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**SENATE BILL 5528**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senators Hasegawa, Keiser, Conway, and Kuderer

Read first time 01/27/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to the employment antiretaliation act; amending  
2 RCW 49.46.010, 49.46.100, and 39.12.010; reenacting and amending RCW  
3 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 2015 c 299 s 3 are each amended to  
2 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 (o) Any farm intern providing his or her services to a small farm  
35 which has a special certificate issued under RCW 49.12.470;

36 (p) An individual who is at least sixteen years old but under  
37 twenty-one years old, in his or her capacity as a player for a junior  
38 ice hockey team that is a member of a regional, national, or  
39 international league and that contracts with an arena owned,

1 operated, or managed by a public facilities district created under  
2 chapter 36.100 RCW;

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

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

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

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

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

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

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

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

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

38 (i) Convicted of a criminal violation of a state or local law  
39 concerning retaliation;

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

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

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

7 (iii) Subject to a final and binding citation and notice of  
8 assessment from the department for a violation of section 3, 9, 14,  
9 or 19 of this act, and the citation and penalty were not satisfied or  
10 current within thirty days of the date the citation became final and  
11 binding.

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

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

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

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

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

26 (iv) Threatening to contact or contacting immigration  
27 authorities;

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

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

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

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

38 (a) An employee or former employee has informed any other person  
39 or made a complaint, or the employer believes an employee has

1 informed any other person or made a complaint, including to the  
2 employer, the department, the attorney general, or any other person  
3 that the employer engaged in conduct that an employee reasonably  
4 believes violates this chapter;

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

7 (c) An employee or former employee has caused to be instituted,  
8 or is about to cause to be instituted, a proceeding under or related  
9 to this chapter;

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

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

14 (f) An employee or former employee has sought information about  
15 his or her rights under this chapter or informed others about their  
16 rights under this chapter;

17 (g) An employee or former employee has, or the employer believes  
18 an employee has, otherwise exercised rights protected by this  
19 chapter; or

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

23 (2) If an employer takes adverse action against an employee or  
24 former employee within ninety days of an activity described in  
25 subsection (1) of this section, the employer is presumed to have  
26 acted in retaliation in violation of subsection (1) of this section.  
27 However, in the case of seasonal work that ended before the close of  
28 the ninety day period, the presumption also applies if the employer  
29 fails to rehire a former employee at the next opportunity for work in  
30 the same position. The employer may rebut the presumption with clear  
31 and convincing evidence that the adverse action was taken for a  
32 permissible purpose.

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

37 (4) A violation of this section is a gross misdemeanor. The  
38 presumption created in subsection (2) of this section does not apply  
39 to this subsection.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 49.46

2    RCW to read as follows:

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

6        (2) If an individual aggrieved or an interested party filing on  
7    behalf of an individual aggrieved files a complaint with the  
8    department, the director may investigate the complaint. If, following  
9    an investigation, the director determines that an employer violated  
10   section 3 of this act, the director may order the employer to comply  
11   with any one or more of the following, unless prohibited by federal  
12   law:

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

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

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

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

24        (B) Three times the amount of any wages, salary, and employment  
25   benefits unlawfully denied or withheld, except benefits under Title  
26   50 or 51 RCW.

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

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

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

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

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

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

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

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

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

18        (B) Three times the amount of any wages, salary, and employment  
19 benefits unlawfully denied or withheld, except benefits under Title  
20 50 or 51 RCW;

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

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

25        (i) Reinstatement of the former employee as an employee to his or  
26 her former position at not less than the most recent rate of  
27 compensation received by the employee, including the value of any  
28 benefits; or

29        (ii) Front pay in lieu of reinstatement;

30        (d)(i) For a first violation, may order the appropriate  
31 government agencies to suspend all licenses that are held by the  
32 violating party for a period of up to fourteen days. The licenses  
33 that are subject to suspension are all licenses, certifications, or  
34 registrations held by the violating party specific to the business  
35 location or locations where the adverse action occurred;

36        (ii) For a second violation, the court may order the appropriate  
37 government agencies to suspend all licenses that are held by the  
38 violating party for a period of up to thirty days. The licenses that  
39 are subject to suspension are all licenses held by the violating



1 party specific to the business location or locations where the  
2 adverse action occurred;

3 (iii) For a third 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 ninety 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 (e) Shall award attorneys' fees and costs.

