
HOUSE BILL 1354

State of Washington

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2015 Regular Session

By Representatives Ryu, Goodman, S. Hunt, Riccelli, Farrell, Cody, Tharinger, Ortiz-Self, Sullivan, Bergquist, Pollet, Dunshee, Fitzgibbon, Moscoso, Appleton, Sells, Robinson, Reykdal, Walkinshaw, Wylie, Gregory, Moeller, Gregerson, Stanford, and Ormsby

Read first time 01/19/15. Referred to Committee on Labor.

1 AN ACT Relating to the employment antiretaliation act; amending
2 RCW 49.46.100 and 39.12.010; reenacting and amending RCW 49.46.010
3 and 49.48.082; adding new sections to chapter 49.46 RCW; adding a new
4 section to chapter 49.12 RCW; adding new sections to chapter 49.48
5 RCW; adding new sections to chapter 39.12 RCW; adding new sections to
6 chapter 49.52 RCW; creating a new section; and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that many workers
9 are unable to exercise their wage and hour rights because of fear of
10 adverse action or actual adverse action by unscrupulous employers.
11 Employers should not gain a competitive advantage against law abiding
12 business by retaliating or discriminating against their employees. No
13 employee should have to fear adverse action simply for engaging in
14 rights the state of Washington has deemed so important that they are
15 protected by law. It is in the public interest of the state of
16 Washington that employees be able to report concerns to their
17 employers without fear of retaliation or discrimination. The
18 legislature finds that strong, clear, and effective protections for
19 employees will help address the problems of employer retaliation.

1 **Sec. 2.** RCW 49.46.010 and 2013 c 141 s 1 are each reenacted and
2 amended to read as follows:

3 As used in this chapter:

4 (1) "Director" means the director of labor and industries or the
5 director's authorized representative;

6 (2) "Employ" includes to permit to work;

7 (3) "Employee" includes any individual employed by an employer
8 but shall not include:

9 (a) Any individual (i) employed as a hand harvest laborer and
10 paid on a piece rate basis in an operation which has been, and is
11 generally and customarily recognized as having been, paid on a piece
12 rate basis in the region of employment; (ii) who commutes daily from
13 his or her permanent residence to the farm on which he or she is
14 employed; and (iii) who has been employed in agriculture less than
15 thirteen weeks during the preceding calendar year;

16 (b) Any individual employed in casual labor in or about a private
17 home, unless performed in the course of the employer's trade,
18 business, or profession;

19 (c) Any individual employed in a bona fide executive,
20 administrative, or professional capacity or in the capacity of
21 outside salesperson as those terms are defined and delimited by rules
22 of the director. However, those terms shall be defined and delimited
23 by the human resources director pursuant to chapter 41.06 RCW for
24 employees employed under the director of personnel's jurisdiction;

25 (d) Any individual engaged in the activities of an educational,
26 charitable, religious, state or local governmental body or agency, or
27 nonprofit organization where the employer-employee relationship does
28 not in fact exist or where the services are rendered to such
29 organizations gratuitously. If the individual receives reimbursement
30 in lieu of compensation for normally incurred out-of-pocket expenses
31 or receives a nominal amount of compensation per unit of voluntary
32 service rendered, an employer-employee relationship is deemed not to
33 exist for the purpose of this section or for purposes of membership
34 or qualification in any state, local government, or publicly
35 supported retirement system other than that provided under chapter
36 41.24 RCW;

37 (e) Any individual employed full time by any state or local
38 governmental body or agency who provides voluntary services but only
39 with regard to the provision of the voluntary services. The voluntary
40 services and any compensation therefor shall not affect or add to

1 qualification, entitlement, or benefit rights under any state, local
2 government, or publicly supported retirement system other than that
3 provided under chapter 41.24 RCW;

4 (f) Any newspaper vendor, carrier, or delivery person selling or
5 distributing newspapers on the street, to offices, to businesses, or
6 from house to house and any freelance news correspondent or
7 "stringer" who, using his or her own equipment, chooses to submit
8 material for publication for free or a fee when such material is
9 published;

10 (g) Any carrier subject to regulation by Part 1 of the Interstate
11 Commerce Act;

12 (h) Any individual engaged in forest protection and fire
13 prevention activities;

14 (i) Any individual employed by any charitable institution charged
15 with child care responsibilities engaged primarily in the development
16 of character or citizenship or promoting health or physical fitness
17 or providing or sponsoring recreational opportunities or facilities
18 for young people or members of the armed forces of the United States;

19 (j) Any individual whose duties require that he or she reside or
20 sleep at the place of his or her employment or who otherwise spends a
21 substantial portion of his or her work time subject to call, and not
22 engaged in the performance of active duties;

23 (k) Any resident, inmate, or patient of a state, county, or
24 municipal correctional, detention, treatment or rehabilitative
25 institution;

26 (l) Any individual who holds a public elective or appointive
27 office of the state, any county, city, town, municipal corporation or
28 quasi municipal corporation, political subdivision, or any
29 instrumentality thereof, or any employee of the state legislature;

30 (m) All vessel operating crews of the Washington state ferries
31 operated by the department of transportation;

32 (n) Any individual employed as a seaman on a vessel other than an
33 American vessel;

34 (4) "Employer" includes any individual, partnership, association,
35 corporation, business trust, or any person or group of persons acting
36 directly or indirectly in the interest of an employer in relation to
37 an employee;

38 (5) "Occupation" means any occupation, service, trade, business,
39 industry, or branch or group of industries or employment or class of
40 employment in which employees are gainfully employed;

1 (6) "Retail or service establishment" means an establishment
2 seventy-five percent of whose annual dollar volume of sales of goods
3 or services, or both, is not for resale and is recognized as retail
4 sales or services in the particular industry;

5 (7) "Wage" means compensation due to an employee by reason of
6 employment, payable in legal tender of the United States or checks on
7 banks convertible into cash on demand at full face value, subject to
8 such deductions, charges, or allowances as may be permitted by rules
9 of the director;

