

SENATE BILL REPORT

SB 5514

As of February 18, 2015

Title: An act relating to minimum wage and overtime compensation complaints.

Brief Description: Creating a good faith defense for certain minimum wage and overtime compensation complaints.

Sponsors: Senators Braun, Baumgartner, Padden, Sheldon, Schoesler, Angel, Bailey, Warnick and Honeyford.

Brief History:

Committee Activity: Commerce & Labor: 2/11/15.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Mac Nicholson (786-7445)

Background: Under the Minimum Wage Act, an employer is liable for paying its employees full minimum wage and overtime compensation. An employee may bring a civil action for the full amount of wages owed and be awarded costs and reasonable attorneys' fees. An employee may also file a wage complaint with the Department of Labor and Industries (L&I).

L&I has authority to investigate wage violations, order payment of wages owed to workers, and bring civil actions to collect wages on behalf of workers. In a wage complaint to L&I, civil penalties may be imposed if the employer willfully violated the wage payment requirement. However, L&I may not assess a civil penalty if the employer reasonably relied on (1) a rule related to any wage payment requirement; (2) a written order, ruling, approval, opinion, advice, determination, or interpretation of the Director of L&I; or (3) an interpretive or administrative policy issued by L&I and filed with the Office of the Code Reviser.

Summary of Bill: An employer is not subject to liability or penalty for failing to pay minimum wages or overtime, if the employer establishes that the employer acted in good faith conformity with and reliance on the following:

- a rule related to any wage payment requirement;
- a written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or
- an interpretive or administrative policy issued by L&I.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The defense, if established, bars an action, even if after the act or omission, the order, ruling, approval, opinion, advice, determination, interpretation, or interpretive or administrative policy by L&I is modified or rescinded or is determined by judicial authority to be invalid or have no legal effect.

The act applies to any action based on acts or omissions occurring on or after the effective date of the act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill protects employers who relied on written information from L&I. Employers aren't making their own interpretation, they are doing what L&I told them. Employers shouldn't be penalized for following the rules. Employers depend on state agencies and being able to fall back on them is very important. Employers should be able to rely on advice given by the government.

CON: This bill provides a complete bar to wage recovery in almost every conceivable case, and acts as a get out of jail free card. The good faith standard is highly subjective. The bill would shield employers from liability for any violation as long as an employer can show good faith. Employees should be made whole and should get the wages they are owed no matter the interpretation of the employer. Current law already protects employers from penalties when acting in good faith, but workers still get paid.

Persons Testifying: PRO: Bob Battles, Assn. of WA Business; Carolyn Logue, WA Food Industry Assn.; Tom Kwieciak, Building Industry Assn. of WA.

CON: Matthew Ennis, Law Office of Hage and Ennis; Beau Haynes, Law Office of David N. Mark; Teresa Mosqueda, WA State Labor Council.