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

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

17 ~~((1))~~ Any employer who hinders or delays the director or his or  
18 her authorized representatives in the performance of his or her  
19 duties in the enforcement of this chapter, or refuses to admit the  
20 director or his or her authorized representatives to any place of  
21 employment, or fails to make, keep, and preserve any records as  
22 required under the provisions of this chapter, or falsifies any such  
23 record, or refuses to make any record accessible to the director or  
24 his or her authorized representatives upon demand, or refuses to  
25 furnish a sworn statement of such record or any other information  
26 required for the proper enforcement of this chapter to the director  
27 or his or her authorized representatives upon demand, or pays or  
28 agrees to pay wages at a rate less than the rate applicable under  
29 this chapter, or otherwise violates any provision of this chapter or  
30 of any regulation issued under this chapter shall be deemed in  
31 violation of this chapter and shall, upon conviction therefor, be  
32 guilty of a gross misdemeanor.

33 ~~((2) Any employer who discharges or in any other manner  
34 discriminates against any employee because such employee has made any  
35 complaint to his or her employer, to the director, or his or her  
36 authorized representatives that he or she has not been paid wages in  
37 accordance with the provisions of this chapter, or that the employer  
38 has violated any provision of this chapter, or because such employee  
39 has caused to be instituted or is about to cause to be instituted any~~

1 ~~proceeding under or related to this chapter, or because such employee~~  
2 ~~has testified or is about to testify in any such proceeding shall be~~  
3 ~~deemed in violation of this chapter and shall, upon conviction~~  
4 ~~therefor, be guilty of a gross misdemeanor.))~~

5 **INDUSTRIAL WELFARE ACT**

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

8 (1) An employer, any of its agents, or any person acting on  
9 behalf of the employer may not take adverse action against any  
10 individual or individuals because an employee has updated or  
11 attempted to update his or her personal information, unless the  
12 change is directly related to the skill set or knowledge required for  
13 the job.

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) For the purposes of this section, "adverse action" has the  
25 same meaning as in RCW 49.46.010.

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

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

31 (6) A violation of this section is a gross misdemeanor. The  
32 presumption created in subsection (2) of this section does not apply  
33 to this subsection.

34 **WAGE PAYMENT ACT**

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

1 The definitions in this section apply throughout this section and  
2 RCW 49.48.083 through 49.48.086:

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

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

6 (3) "Determination of compliance" means a written determination  
7 by the department that wage payment requirements have not been  
8 violated.

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

11 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for  
12 purposes of a wage payment requirement set forth in RCW 49.46.020 or  
13 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment  
14 requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

15 (6) "Employer" has the meaning provided in RCW 49.46.010 for  
16 purposes of a wage payment requirement set forth in RCW 49.46.020,  
17 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

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

21 (8) "Repeat willful violator" means any employer that has been  
22 the subject of a final and binding citation and notice of assessment  
23 for a willful violation of a wage payment requirement within three  
24 years of the date of issue of the most recent citation and notice of  
25 assessment for a willful violation of a wage payment requirement.

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

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

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

35 (12) "Wage payment requirement" means a wage payment requirement  
36 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or  
37 49.52.060, and any related rules adopted by the department.

38 (13) "Willful" means a knowing and intentional action that is  
39 neither accidental nor the result of a bona fide dispute, as

1 evaluated under the standards applicable to wage payment violations  
2 under RCW 49.52.050(2).

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

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

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

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

21 (i) Convicted of a criminal violation of a state or local law  
22 concerning retaliation;

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

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

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

29 (iii) Subject to a final and binding citation and notice of  
30 assessment from the department for a violation of section 3, 14, or  
31 19 of this act, and the citation and penalty were not satisfied or  
32 current within thirty days of the date the citation became final and  
33 binding.

34 (b) For the purposes of this subsection (17), an employer  
35 includes a successor employer, as defined in this section.

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

38 (i) Requesting more or different documents than are required  
39 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents

1 tendered pursuant to that section that on their face reasonably  
2 appear to be genuine;

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

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

9 (iv) Threatening to contact or contacting immigration  
10 authorities;

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

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

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

19 (a) An employee or former employee has informed any other person  
20 or made a complaint, or the employer believes an employee has  
21 informed any other person or made a complaint, including to the  
22 employer, the department, the attorney general, or any other person  
23 that the employer engaged in conduct that an employee reasonably  
24 believes violates this chapter;

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

27 (c) An employee or former employee has caused to be instituted,  
28 or is about to cause to be instituted, a proceeding under or related  
29 to this chapter;

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

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

34 (f) An employee or former employee has sought information about  
35 his or her rights under this chapter or informed others about their  
36 rights under this chapter;

37 (g) An employee or former employee has, or the employer believes  
38 an employee has, otherwise exercised rights protected by this  
39 chapter; or

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

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

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

18 (4) A violation of this section is a gross misdemeanor. The  
19 presumption created in subsection (2) of this section does not apply  
20 to this subsection.