10 (8) "Adverse action" means discharging, denying a promotion,
11 demoting, failing to rehire after a seasonal interruption of work,
12 threatening, penalizing, retaliating, engaging in unfair immigration-
13 related practices, filing a false report with a government agency,
14 changing an employee's status to a nonemployee, or otherwise
15 discriminating against an employee. "Adverse action" may involve any
16 aspect of employment, including pay, work hours, responsibilities, or
17 other material change in the terms and condition of employment;

18 (9) "Department" means the department of labor and industries;

19 (10) "Front pay" means the compensation the employee would earn
20 if reinstated to his or her former position;

21 (11) "Interested party" includes: A contractor or subcontractor
22 or an employee of a contractor or subcontractor; the director or the
23 director's designee; an organization whose members' wages, benefits,
24 and conditions of employment are affected by this chapter, including
25 a labor union; or any other organization of workers that exists for
26 the purpose, in whole or in part, of interacting with employers;

27 (12)(a) "Pattern or practice" means that, in addition to the
28 current violation, within the previous ten years the employer was:

29 (i) Convicted of a criminal violation of a state or local law
30 concerning retaliation;

31 (ii) Subject to a court order entering final judgment for a
32 violation of section 3, 9, 14, or 19 of this act, and the judgment
33 was not satisfied or current within thirty days of the later of:

34 (A) The expiration of the time for appealing the order; or

35 (B) If a timely appeal was made, the date of the final resolution
36 of the appeal; or

37 (iii) Subject to a final and binding citation and notice of
38 assessment from the department for a violation of section 3, 9, 14,
39 or 19 of this act, and the citation and penalty were not satisfied or

1 current within thirty days of the date the citation became final and
2 binding.

3 (b) For the purposes of this subsection (12), an employer
4 includes a successor employer, as defined in RCW 49.48.082;

5 (13)(a) "Unfair immigration-related practice" includes any of the
6 following practices:

7 (i) Requesting more or different documents than are required
8 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents
9 tendered pursuant to that section that on their face reasonably
10 appear to be genuine;

11 (ii) Using the federal E-Verify system to check the employment
12 authorization status of a person at a time or in a manner not
13 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any
14 memorandum of understanding governing the use of the federal E-Verify
15 system;

16 (iii) Threatening to file or the filing of a false police report;

17 (iv) Threatening to contact or contacting immigration
18 authorities;

19 (v) Withholding or threatening to destroy documents related to a
20 person's immigration status.

21 (b) "Unfair immigration-related practice" does not include
22 conduct undertaken at the express and specific direction or request
23 of the federal government.

24 NEW SECTION. Sec. 3. A new section is added to chapter 49.46
25 RCW to read as follows:

26 (1) An employer, any of its agents, or any person acting on
27 behalf of the employer may not take adverse action against any
28 individual or individuals because:

29 (a) An employee or former employee has informed any other person
30 or made a complaint, or the employer believes an employee has
31 informed any other person or made a complaint, including to the
32 employer, the department, the attorney general, or any other person
33 that the employer engaged in conduct that an employee reasonably
34 believes violates this chapter;

35 (b) An employee or former employee demands from the employee's
36 employer a lawful claim under this chapter;

37 (c) An employee or former employee has caused to be instituted,
38 or is about to cause to be instituted, a proceeding under or related
39 to this chapter;

1 (d) An employee or former employee has testified or is about to
2 testify in a proceeding under or related to this chapter;

3 (e) An employee has refused to participate in an activity that
4 would result in a violation of state or federal wage and hour law;

5 (f) An employee or former employee has sought information about
6 his or her rights under this chapter or informed others about their
7 rights under this chapter;

8 (g) An employee or former employee has, or the employer believes
9 an employee has, otherwise exercised rights protected by this
10 chapter; or

11 (h) An employee or former employee filed a complaint with the
12 department or brought suit in court where the employer was determined
13 to have violated this chapter.

14 (2) If an employer takes adverse action against an employee or
15 former employee within ninety days of an activity described in
16 subsection (1) of this section, the employer is presumed to have
17 acted in retaliation in violation of subsection (1) of this section.
18 However, in the case of seasonal work that ended before the close of
19 the ninety day period, the presumption also applies if the employer
20 fails to rehire a former employee at the next opportunity for work in
21 the same position. The employer may rebut the presumption with clear
22 and convincing evidence that the adverse action was taken for a
23 permissible purpose.

24 (3) A complaint or other communication by an employee triggers
25 the protections of this section regardless of whether the complaint
26 or communication is in writing or makes explicit reference to this
27 chapter.

28 (4) A violation of this section is a gross misdemeanor.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.46
30 RCW to read as follows:

31 (1) An individual aggrieved or an interested party filing on
32 behalf of an individual aggrieved by section 3 of this act may file a
33 complaint with the director.

34 (2) If an individual aggrieved or an interested party filing on
35 behalf of an individual aggrieved files a complaint with the
36 department, the director may investigate the complaint. If, following
37 an investigation, the director determines that an employer violated
38 section 3 of this act, the director may order the employer to comply

1 with any one or more of the following, unless prohibited by federal
2 law:

3 (a) Pay a civil penalty of not less than one thousand dollars and
4 not more than ten thousand dollars per individual aggrieved. The
5 department must deposit civil penalties under this section in the
6 supplemental pension fund established under RCW 51.44.033.

7 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved
8 individual not less than one thousand dollars and not more than ten
9 thousand dollars.

10 (ii) If an employee or former employee is the aggrieved
11 individual, pay the individual the greater of:

12 (A) The amount of any civil penalty imposed under (a) of this
13 subsection; or

14 (B) Three times the amount of any wages, salary, and employment
15 benefits unlawfully denied or withheld, except benefits under Title
16 50 or 51 RCW.

17 (c) If the aggrieved individual is a former employee of the
18 violating employer, reinstate the aggrieved individual as an employee
19 at not less than the most recent rate of pay received by the
20 employee. The director may award front pay in lieu of reinstatement.

21 (3) An appeal from the director's determination may be taken in
22 accordance with chapter 34.05 RCW, with the prevailing party entitled
23 to recover reasonable costs and attorneys' fees.

