

SENATE BILL REPORT

SB 5249

As of January 18, 2018

Title: An act relating to damages for wage theft.

Brief Description: Providing damages for wage theft.

Sponsors: Senators Keiser, Conway, Saldaña, Hasegawa, Chase, Kuderer and Hunt.

Brief History:

Committee Activity: Labor & Commerce: 1/17/18.

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.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Jarrett Sacks (786-7448)

Background: The state Minimum Wage Act, Wage Payment Act, and other laws establish standards for the payment of wages. Generally, employers are prohibited from withholding an employee's 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 (L&I) or bring a civil action in court.

If the employee files an administrative wage complaint, L&I must investigate. If L&I determines that the employer's wage violation was willful, L&I 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.

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.

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: 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 they knowingly submitted to the wage violation is removed.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: Increasing damages puts teeth into the law and protects workers. It will also create an incentive for workers to file more claims. There needs to be consequences for stealing wages. Triple damages helps workers get back on their feet after going a period of time without being paid.

CON: The bill reverses a year-long statutory history of prohibiting an employee from recovering when there is collusion between the employee and the employer. There is no evidence that increasing penalties will increase claims, double damages should be enough incentive.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Joe Kendo, Washington State Labor Council, AFL-CIO; Rebecca Smith, National Employment Law Project; Andrea Schmitt, Columbia Legal Services.

CON: Bob Battles, AWB; Patrick Connor, NFIB, Washington.

Persons Signed In To Testify But Not Testifying: No one.