

# HOUSE BILL REPORT

## HB 1548

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### As Reported by House Committee On:

Commerce & Labor

**Title:** An act relating to authorizing the director of labor and industries to issue and enforce civil penalties for violations of the minimum wage act and chapter 49.48 RCW.

**Brief Description:** Authorizing penalties for wage payment violations.

**Sponsors:** Representatives McCoy, Hudgins, Conway, Simpson and Kenney; by request of Department of Labor & Industries.

### Brief History:

#### Committee Activity:

Commerce & Labor: 2/5/04 [DPS].

#### Brief Summary of Substitute Bill

- Requires employers that violate wage payment laws to pay workers unpaid wages and interest of up to 1 percent per month on such wages.
- Establishes civil penalties for violations of minimum wage and wage payment laws.
- Creates the employment standards enforcement account.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Hudgins, Kenney and McCoy.

**Minority Report:** Do not pass. Signed by 4 members: Representatives McMorris, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Crouse and Holmquist.

**Staff:** Jill Reinmuth (786-7134).

**Background:**

The state Minimum Wage Act and other laws establish standards for the payment of wages. These standards are enforced by the Department of Labor and Industries (Department), which has authority to investigate wage violations, order the payment of wages owed to workers, and bring civil actions to collect wages. Employees are also permitted to bring civil actions to collect unpaid wages. Criminal penalties apply to certain violations.

An employer who pays an employee less than the amount to which the employee is entitled is liable in a civil action to the employee, even if the employee agreed to work for less. If the employee is successful in obtaining a judgment for wages owed, attorneys' fees are assessed against the employer, unless the recovery is equal to or less than the amount the employer admitted to be owing.

An employer is also liable in a civil action to the employee or employee's assignee for collecting a rebate from employees' wages and for paying a lower wage than obligated by law or contract when the paying of lower wages is willful and is done with intent to deprive. In this case, the employer is subject to exemplary damages of twice the amount of wages withheld.

The Department may investigate wage violations, order employers to pay, and institute actions to collect after a determination that sums are owed. The Department also may take assignments of wage claims and prosecute actions for employees who are financially unable to employ counsel.

A three-year statute of limitation applies to a number of causes, including an action on an unwritten contract. The statute of limitation is six years for an action on a written contract. The statute of limitations is two years for any action with no other limit specified.

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**Summary of Substitute Bill:**

The Legislature makes certain findings related to the state Minimum Wage Act and wage claim laws. In particular, the Legislature finds that the penalties for violating these laws are inadequate, and that the Department should be allowed to impose civil penalties and assess interest on back wages.

An employer is required to pay a worker all wages due to the worker on established paydays. An employer that violates wage payment laws must pay wages, including interest of up to 1 percent per month on unpaid wages, to the worker. An employer that violates these laws is also subject to civil penalties from \$100 to \$1,000 per violation per employee per day, and is guilty of a misdemeanor.

The Director of the Department is authorized to waive collection of penalties in favor of full payment of wages owed to a worker. The Director is also authorized to order payment of unpaid wages, including interest on unpaid wages. The Department need not take an assignment of a wage claim before bringing a civil action to collect unpaid wages.

Finally, the Director is authorized to assess civil penalties. Certain factors that the Director may consider when determining the amount of penalties are specified. Civil penalties are paid to the Director and are deposited in the new employment standards enforcement account. Expenditures from this account must be used for the Department's employment standards program.

Procedures are established for: (1) administrative review of citations or notices of assessment; and (2) for collection of unpaid wages and civil penalties.

Civil actions under wage payment laws must be commenced within three years after the cause of action accrues, unless a longer period of time applies under law.

Private rights of action against employers for unpaid wages are preserved.

Other technical corrections are made.

**Substitute Bill Compared to Original Bill:**

The employment standards enforcement account is created. Civil penalties for wage payment violations must be deposited in this account instead of the supplemental pension fund. Expenditures from this account must be used only for the Department of Labor and Industries' employment standards program.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** None.

**Testimony Against:** None.

**Persons Testifying:** None.

**Persons Signed In To Testify But Not Testifying:** None.