24 (4) The director may not investigate any alleged violation under
25 this section that occurred more than three years before the date that
26 the employee filed the complaint. This period is tolled during any
27 period of time that an employer, any of its agents, or any person
28 acting on behalf of the employer deters an individual from filing a
29 complaint.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.46
31 RCW to read as follows:

32 (1) An individual aggrieved by a violation of section 3 of this
33 act may bring suit on behalf of himself or herself or on behalf of
34 any other individuals similarly situated.

35 (2) If a court determines that an employer violated section 3 of
36 this act, the court, unless prohibited by federal law:

37 (a)(i) Shall award statutory damages for each individual
38 aggrieved by the violation. Subject to (a)(ii) of this subsection,
39 statutory damages must not be less than one thousand dollars and not

1 more than ten thousand dollars per individual, unless the employer
2 engaged in a pattern or practice of violations, in which case the
3 statutory damages must be not less than ten thousand dollars and not
4 more than twenty-five thousand dollars per individual;

5 (ii) If an employee or former employee is the individual subject
6 to adverse action, the court shall award the greater of:

7 (A) The amounts specified in (a)(i) of this subsection; or

8 (B) Three times the amount of any wages, salary, and employment
9 benefits unlawfully denied or withheld, except benefits under Title
10 50 or 51 RCW;

11 (b) May award actual damages sustained by the individual;

12 (c) May order injunctive or other equitable relief if the
13 aggrieved individual is an employee or former employee of the
14 violating employer. The relief may include:

15 (i) Reinstatement of the former employee as an employee to his or
16 her former position at not less than the most recent rate of
17 compensation received by the employee, including the value of any
18 benefits; or

19 (ii) Front pay in lieu of reinstatement;

20 (d)(i) For a first violation, may order the appropriate
21 government agencies to suspend all licenses that are held by the
22 violating party for a period of up to fourteen days. The licenses
23 that are subject to suspension are all licenses, certifications, or
24 registrations held by the violating party specific to the business
25 location or locations where the adverse action occurred;

26 (ii) For a second violation, the court may order the appropriate
27 government agencies to suspend all licenses that are held by the
28 violating party for a period of up to thirty days. The licenses that
29 are subject to suspension are all licenses held by the violating
30 party specific to the business location or locations where the
31 adverse action occurred;

32 (iii) For a third violation, the court may order the appropriate
33 government agencies to suspend all licenses that are held by the
34 violating party for a period of up to ninety days. The licenses that
35 are subject to suspension are all licenses held by the violating
36 party specific to the business location or locations where the
37 adverse action occurred.

38 (e) Shall award attorneys' fees and costs.

39 (3) A civil action under this section must be brought no later
40 than three years after the violation occurred. This period is tolled

1 during any period of time that an employer, any of its agents, or any
2 person acting on behalf of the employer deters an individual from
3 bringing an action under this section.

4 **Sec. 6.** RCW 49.46.100 and 2010 c 8 s 12044 are each amended to
5 read as follows:

6 ~~((1))~~ Any employer who hinders or delays the director or his or
7 her authorized representatives in the performance of his or her
8 duties in the enforcement of this chapter, or refuses to admit the
9 director or his or her authorized representatives to any place of
10 employment, or fails to make, keep, and preserve any records as
11 required under the provisions of this chapter, or falsifies any such
12 record, or refuses to make any record accessible to the director or
13 his or her authorized representatives upon demand, or refuses to
14 furnish a sworn statement of such record or any other information
15 required for the proper enforcement of this chapter to the director
16 or his or her authorized representatives upon demand, or pays or
17 agrees to pay wages at a rate less than the rate applicable under
18 this chapter, or otherwise violates any provision of this chapter or
19 of any regulation issued under this chapter shall be deemed in
20 violation of this chapter and shall, upon conviction therefor, be
21 guilty of a gross misdemeanor.

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

33 **INDUSTRIAL WELFARE ACT**

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 49.12
35 RCW to read as follows:

36 (1) An employer, any of its agents, or any person acting on
37 behalf of the employer may not take adverse action against any

1 individual or individuals because an employee has updated or
2 attempted to update his or her personal information, unless the
3 change is directly related to the skill set or knowledge required for
4 the job.

5 (2) If an employer takes adverse action against an employee or
6 former employee within ninety days of an activity described in
7 subsection (1) of this section, the employer is presumed to have
8 acted in retaliation in violation of subsection (1) of this section.
9 However, in the case of seasonal work that ended before the close of
10 the ninety day period, the presumption also applies if the employer
11 fails to rehire a former employee at the next opportunity for work in
12 the same position. The employer may rebut the presumption with clear
13 and convincing evidence that the adverse action was taken for a
14 permissible purpose.

15 (3) For the purposes of this section, "adverse action" has the
16 same meaning as in RCW 49.46.010.

17 (4) An interested party or individual aggrieved by this section
18 may file a complaint under section 4 of this act.

19 (5) An individual aggrieved by a violation of this section may
20 also bring suit on behalf of himself or herself or on behalf of any
21 other individuals similarly situated under section 5 of this act.

22 (6) A violation of this section is a gross misdemeanor.

23 **WAGE PAYMENT ACT**

24 **Sec. 8.** RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and
25 amended to read as follows:

26 The definitions in this section apply throughout this section and
27 RCW 49.48.083 through 49.48.086:

28 (1) "Citation" means a written determination by the department
29 that a wage payment requirement has been violated.

30 (2) "Department" means the department of labor and industries.

31 (3) "Determination of compliance" means a written determination
32 by the department that wage payment requirements have not been
33 violated.

34 (4) "Director" means the director of the department of labor and
35 industries, or the director's authorized representative.

36 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for
37 purposes of a wage payment requirement set forth in RCW 49.46.020 or

1 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment
2 requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

3 (6) "Employer" has the meaning provided in RCW 49.46.010 for
4 purposes of a wage payment requirement set forth in RCW 49.46.020,
5 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

6 (7) "Notice of assessment" means a written notice by the
7 department that, based on a citation, the employer shall pay the
8 amounts assessed under RCW 49.48.083.

9 (8) "Repeat willful violator" means any employer that has been
10 the subject of a final and binding citation and notice of assessment
11 for a willful violation of a wage payment requirement within three
12 years of the date of issue of the most recent citation and notice of
13 assessment for a willful violation of a wage payment requirement.

