

HOUSE BILL REPORT

HB 1302

As Reported by House Committee On:
Labor & Workplace Standards

Title: An act relating to damages for wage violations.

Brief Description: Providing damages for wage violations.

Sponsors: Representatives Frame, Gregerson, Peterson, Macri, Ryu, Jenkins, Goodman, Stanford, Ormsby, Santos and Farrell.

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/23/17, 1/31/17 [DP].

Brief Summary of Bill

- Provides that an employer who unlawfully collects a rebate from an employee's wages or willfully and intentionally deprives an employee of wages, is liable in a civil action for triple, rather than double, the amount of wages owed.
- Removes the provision barring an employee from obtaining higher damages when the employee knowingly submitted to the wage violation.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 4 members: Representatives Sells, Chair; Gregerson, Vice Chair; Doglio and Frame.

Minority Report: Do not pass. Signed by 3 members: Representatives Manweller, Ranking Minority Member; McCabe, Assistant Ranking Minority Member; Pike.

Staff: Trudes Tango (786-7384).

Background:

The state Minimum Wage Act, Wage Payment Act, and other laws establish standards for the payment of wages. Generally, it is unlawful for an employer to withhold an employee's

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wages or to willfully pay an employee less than the employer is required to pay.

If the employer fails to pay an employee wages owed, the employee may file a wage complaint with the Department of Labor and Industries (Department) or bring a civil action in court.

If the employee files an administrative wage complaint, the Department must investigate. If the Department determines that the employer's wage violation was willful, the Department may, under certain circumstances, order the employer to pay a civil penalty. "Willful" means a knowing and intentional act that is neither accidental nor the result of a bona fide dispute.

If the employee files a civil action, the employee may be entitled to damages under certain circumstances. An employer and any officer, vice principal, or agent is liable for double the amount of unpaid wages, plus reasonable attorneys' fees and costs, if the employer willfully and intentionally deprived the employee of wages or unlawfully collected a rebate of the employee's wages. However, double damages, reasonable attorneys' fees, and costs are not available to an employee who has knowingly submitted to the wage violation.

Summary of Bill:

The statute providing double damages in a civil action is amended. An employer and any officer, vice principal, or agent that willfully and intentionally deprives an employee of wages or that unlawfully collects a rebate of wages from an employee is liable for triple, rather than double, the amount of the wages withheld. The provision barring an employee from the benefit of the statute if he or she knowingly submitted to the wage violation is removed.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Increasing the penalties on employers who are stealing their employees' wages will deter that type of unlawful behavior. Wage theft can occur in many ways, including misclassification, overtime violations, and tip theft. These are small dollar amounts but they are big for employees who are living paycheck to paycheck. The current laws have not kept up to protect workers. Wage theft results in the loss of millions of dollars to the State General Fund. This bill adds teeth to the existing laws. Wage theft increases the inequality gap and makes it harder for workers to join the middle class.

(Opposed) This bill was not raised with the advisory committee addressing the underground economy. Increasing the damages awarded will only encourage frivolous law suits. There is no evidence to show that triple damages decrease wage violations. There are existing laws that address wage theft and those laws just need to be enforced.

Persons Testifying: (In support) Representative Frame, prime sponsor; Joe Kendo, Washington State Labor Council; Rebecca Smith, National Employee Law Project; Andrea Schmitt, Columbia Legal Services; Cariño Barragan, Casa Latina; and Paul Benz, Faith Action Network.

(Opposed) Gary Smith, Independent Business Association; and Bob Battles, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.