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

24 (2) If an individual aggrieved or an interested party filing on  
25 behalf of an individual aggrieved files a complaint with the  
26 department, the director may investigate the complaint. If, following  
27 an investigation, the director determines that an employer violated  
28 section 9 of this act, the director may order the employer to comply  
29 with any one or more of the following, unless prohibited by federal  
30 law:

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

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

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

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

3 (B) Three times the amount of any wages, salary, and employment  
4 benefits unlawfully denied or withheld, except benefits under Title  
5 50 or 51 RCW.

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

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

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

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

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

25 (a)(i) Shall award statutory damages for each individual  
26 aggrieved by the violation. Subject to (a)(ii) of this subsection,  
27 statutory damages must not be less than one thousand dollars and not  
28 more ten thousand dollars per individual, unless the employer engaged  
29 in a pattern or practice of violations, in which case the statutory  
30 damages must be not less than ten thousand dollars and not more than  
31 twenty-five thousand dollars per individual;

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

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

35 (B) Three times the amount of any wages, salary, and employment  
36 benefits unlawfully denied or withheld, except benefits under Title  
37 50 or 51 RCW;

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

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

4 (i) Reinstatement of the former employee as an employee to his or  
5 her former position at not less than the most recent rate of  
6 compensation received by the employee, including the value of any  
7 benefits; or

8 (ii) Front pay in lieu of reinstatement;

9 (d)(i) For a first violation, 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 fourteen days. The licenses  
12 that are subject to suspension are all licenses, certifications, or  
13 registrations held by the violating party specific to the business  
14 location or locations where the adverse action occurred;

15 (ii) For a second violation, the court may order the appropriate  
16 government agencies to suspend all licenses that are held by the  
17 violating party for a period of up to thirty days. The licenses that  
18 are subject to suspension are all licenses held by the violating  
19 party specific to the business location or locations where the  
20 adverse action occurred;

21 (iii) For a third violation, the court may order the appropriate  
22 government agencies to suspend all licenses that are held by the  
23 violating party for a period of up to ninety days. The licenses that  
24 are subject to suspension are all licenses held by the violating  
25 party specific to the business location or locations where the  
26 adverse action occurred;

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

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

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

35 **PREVAILING WAGE**

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



1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) The "prevailing rate of wage" (~~(, for the intents and purposes~~  
4 ~~of this chapter, shall be)~~) means the rate of hourly wage, usual  
5 benefits, and overtime paid in the locality, as (~~hereinafter~~)  
6 defined in this section, to the majority of workers, laborers, or  
7 mechanics, in the same trade or occupation. In the event that there  
8 is not a majority in the same trade or occupation paid at the same  
9 rate, then the average rate of hourly wage and overtime paid to such  
10 laborers, workers, or mechanics in the same trade or occupation shall  
11 be the prevailing rate. If the wage paid by any contractor or  
12 subcontractor to laborers, workers, or mechanics on any public work  
13 is based on some period of time other than an hour, the hourly wage  
14 for the purposes of this chapter shall be mathematically determined  
15 by the number of hours worked in such period of time.

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

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

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

24 (b) The rate of costs to the contractor or subcontractor which  
25 may be reasonably anticipated in providing benefits to workers,  
26 laborers, and mechanics pursuant to an enforceable commitment to  
27 carry out a financially responsible plan or program which was  
28 communicated in writing to the workers, laborers, and mechanics  
29 affected, for medical or hospital care, pensions on retirement or  
30 death, compensation for injuries or illness resulting from  
31 occupational activity, or insurance to provide any of the foregoing,  
32 for unemployment benefits, life insurance, disability and sickness  
33 insurance, or accident insurance, for vacation and holiday pay, for  
34 defraying costs of apprenticeship or other similar programs, or for  
35 other bona fide fringe benefits, but only where the contractor or  
36 subcontractor is not required by other federal, state, or local law  
37 to provide any of such benefits.