14 (9) "Successor" means any person to whom an employer quitting,
15 selling out, exchanging, or disposing of a business sells or
16 otherwise conveys in bulk and not in the ordinary course of the
17 employer's business, more than fifty percent of the property, whether
18 real or personal, tangible or intangible, of the employer's business.

19 (10) "Wage" has the meaning provided in RCW 49.46.010.

20 (11) "Wage complaint" means a complaint from an employee to the
21 department that asserts that an employer has violated one or more
22 wage payment requirements and that is reduced to writing.

23 (12) "Wage payment requirement" means a wage payment requirement
24 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or
25 49.52.060, and any related rules adopted by the department.

26 (13) "Willful" means a knowing and intentional action that is
27 neither accidental nor the result of a bona fide dispute, as
28 evaluated under the standards applicable to wage payment violations
29 under RCW 49.52.050(2).

30 (14) "Adverse action" means discharging, denying a promotion,
31 demoting, failing to rehire after a seasonal interruption of work,
32 threatening, penalizing, retaliating, engaging in unfair immigration-
33 related practices, filing a false report with a government agency,
34 changing an employee's status to a nonemployee, or otherwise
35 discriminating against an employee. "Adverse action" may involve any
36 aspect of employment, including pay, work hours, responsibilities, or
37 other material change in the terms and condition of employment.

38 (15) "Front pay" means the compensation the employee would earn
39 if reinstated to his or her former position.

1 (16) "Interested party" includes: A contractor or subcontractor
2 or an employee of a contractor or subcontractor; the director or the
3 director's designee; an organization whose members' wages, benefits,
4 and conditions of employment are affected by this chapter, including
5 a labor union; or any other organization of workers that exists for
6 the purpose, in whole or in part, of interacting with employers.

7 (17)(a) "Pattern or practice" means that, in addition to the
8 current violation, within the previous ten years the employer was:

9 (i) Convicted of a criminal violation of a state or local law
10 concerning retaliation;

11 (ii) Subject to a court order entering final judgment for a
12 violation of section 3, 9, 14, or 19 of this act, and the judgment
13 was not satisfied or current within thirty days of the later of:

14 (A) The expiration of the time for appealing the order; or

15 (B) If a timely appeal was made, the date of the final resolution
16 of the appeal; or

17 (iii) Subject to a final and binding citation and notice of
18 assessment from the department for a violation of section 3, 14, or
19 19 of this act, and the citation and penalty were not satisfied or
20 current within thirty days of the date the citation became final and
21 binding.

22 (b) For the purposes of this subsection (17), an employer
23 includes a successor employer, as defined in RCW 49.48.082.

24 (18)(a) "Unfair immigration-related practice" includes any of the
25 following practices:

26 (i) Requesting more or different documents than are required
27 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents
28 tendered pursuant to that section that on their face reasonably
29 appear to be genuine;

30 (ii) Using the federal E-Verify system to check the employment
31 authorization status of a person at a time or in a manner not
32 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any
33 memorandum of understanding governing the use of the federal E-Verify
34 system;

35 (iii) Threatening to file or the filing of a false police report;

36 (iv) Threatening to contact or contacting immigration
37 authorities;

38 (v) Withholding or threatening to destroy documents related to a
39 person's immigration status.

1 (b) "Unfair immigration-related practice" does not include
2 conduct undertaken at the express and specific direction or request
3 of the federal government.

4 NEW SECTION. Sec. 9. (1) An employer, any of its agents, or any
5 person acting on behalf of the employer may not take adverse action
6 against any individual or individuals because:

7 (a) An employee or former employee has informed any other person
8 or made a complaint, or the employer believes an employee has
9 informed any other person or made a complaint, including to the
10 employer, the department, the attorney general, or any other person
11 that the employer engaged in conduct that an employee reasonably
12 believes violates this chapter;

13 (b) An employee or former employee demands from the employee's
14 employer a lawful claim under this chapter;

15 (c) An employee or former employee has caused to be instituted,
16 or is about to cause to be instituted, a proceeding under or related
17 to this chapter;

18 (d) An employee or former employee has testified or is about to
19 testify in a proceeding under or related to this chapter;

20 (e) An employee has refused to participate in an activity that
21 would result in a violation of state or federal wage and hour law;

22 (f) An employee or former employee has sought information about
23 his or her rights under this chapter or informed others about their
24 rights under this chapter;

25 (g) An employee or former employee has, or the employer believes
26 an employee has, otherwise exercised rights protected by this
27 chapter; or

28 (h) An employee or former employee filed a complaint with the
29 department or brought suit in court where the employer was determined
30 to have violated this chapter.

31 (2) If an employer takes adverse action against an employee or
32 former employee within ninety days of an activity described in
33 subsection (1) of this section, the employer is presumed to have
34 acted in retaliation in violation of subsection (1) of this section.
35 However, in the case of seasonal work that ended before the close of
36 the ninety day period, the presumption also applies if the employer
37 fails to rehire a former employee at the next opportunity for work in
38 the same position. The employer may rebut the presumption with clear

1 and convincing evidence that the adverse action was taken for a
2 permissible purpose.

3 (3) A complaint or other communication by an employee triggers
4 the protections of this section regardless of whether the complaint
5 or communication is in writing or makes explicit reference to this
6 chapter.

7 (4) A violation of this section is a gross misdemeanor.

8 NEW SECTION. **Sec. 10.** (1) An individual aggrieved or an
9 interested party filing on behalf of an individual aggrieved by
10 section 9 of this act may file a complaint with the director.

11 (2) If an individual aggrieved or an interested party filing on
12 behalf of an individual aggrieved files a complaint with the
13 department, the director may investigate the complaint. If, following
14 an investigation, the director determines that an employer violated
15 section 9 of this act, the director may order the employer to comply
16 with any one or more of the following, unless prohibited by federal
17 law:

18 (a) Pay a civil penalty of not less than one thousand dollars and
19 not more than ten thousand dollars per individual aggrieved. The
20 department must deposit civil penalties under this section in the
21 supplemental pension fund established under RCW 51.44.033.

22 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved
23 individual not less than one thousand dollars and not more than ten
24 thousand dollars.

