter 43.88 RCW, but an appropriation is
10 not required for expenditures.

11 **Sec. 26.** RCW 43.79A.040 and 1999 c 384 s 8 and 1999 c 182 s 2 are
12 each reenacted and amended to read as follows:

13 (1) Money in the treasurer's trust fund may be deposited, invested,
14 and reinvested by the state treasurer in accordance with RCW 43.84.080
15 in the same manner and to the same extent as if the money were in the
16 state treasury.

17 (2) All income received from investment of the treasurer's trust
18 fund shall be set aside in an account in the treasury trust fund to be
19 known as the investment income account.

20 (3) The investment income account may be utilized for the payment
21 of purchased banking services on behalf of treasurer's trust funds
22 including, but not limited to, depository, safekeeping, and
23 disbursement functions for the state treasurer or affected state
24 agencies. The investment income account is subject in all respects to
25 chapter 43.88 RCW, but no appropriation is required for payments to
26 financial institutions. Payments shall occur prior to distribution of
27 earnings set forth in subsection (4) of this section.

28 (4)(a) Monthly, the state treasurer shall distribute the earnings
29 credited to the investment income account to the state general fund
30 except under (b) and (c) of this subsection.

31 (b) The following accounts and funds shall receive their
32 proportionate share of earnings based upon each account's or fund's
33 average daily balance for the period: The Washington advanced college
34 tuition payment program account, the agricultural local fund, the
35 American Indian scholarship endowment fund, the Washington
36 international exchange scholarship endowment fund, the developmental
37 disabilities endowment trust fund, the energy account, the fair fund,
38 the game farm alternative account, the grain inspection revolving fund,

1 the juvenile accountability incentive account, the labor and employment
2 law enforcement account, the rural rehabilitation account, the stadium
3 and exhibition center account, the youth athletic facility grant
4 account, the self-insurance revolving fund, the sulfur dioxide
5 abatement account, and the children's trust fund. However, the
6 earnings to be distributed shall first be reduced by the allocation to
7 the state treasurer's service fund pursuant to RCW 43.08.190.

8 (c) The following accounts and funds shall receive eighty percent
9 of their proportionate share of earnings based upon each account's or
10 fund's average daily balance for the period: The advanced right of way
11 revolving fund, the advanced environmental mitigation revolving
12 account, the federal narcotics asset forfeitures account, the high
13 occupancy vehicle account, the local rail service assistance account,
14 and the miscellaneous transportation programs account.

15 (5) In conformance with Article II, section 37 of the state
16 Constitution, no trust accounts or funds shall be allocated earnings
17 without the specific affirmative directive of this section.

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