38 (4) (~~An "interested party" for the purposes of this chapter~~  
39 ~~shall include a contractor, subcontractor, an employee of a~~  
40 ~~contractor or subcontractor, an organization whose members' wages,~~

1 ~~benefits, and conditions of employment are affected by this chapter,~~  
2 ~~and the director of labor and industries or the director's~~  
3 ~~designee.)~~ "Adverse action" means discharging, denying a promotion,  
4 demoting, failing to rehire after a seasonal interruption of work,  
5 threatening, penalizing, retaliating, engaging in unfair immigration-  
6 related practices, filing a false report with a government agency,  
7 changing an employee's status to a nonemployee, or otherwise  
8 discriminating against an employee. "Adverse action" may involve any  
9 aspect of employment, including pay, work hours, responsibilities, or  
10 other material change in the terms and condition of employment.

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

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

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

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

22 (i) Convicted of a criminal violation of a state or local law  
23 concerning retaliation;

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

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

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

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

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

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

39 (i) Requesting more or different documents than are required  
40 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents

1 tendered pursuant to that section that on their face reasonably  
2 appear to be genuine;

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

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

9 (iv) Threatening to contact or contacting immigration  
10 authorities;

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

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

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

19 (a) An employee or former employee has informed any other person  
20 or made a complaint, or the employer believes an employee has  
21 informed any other person or made a complaint, including to the  
22 employer, the department, the attorney general, or any other person  
23 that the employer engaged in conduct that an employee reasonably  
24 believes violates this chapter;

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

27 (c) An employee or former employee has caused to be instituted,  
28 or is about to cause to be instituted, a proceeding under or related  
29 to this chapter;

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

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

34 (f) An employee or former employee has sought information about  
35 his or her rights under this chapter or informed others about their  
36 rights under this chapter;

37 (g) An employee or former employee has, or the employer believes  
38 an employee has, otherwise exercised rights protected by this  
39 chapter; or

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

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

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

18 (4) A violation of this section is a gross misdemeanor. The  
19 presumption created in subsection (2) of this section does not apply  
20 to this subsection.

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

24 (2) If an individual aggrieved or an interested party filing on  
25 behalf of an individual aggrieved files a complaint with the  
26 department, the director may investigate the complaint. If, following  
27 an investigation, the director determines that an employer violated  
28 section 14 of this act, the director may order the employer to comply  
29 with any one or more of the following, unless prohibited by federal  
30 law:

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

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

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

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

3 (B) Three times the amount of any wages, salary, and employment  
4 benefits unlawfully denied or withheld, except benefits under Title  
5 50 or 51 RCW.

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

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

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

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

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

25 (a)(i) Shall award statutory damages for each individual  
26 aggrieved by the violation. Subject to (a)(ii) of this subsection,  
27 statutory damages must not be less than one thousand dollars and not  
28 more ten thousand dollars per individual, unless the employer engaged  
29 in a pattern or practice of violations, in which case the statutory  
30 damages must be not less than ten thousand dollars and not more than  
31 twenty-five thousand dollars per individual;

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

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

35 (B) Three times the amount of any wages, salary, and employment  
36 benefits unlawfully denied or withheld, except benefits under Title  
37 50 or 51 RCW;

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

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

4 (i) Reinstatement of the former employee as an employee to his or  
5 her former position at not less than the most recent rate of  
6 compensation received by the employee, including the value of any  
7 benefits; or

8 (ii) Front pay in lieu of reinstatement;

9 (d)(i) For a first violation, 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 fourteen days. The licenses  
12 that are subject to suspension are all licenses, certifications, or  
13 registrations held by the violating party specific to the business  
14 location or locations where the adverse action occurred;

15 (ii) For a second violation, the court may order the appropriate  
16 government agencies to suspend all licenses that are held by the  
17 violating party for a period of up to thirty days. The licenses that  
18 are subject to suspension are all licenses held by the violating  
19 party specific to the business location or locations where the  
20 adverse action occurred;

21 (iii) For a third violation, the court may order the appropriate  
22 government agencies to suspend all licenses that are held by the  
23 violating party for a period of up to ninety days. The licenses that  
24 are subject to suspension are all licenses held by the violating  
25 party specific to the business location or locations where the  
26 adverse action occurred;

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

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

33 NEW SECTION. **Sec. 17.** Sections 14 through 16 of this act are  
34 each added to chapter 39.12 RCW.

35 **WAGE DEDUCTIONS**

1        NEW SECTION.    **Sec. 18.**    The definitions in this section apply  
2 throughout this chapter unless the context clearly requires  
3 otherwise.

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

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

13        (3) "Director" means the director of the department of labor and  
14 industries.