25 (ii) If an employee or former employee is the aggrieved
26 individual, pay the individual the greater of:

27 (A) The amount of any civil penalty imposed under (a) of this
28 subsection; or

29 (B) Three times the amount of any wages, salary, and employment
30 benefits unlawfully denied or withheld, except benefits under Title
31 50 or 51 RCW.

32 (c) If the aggrieved individual is a former employee of the
33 violating employer, reinstate the aggrieved individual as an employee
34 at not less than the most recent rate of pay received by the
35 employee. The director may award front pay in lieu of reinstatement.

36 (3) An appeal from the director's determination may be taken in
37 accordance with chapter 34.05 RCW, with the prevailing party entitled
38 to recover reasonable costs and attorneys' fees.

1 (4) The director may not investigate any alleged violation under
2 this section that occurred more than three years before the date that
3 the employee filed the complaint. This period is tolled during any
4 period of time that an employer, any of its agents, or any person
5 acting on behalf of the employer deters an individual from filing a
6 complaint.

7 NEW SECTION. **Sec. 11.** (1) An individual aggrieved by a
8 violation of section 9 of this act may bring suit on behalf of
9 himself or herself or on behalf of any other individuals similarly
10 situated.

11 (2) If a court determines that an employer violated section 9 of
12 this act, the court, unless prohibited by federal law:

13 (a)(i) Shall award statutory damages for each individual
14 aggrieved by the violation. Subject to (a)(ii) of this subsection,
15 statutory damages must not be less than one thousand dollars and not
16 more ten thousand dollars per individual, unless the employer engaged
17 in a pattern or practice of violations, in which case the statutory
18 damages must be not less than ten thousand dollars and not more than
19 twenty-five thousand dollars per individual;

20 (ii) If an employee or former employee is the individual subject
21 to adverse action, the court shall award the greater of:

22 (A) The amounts specified in (a)(i) of this subsection; or

23 (B) Three times the amount of any wages, salary, and employment
24 benefits unlawfully denied or withheld, except benefits under Title
25 50 or 51 RCW;

26 (b) May award actual damages sustained by the individual;

27 (c) May order injunctive or other equitable relief if the
28 aggrieved individual is an employee or former employee of the
29 violating employer. The relief may include:

30 (i) Reinstatement of the former employee as an employee to his or
31 her former position at not less than the most recent rate of
32 compensation received by the employee, including the value of any
33 benefits; or

34 (ii) Front pay in lieu of reinstatement;

35 (d)(i) For a first violation, may order the appropriate
36 government agencies to suspend all licenses that are held by the
37 violating party for a period of up to fourteen days. The licenses
38 that are subject to suspension are all licenses, certifications, or

1 registrations held by the violating party specific to the business
2 location or locations where the adverse action occurred;

3 (ii) For a second violation, the court may order the appropriate
4 government agencies to suspend all licenses that are held by the
5 violating party for a period of up to thirty days. The licenses that
6 are subject to suspension are all licenses held by the violating
7 party specific to the business location or locations where the
8 adverse action occurred;

9 (iii) For a third violation, the court may order the appropriate
10 government agencies to suspend all licenses that are held by the
11 violating party for a period of up to ninety days. The licenses that
12 are subject to suspension are all licenses held by the violating
13 party specific to the business location or locations where the
14 adverse action occurred.

15 (e) Shall award attorneys' fees and costs.

16 (3) A civil action under this section must be brought no later
17 than three years after the violation occurred. This period is tolled
18 during any period of time that an employer, any of its agents, or any
19 person acting on behalf of the employer deters an individual from
20 bringing an action under this section.

21 NEW SECTION. **Sec. 12.** Sections 9 through 11 of this act are
22 each added to chapter 49.48 RCW.

23 **PREVAILING WAGE**

24 **Sec. 13.** RCW 39.12.010 and 1989 c 12 s 6 are each amended to
25 read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) The "prevailing rate of wage," (~~(, for the intents and~~
29 ~~purposes of this chapter, shall be)) means the rate of hourly wage,~~

30 usual benefits, and overtime paid in the locality, as (~~hereinafter~~)
31 defined in this section, to the majority of workers, laborers, or
32 mechanics, in the same trade or occupation. In the event that there
33 is not a majority in the same trade or occupation paid at the same
34 rate, then the average rate of hourly wage and overtime paid to such
35 laborers, workers, or mechanics in the same trade or occupation shall
36 be the prevailing rate. If the wage paid by any contractor or
37 subcontractor to laborers, workers, or mechanics on any public work

1 is based on some period of time other than an hour, the hourly wage
2 for the purposes of this chapter shall be mathematically determined
3 by the number of hours worked in such period of time.

4 (2) The "locality" (~~((for the purposes of this chapter shall be))~~)
5 means the largest city in the county wherein the physical work is
6 being performed.

7 (3) The "usual benefits" (~~((for the purposes of this chapter~~
8 ~~shall))~~) includes the amount of:

9 (a) The rate of contribution irrevocably made by a contractor or
10 subcontractor to a trustee or to a third person pursuant to a fund,
11 plan, or program; and

12 (b) The rate of costs to the contractor or subcontractor which
13 may be reasonably anticipated in providing benefits to workers,
14 laborers, and mechanics pursuant to an enforceable commitment to
15 carry out a financially responsible plan or program which was
16 communicated in writing to the workers, laborers, and mechanics
17 affected, for medical or hospital care, pensions on retirement or
18 death, compensation for injuries or illness resulting from
19 occupational activity, or insurance to provide any of the foregoing,
20 for unemployment benefits, life insurance, disability and sickness
21 insurance, or accident insurance, for vacation and holiday pay, for
22 defraying costs of apprenticeship or other similar programs, or for
23 other bona fide fringe benefits, but only where the contractor or
24 subcontractor is not required by other federal, state, or local law
25 to provide any of such benefits.

