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HOUSE BILL 2171

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State of Washington

66th Legislature

2019 Regular Session

By Representatives Santos and Sells

1 AN ACT Relating to vested vacation or paid time off upon an  
2 employee's termination; amending RCW 49.48.010; and adding new  
3 sections to chapter 49.48 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.48  
6 RCW to read as follows:

7 (1) If an employer has an established policy, practice, or  
8 agreement to provide paid vacation or paid time off, and an employee  
9 is terminated from employment by death, reduction in force,  
10 resignation, dismissal, or retirement, any of the employee's unused  
11 vested vacation time or paid time off must be paid to the employee as  
12 wages at the employee's final rate in accordance with the employment  
13 policy, practice, or agreement with respect to eligibility and  
14 vesting requirements.

15 (2)(a) For the purposes of this section, vested vacation time or  
16 paid time off is considered wages under RCW 49.48.010.

17 (b) An employer may not have a policy, practice, or agreement  
18 that requires the employee to forfeit vested vacation time or paid  
19 time off upon termination, regardless of the reason for termination.

20 (3) Nothing in this section requires an employer to provide paid  
21 vacation time or paid time off to an employee. Nothing in this

1 section prohibits an employer from placing limits on the amount of  
2 paid vacation time or paid time off an employee may accrue.

3 (4) This section does not apply to:

4 (a) Employees subject to RCW 43.01.041; or

5 (b) Employees subject to a collective bargaining agreement.

6 (5)(a) Employees asserting violations of this section may bring a  
7 wage complaint under this chapter.

8 (b) An employee who was terminated from employment before the  
9 effective date of this section, as provided under section 3 of this  
10 act, may either bring a wage complaint under this chapter or file a  
11 private cause of action in court to enforce this section.

12 **Sec. 2.** RCW 49.48.010 and 2010 c 8 s 12047 are each amended to  
13 read as follows:

14 When any employee shall cease to work for an employer, whether by  
15 discharge or by voluntary withdrawal, the wages due him or her on  
16 account of his or her employment, including unused vested paid  
17 vacation and unused vested paid time off, shall be paid to him or her  
18 at the end of the established pay period: PROVIDED, HOWEVER, That  
19 this paragraph shall not apply when workers are engaged in an  
20 employment that normally involves working for several employers in  
21 the same industry interchangeably, and the several employers or some  
22 of them cooperate to establish a plan for the weekly payment of wages  
23 at a central place or places and in accordance with a unified  
24 schedule of paydays providing for at least one payday each week; but  
25 this subsection shall not apply to any such plan until ten days after  
26 notice of their intention to set up such a plan shall have been given  
27 to the director of labor and industries by the employers who  
28 cooperate to establish the plan; and having once been established, no  
29 such plan can be abandoned except after notice of their intention to  
30 abandon such plan has been given to the director of labor and  
31 industries by the employers intending to abandon the plan: PROVIDED  
32 FURTHER, That the duty to pay an employee forthwith shall not apply  
33 if the labor-management agreement under which the employee has been  
34 employed provides otherwise.

35 It shall be unlawful for any employer to withhold or divert any  
36 portion of an employee's wages unless the deduction is:

37 (1) Required by state or federal law; or

38 (2) Specifically agreed upon orally or in writing by the employee  
39 and employer; or

1           (3) For medical, surgical, or hospital care or service, pursuant  
2 to any rule or regulation: PROVIDED, HOWEVER, That the deduction is  
3 openly, clearly, and in due course recorded in the employer's books  
4 and records.

5           Paragraph three of this section shall not be construed to affect  
6 the right of any employer or former employer to sue upon or collect  
7 any debt owed to said employer or former employer by his or her  
8 employees or former employees.

9           NEW SECTION.   **Sec. 3.**   A new section is added to chapter 49.48  
10 RCW to read as follows:

11           Section 1 of this act applies retroactively to employees who were  
12 terminated from employment by death, reduction in force, resignation,  
13 dismissal, or retirement, on or after January 1, 2019.

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