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

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

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

25        (i) Convicted of a criminal violation of a state or local law  
26 concerning retaliation;

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

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

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

33        (iii) Subject to a final and binding citation and notice of  
34 assessment from the department for a violation of section 3, 9, or 15  
35 of this act, and the citation and penalty were not satisfied or  
36 current within thirty days of the date the citation became final and  
37 binding.

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

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

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

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

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

13 (iv) Threatening to contact or contacting immigration  
14 authorities;

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

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

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

23 (a) An employee or former employee has informed any other person  
24 or made a complaint, or the employer believes an employee has  
25 informed any other person or made a complaint, including to the  
26 employer, the department, the attorney general, or any other person  
27 that the employer engaged in conduct that an employee reasonably  
28 believes violates this chapter;

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

31 (c) An employee or former employee has caused to be instituted,  
32 or is about to cause to be instituted, a proceeding under or related  
33 to this chapter;

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

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



1 (f) An employee or former employee has sought information about  
2 his or her rights under this chapter or informed others about their  
3 rights under this chapter;

4 (g) An employee or former employee has, or the employer believes  
5 an employee has, otherwise exercised rights protected by this  
6 chapter; or

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

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

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

24 (4) A violation of this section is a gross misdemeanor. The  
25 presumption created in subsection (2) of this section does not apply  
26 to this subsection.

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

30 (2) If an individual aggrieved or an interested party filing on  
31 behalf of an individual aggrieved files a complaint with the  
32 department, the director may investigate the complaint. If, following  
33 an investigation, the director determines that an employer violated  
34 section 19 of this act, the director may order the employer to comply  
35 with any one or more of the following, unless prohibited by federal  
36 law:

37 (a) Pay a civil penalty of not less than one thousand dollars and  
38 not more than ten thousand dollars per individual aggrieved. The

1 department must deposit civil penalties under this section in the  
2 supplemental pension fund established under RCW 51.44.033.

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

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

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

10 (B) Three times the amount of any wages, salary, and employment  
11 benefits unlawfully denied or withheld, except benefits under Title  
12 50 or 51 RCW.

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

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

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

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

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

32 (a)(i) Shall award statutory damages for each individual  
33 aggrieved by the violation. Subject to (a)(ii) of this subsection,  
34 statutory damages must not be less than one thousand dollars and not  
35 more than ten thousand dollars per individual, unless the employer  
36 engaged in a pattern or practice of violations, in which case the  
37 statutory damages must be not less than ten thousand dollars and not  
38 more than twenty-five thousand dollars per individual;

1 (ii) If an employee or former employee is the individual subject  
2 to adverse action, the court shall award the greater of:  
3 (A) The amounts specified in (a)(i) of this subsection; or  
4 (B) Three times the amount of any wages, salary, and employment  
5 benefits unlawfully denied or withheld, except benefits under Title  
6 50 or 51 RCW;  
7 (b) May award actual damages sustained by the individual;  
8 (c) May order injunctive or other equitable relief if the  
9 aggrieved individual is an employee or former employee of the  
10 violating employer. The relief may include:  
11 (i) Reinstatement of the former employee as an employee to his or  
12 her former position at not less than the most recent rate of  
13 compensation received by the employee, including the value of any  
14 benefits; or  
15 (ii) Front pay in lieu of reinstatement;  
16 (d)(i) For a first violation, may order the appropriate  
17 government agencies to suspend all licenses that are held by the  
18 violating party for a period of up to fourteen days. The licenses  
19 that are subject to suspension are all licenses, certifications, or  
20 registrations held by the violating party specific to the business  
21 location or locations where the adverse action occurred;  
22 (ii) For a second violation, the court may order the appropriate  
23 government agencies to suspend all licenses that are held by the  
24 violating party for a period of up to thirty days. The licenses that  
25 are subject to suspension are all licenses held by the violating  
26 party specific to the business location or locations where the  
27 adverse action occurred;  
28 (iii) For a third violation, the court may order the appropriate  
29 government agencies to suspend all licenses that are held by the  
30 violating party for a period of up to ninety days. The licenses that  
31 are subject to suspension are all licenses held by the violating  
32 party specific to the business location or locations where the  
33 adverse action occurred;  
34 (e) Shall award attorneys' fees and costs.  
35 (3) A civil action under this section must be brought no later  
36 than three years after the violation occurred. This period is tolled  
37 during any period of time that an employer, any of its agents, or any  
38 person acting on behalf of the employer deters an individual from  
39 bringing an action under this section.

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

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

--- END ---