26 (4) (~~((An "interested party" for the purposes of this chapter~~
27 ~~shall include a contractor, subcontractor, an employee of a~~
28 ~~contractor or subcontractor, an organization whose members' wages,~~
29 ~~benefits, and conditions of employment are affected by this chapter,~~
30 ~~and the director of labor and industries or the director's~~
31 ~~designee.))~~) "Adverse action" means discharging, denying a promotion,
32 demoting, failing to rehire after a seasonal interruption of work,
33 threatening, penalizing, retaliating, engaging in unfair immigration-
34 related practices, filing a false report with a government agency,
35 changing an employee's status to a nonemployee, or otherwise
36 discriminating against an employee. "Adverse action" may involve any
37 aspect of employment, including pay, work hours, responsibilities, or
38 other material change in the terms and condition of employment.

39 (5) "Department" means the department of labor and industries.

1 (6) "Front pay" means the compensation the employee would earn if
2 reinstated to his or her former position.

3 (7) "Interested party" includes: A contractor or subcontractor or
4 an employee of a contractor or subcontractor; the director or the
5 director's designee; an organization whose members' wages, benefits,
6 and conditions of employment are affected by this chapter, including
7 a labor union; or any other organization of workers that exists for
8 the purpose, in whole or in part, of interacting with employers.

9 (8)(a) "Pattern or practice" means that, in addition to the
10 current violation, within the previous ten years the employer was:

11 (i) Convicted of a criminal violation of a state or local law
12 concerning retaliation;

13 (ii) Subject to a court order entering final judgment for a
14 violation of section 3, 9, 14, or 19 of this act, and the judgment
15 was not satisfied or current within thirty days of the later of:

16 (A) The expiration of the time for appealing the order; or

17 (B) If a timely appeal was made, the date of the final resolution
18 of the appeal; or

19 (iii) Subject to a final and binding citation and notice of
20 assessment from the department for a violation of section 3, 9, or 19
21 of this act, and the citation and penalty were not satisfied or
22 current within thirty days of the date the citation became final and
23 binding.

24 (b) For the purposes of this subsection (8), an employer includes
25 a successor employer, as defined in RCW 49.48.082.

26 (9)(a) "Unfair immigration-related practice" includes any of the
27 following practices:

28 (i) Requesting more or different documents than are required
29 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents
30 tendered pursuant to that section that on their face reasonably
31 appear to be genuine;

32 (ii) Using the federal E-Verify system to check the employment
33 authorization status of a person at a time or in a manner not
34 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any
35 memorandum of understanding governing the use of the federal E-Verify
36 system;

37 (iii) Threatening to file or the filing of a false police report;

38 (iv) Threatening to contact or contacting immigration
39 authorities;

1 (v) Withholding or threatening to destroy documents related to a
2 person's immigration status.

3 (b) "Unfair immigration-related practice" does not include
4 conduct undertaken at the express and specific direction or request
5 of the federal government.

6 NEW SECTION. Sec. 14. (1) An employer, any of its agents, or
7 any person acting on behalf of the employer may not take adverse
8 action against any individual or individuals because:

9 (a) An employee or former employee has informed any other person
10 or made a complaint, or the employer believes an employee has
11 informed any other person or made a complaint, including to the
12 employer, the department, the attorney general, or any other person
13 that the employer engaged in conduct that an employee reasonably
14 believes violates this chapter;

15 (b) An employee or former employee demands from the employee's
16 employer a lawful claim under this chapter;

17 (c) An employee or former employee has caused to be instituted,
18 or is about to cause to be instituted, a proceeding under or related
19 to this chapter;

20 (d) An employee or former employee has testified or is about to
21 testify in a proceeding under or related to this chapter;

22 (e) An employee has refused to participate in an activity that
23 would result in a violation of state or federal wage and hour law;

24 (f) An employee or former employee has sought information about
25 his or her rights under this chapter or informed others about their
26 rights under this chapter;

27 (g) An employee or former employee has, or the employer believes
28 an employee has, otherwise exercised rights protected by this
29 chapter; or

30 (h) An employee or former employee filed a complaint with the
31 department or brought suit in court where the employer was determined
32 to have violated this chapter.

33 (2) If an employer takes adverse action against an employee or
34 former employee within ninety days of an activity described in
35 subsection (1) of this section, the employer is presumed to have
36 acted in retaliation in violation of subsection (1) of this section.
37 However, in the case of seasonal work that ended before the close of
38 the ninety day period, the presumption also applies if the employer
39 fails to rehire a former employee at the next opportunity for work in

1 the same position. The employer may rebut the presumption with clear
2 and convincing evidence that the adverse action was taken for a
3 permissible purpose.

4 (3) A complaint or other communication by an employee triggers
5 the protections of this section regardless of whether the complaint
6 or communication is in writing or makes explicit reference to this
7 chapter.

8 (4) A violation of this section is a gross misdemeanor.

9 NEW SECTION. **Sec. 15.** (1) An individual aggrieved or an
10 interested party filing on behalf of an individual aggrieved by
11 section 14 of this act may file a complaint with the director.

12 (2) If an individual aggrieved or an interested party filing on
13 behalf of an individual aggrieved files a complaint with the
14 department, the director may investigate the complaint. If, following
15 an investigation, the director determines that an employer violated
16 section 14 of this act, the director may order the employer to comply
17 with any one or more of the following, unless prohibited by federal
18 law:

19 (a) Pay a civil penalty of not less than one thousand dollars and
20 not more than ten thousand dollars per individual aggrieved. The
21 department must deposit civil penalties under this section in the
22 supplemental pension fund established under RCW 51.44.033.

23 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved
24 individual not less than one thousand dollars and not more than ten
25 thousand dollars.

26 (ii) If an employee or former employee is the aggrieved
27 individual, pay the individual the greater of:

28 (A) The amount of any civil penalty imposed under (a) of this
29 subsection; or

30 (B) Three times the amount of any wages, salary, and employment
31 benefits unlawfully denied or withheld, except benefits under Title
32 50 or 51 RCW.

33 (c) If the aggrieved individual is a former employee of the
34 violating employer, reinstate the aggrieved individual as an employee
35 at not less than the most recent rate of pay received by the
36 employee. The director may award front pay in lieu of reinstatement.

37 (3) An appeal from the director's determination may be taken in
38 accordance with chapter 34.05 RCW, with the prevailing party entitled
39 to recover reasonable costs and attorneys' fees.

1 (4) The director may not investigate any alleged violation under
2 this section that occurred more than three years before the date that
3 the employee filed the complaint. This period is tolled during any
4 period of time that an employer, any of its agents, or any person
5 acting on behalf of the employer deters an individual from filing a
6 complaint.

7 NEW SECTION. **Sec. 16.** (1) An individual aggrieved by a
8 violation of section 14 of this act may bring suit on behalf of
9 himself or herself or on behalf of any other individuals similarly
10 situated.

11 (2) If a court determines that an employer violated section 14 of
12 this act, the court, unless prohibited by federal law:

13 (a)(i) Shall award statutory damages for each individual
14 aggrieved by the violation. Subject to (a)(ii) of this subsection,
15 statutory damages must not be less than one thousand dollars and not
16 more ten thousand dollars per individual, unless the employer engaged
17 in a pattern or practice of violations, in which case the statutory
18 damages must be not less than ten thousand dollars and not more than
19 twenty-five thousand dollars per individual;

20 (ii) If an employee or former employee is the individual subject
21 to adverse action, the court shall award the greater of:

22 (A) The amounts specified in (a)(i) of this subsection; or

23 (B) Three times the amount of any wages, salary, and employment
24 benefits unlawfully denied or withheld, except benefits under Title
25 50 or 51 RCW;

26 (b) May award actual damages sustained by the individual;

27 (c) May order injunctive or other equitable relief if the
28 aggrieved individual is an employee or former employee of the
29 violating employer. The relief may include:

30 (i) Reinstatement of the former employee as an employee to his or
31 her former position at not less than the most recent rate of
32 compensation received by the employee, including the value of any
33 benefits; or

34 (ii) Front pay in lieu of reinstatement;

35 (d)(i) For a first violation, may order the appropriate
36 government agencies to suspend all licenses that are held by the
37 violating party for a period of up to fourteen days. The licenses
38 that are subject to suspension are all licenses, certifications, or

1 registrations held by the violating party specific to the business
2 location or locations where the adverse action occurred;

3 (ii) For a second violation, the court may order the appropriate
4 government agencies to suspend all licenses that are held by the
5 violating party for a period of up to thirty days. The licenses that
6 are subject to suspension are all licenses held by the violating
7 party specific to the business location or locations where the
8 adverse action occurred;

9 (iii) For a third violation, the court may order the appropriate
10 government agencies to suspend all licenses that are held by the
11 violating party for a period of up to ninety days. The licenses that
12 are subject to suspension are all licenses held by the violating
13 party specific to the business location or locations where the
14 adverse action occurred.

15 (e) Shall award attorneys' fees and costs.

16 (3) A civil action under this section must be brought no later
17 than three years after the violation occurred. This period is tolled
18 during any period of time that an employer, any of its agents, or any
19 person acting on behalf of the employer deters an individual from
20 bringing an action under this section.

21 NEW SECTION. **Sec. 17.** Sections 14 through 16 of this act are
22 each added as new sections to chapter 39.12 RCW.

23 **WAGE DEDUCTIONS**

24 NEW SECTION. **Sec. 18.** The definitions in this section apply
25 throughout this chapter unless the context clearly requires
26 otherwise.

27 (1) "Adverse action" means discharging, denying a promotion,
28 demoting, failing to rehire after a seasonal interruption of work,
29 threatening, penalizing, retaliating, engaging in unfair immigration-
30 related practices, filing a false report with a government agency,
31 changing an employee's status to a nonemployee, or otherwise
32 discriminating against an employee. "Adverse action" may involve any
33 aspect of employment, including pay, work hours, responsibilities, or
34 other material change in the terms and condition of employment.

35 (2) "Department" means the department of labor and industries.

36 (3) "Director" means the director of the department of labor and
37 industries.

1 (4) "Front pay" means the compensation the employee would earn if
2 reinstated to his or her former position.

3 (5) "Interested party" includes: A contractor or subcontractor or
4 an employee of a contractor or subcontractor; the director or the
5 director's designee; an organization whose members' wages, benefits,
6 and conditions of employment are affected by this chapter, including
7 a labor union; or any other organization of workers that exists for
8 the purpose, in whole or in part, of interacting with employers.

9 (6)(a) "Pattern or practice" means that, in addition to the
10 current violation, within the previous ten years the employer was:

11 (i) Convicted of a criminal violation of a state or local law
12 concerning retaliation;

13 (ii) Subject to a court order entering final judgment for a
14 violation of section 3, 9, 14, or 19 of this act, and the judgment
15 was not satisfied or current within thirty days of the later of:

16 (A) The expiration of the time for appealing the order; or

17 (B) If a timely appeal was made, the date of the final resolution
18 of the appeal; or

19 (iii) Subject to a final and binding citation and notice of
20 assessment from the department for a violation of section 3, 9, or 15
21 of this act, and the citation and penalty were not satisfied or
22 current within thirty days of the date the citation became final and
23 binding.

24 (b) For the purposes of this subsection (6), an employer includes
25 a successor employer, as defined in RCW 49.48.082.

26 (7)(a) "Unfair immigration-related practice" means any of the
27 following practices:

28 (i) Requesting more or different documents than are required
29 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents
30 tendered pursuant to that section that on their face reasonably
31 appear to be genuine;

32 (ii) Using the federal E-Verify system to check the employment
33 authorization status of a person at a time or in a manner not
34 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any
35 memorandum of understanding governing the use of the federal E-Verify
36 system;

37 (iii) Threatening to file or the filing of a false police report;

38 (iv) Threatening to contact or contacting immigration
39 authorities;

1 (v) Withholding or threatening to destroy documents related to a
2 person's immigration status.

3 (b) "Unfair immigration-related practice" does not include
4 conduct undertaken at the express and specific direction or request
5 of the federal government.

6 NEW SECTION. **Sec. 19.** (1) An employer, any of its agents, or
7 any person acting on behalf of the employer may not take adverse
8 action against any individual or individuals because:

9 (a) An employee or former employee has informed any other person
10 or made a complaint, or the employer believes an employee has
11 informed any other person or made a complaint, including to the
12 employer, the department, the attorney general, or any other person
13 that the employer engaged in conduct that an employee reasonably
14 believes violates this chapter;

15 (b) An employee or former employee demands from the employee's
16 employer a lawful claim under this chapter;

17 (c) An employee or former employee has caused to be instituted,
18 or is about to cause to be instituted, a proceeding under or related
19 to this chapter;

20 (d) An employee or former employee has testified or is about to
21 testify in a proceeding under or related to this chapter;

22 (e) An employee has refused to participate in an activity that
23 would result in a violation of state or federal wage and hour law;

24 (f) An employee or former employee has sought information about
25 his or her rights under this chapter or informed others about their
26 rights under this chapter;

27 (g) An employee or former employee has, or the employer believes
28 an employee has, otherwise exercised rights protected by this
29 chapter; or

30 (h) An employee or former employee filed a complaint with the
31 department or brought suit in court where the employer was determined
32 to have violated this chapter.

33 (2) If an employer takes adverse action against an employee or
34 former employee within ninety days of an activity described in
35 subsection (1) of this section, the employer is presumed to have
36 acted in retaliation in violation of subsection (1) of this section.
37 However, in the case of seasonal work that ended before the close of
38 the ninety day period, the presumption also applies if the employer
39 fails to rehire a former employee at the next opportunity for work in

1 the same position. The employer may rebut the presumption with clear
2 and convincing evidence that the adverse action was taken for a
3 permissible purpose.

4 (3) A complaint or other communication by an employee triggers
5 the protections of this section regardless of whether the complaint
6 or communication is in writing or makes explicit reference to this
7 chapter.

8 (4) A violation of this section is a gross misdemeanor.

9 NEW SECTION. **Sec. 20.** (1) An individual aggrieved or an
10 interested party filing on behalf of an individual aggrieved by
11 section 19 of this act may file a complaint with the director.

12 (2) If an individual aggrieved or an interested party filing on
13 behalf of an individual aggrieved files a complaint with the
14 department, the director may investigate the complaint. If, following
15 an investigation, the director determines that an employer violated
16 section 19 of this act, the director may order the employer to comply
17 with any one or more of the following, unless prohibited by federal
18 law:

19 (a) Pay a civil penalty of not less than one thousand dollars and
20 not more than ten thousand dollars per individual aggrieved. The
21 department must deposit civil penalties under this section in the
22 supplemental pension fund established under RCW 51.44.033.

23 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved
24 individual not less than one thousand dollars and not more than ten
25 thousand dollars.

26 (ii) If an employee or former employee is the aggrieved
27 individual, pay the individual the greater of:

28 (A) The amount of any civil penalty imposed under (a) of this
29 subsection; or

30 (B) Three times the amount of any wages, salary, and employment
31 benefits unlawfully denied or withheld, except benefits under Title
32 50 or 51 RCW.

33 (c) If the aggrieved individual is a former employee of the
34 violating employer, reinstate the aggrieved individual as an employee
35 at not less than the most recent rate of pay received by the
36 employee. The director may award front pay in lieu of reinstatement.

37 (3) An appeal from the director's determination may be taken in
38 accordance with chapter 34.05 RCW, with the prevailing party entitled
39 to recover reasonable costs and attorneys' fees.

1 (4) The director may not investigate any alleged violation under
2 this section that occurred more than three years before the date that
3 the employee filed the complaint. This period is tolled during any
4 period of time that an employer, any of its agents, or any person
5 acting on behalf of the employer deters an individual from filing a
6 complaint.

7 NEW SECTION. **Sec. 21.** (1) An individual aggrieved by a
8 violation of section 19 of this act may bring suit on behalf of
9 himself or herself or on behalf of any other individuals similarly
10 situated.

11 (2) If a court determines that an employer violated section 19 of
12 this act, the court, unless prohibited by federal law:

13 (a)(i) Shall award statutory damages for each individual
14 aggrieved by the violation. Subject to (a)(ii) of this subsection,
15 statutory damages must not be less than one thousand dollars and not
16 more than ten thousand dollars per individual, unless the employer
17 engaged in a pattern or practice of violations, in which case the
18 statutory damages must be not less than ten thousand dollars and not
19 more than twenty-five thousand dollars per individual;

20 (ii) If an employee or former employee is the individual subject
21 to adverse action, the court shall award the greater of:

22 (A) The amounts specified in (a)(i) of this subsection; or

23 (B) Three times the amount of any wages, salary, and employment
24 benefits unlawfully denied or withheld, except benefits under Title
25 50 or 51 RCW;

26 (b) May award actual damages sustained by the individual;

27 (c) May order injunctive or other equitable relief if the
28 aggrieved individual is an employee or former employee of the
29 violating employer. The relief may include:

30 (i) Reinstatement of the former employee as an employee to his or
31 her former position at not less than the most recent rate of
32 compensation received by the employee, including the value of any
33 benefits; or

34 (ii) Front pay in lieu of reinstatement;

35 (d)(i) For a first violation, may order the appropriate
36 government agencies to suspend all licenses that are held by the
37 violating party for a period of up to fourteen days. The licenses
38 that are subject to suspension are all licenses, certifications, or

1 registrations held by the violating party specific to the business
2 location or locations where the adverse action occurred;

3 (ii) For a second violation, the court may order the appropriate
4 government agencies to suspend all licenses that are held by the
5 violating party for a period of up to thirty days. The licenses that
6 are subject to suspension are all licenses held by the violating
7 party specific to the business location or locations where the
8 adverse action occurred;

9 (iii) For a third violation, the court may order the appropriate
10 government agencies to suspend all licenses that are held by the
11 violating party for a period of up to ninety days. The licenses that
12 are subject to suspension are all licenses held by the violating
13 party specific to the business location or locations where the
14 adverse action occurred.

15 (e) Shall award attorneys' fees and costs.

16 (3) A civil action under this section must be brought no later
17 than three years after the violation occurred. This period is tolled
18 during any period of time that an employer, any of its agents, or any
19 person acting on behalf of the employer deters an individual from
20 bringing an action under this section.

21 NEW SECTION. **Sec. 22.** Sections 18 through 21 of this act are
22 each added as new sections to chapter 49.52 RCW.

23 NEW SECTION. **Sec. 23.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

--- END ---