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**SUBSTITUTE HOUSE BILL 2308**

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**State of Washington                      66th Legislature                      2020 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Slatter, Tharinger, Wylie, and Appleton)

READ FIRST TIME 02/11/20.

1            AN ACT Relating to requiring employers to periodically report  
2 standard occupational classifications or job titles of workers;  
3 amending RCW 50.12.070 and 50.12.220; creating new sections; and  
4 providing an effective date.

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

6            NEW SECTION.    **Sec. 1.** (1) The legislature finds that:

7            (a) Information collected by the employment security department  
8 from employers for the purposes of unemployment insurance  
9 requirements includes certain information, such as the employee's  
10 wages and hours worked. However, the information does not provide  
11 sufficient detail to allow for identification of the occupation of an  
12 employee; and

13            (b) Accurate occupational employment data would be useful in a  
14 number of ways. Job seekers use occupational employment and wage data  
15 for career planning and to assess occupational-based job  
16 opportunities within various industries and geographic areas in the  
17 state. Economists and researchers also rely on occupational  
18 employment and wage statistics to determine the composition of  
19 employment and the scope of business investment in their communities.  
20 Economic development professionals utilize employment data to  
21 identify the occupational assets of the state's labor markets to

1 assist them in their efforts to attract businesses to their  
2 communities. Occupational and wage data are utilized for program  
3 planning, evaluating the effectiveness of training programs, and  
4 guiding students on their career pathways.

5 (2) The legislature further finds that:

6 (a) Without occupational data, the state is limited in its  
7 ability to successfully evaluate the effectiveness of job training  
8 programs;

9 (b) Other states recognize the importance of gathering this data  
10 and have begun to require employers to identify each employee's  
11 occupation; and

12 (c) Washington's future of work task force recommended adding an  
13 "occupation" field to the quarterly employer reporting forms  
14 collected by the employment security department to allow for more  
15 accurate occupational trend analyses, and more effective evaluation  
16 of education and training programs and whether or not they lead to  
17 particular occupations.

18 (3) Therefore, the legislature intends to require that employers  
19 include standard occupational classifications or job titles of  
20 workers in their quarterly unemployment insurance reports.

21 **Sec. 2.** RCW 50.12.070 and 2013 c 250 s 1 are each amended to  
22 read as follows:

23 (1)(a) Each employing unit shall keep true and accurate work  
24 records, containing such information as the commissioner may  
25 prescribe. Such records shall be open to inspection and be subject to  
26 being copied by the commissioner or his or her authorized  
27 representatives at any reasonable time and as often as may be  
28 necessary. The commissioner may require from any employing unit any  
29 sworn or unsworn reports with respect to persons employed by it,  
30 which he or she deems necessary for the effective administration of  
31 this title.

32 (b) An employer who contracts with another person or entity for  
33 work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve  
34 a record of the unified business identifier account number for and  
35 compensation paid to the person or entity performing the work. In  
36 addition to the penalty in subsection (3) of this section, failure to  
37 obtain or maintain the record is subject to RCW 39.06.010.

38 (2)(a) Each employer shall register with the department and  
39 obtain an employment security account number. Each employer shall

1 make periodic reports at such intervals as the commissioner may by  
2 regulation prescribe, setting forth the remuneration paid for  
3 employment to workers in its employ, the full names and social  
4 security numbers of all such workers, the standard occupational  
5 classification or job title of each worker, and the total hours  
6 worked by each worker and such other information as the commissioner  
7 may by regulation prescribe. Reporting the standard occupational  
8 classification or job title of each worker is optional for employers  
9 until October 1, 2022.

10 (b) If the employing unit fails or has failed to report the  
11 number of hours in a reporting period for which a worker worked, such  
12 number will be computed by the commissioner and given the same force  
13 and effect as if it had been reported by the employing unit. In  
14 computing the number of such hours worked, the total wages for the  
15 reporting period, as reported by the employing unit, shall be divided  
16 by the dollar amount of the state's minimum wage in effect for such  
17 reporting period and the quotient, disregarding any remainder, shall  
18 be credited to the worker: PROVIDED, That although the computation so  
19 made will not be subject to appeal by the employing unit, monetary  
20 entitlement may be redetermined upon request if the department is  
21 provided with credible evidence of the actual hours worked. Benefits  
22 paid using computed hours are not considered an overpayment and are  
23 not subject to collections when the correction of computed hours  
24 results in an invalid or reduced claim; however:

25 (i) A contribution paying employer who fails to report the number  
26 of hours worked will have its experience rating account charged for  
27 all benefits paid that are based on hours computed under this  
28 subsection; and

29 (ii) An employer who reimburses the trust fund for benefits paid  
30 to workers and fails to report the number of hours worked shall  
31 reimburse the trust fund for all benefits paid that are based on  
32 hours computed under this subsection.

33 (3) Any employer who fails to keep and preserve records required  
34 by this section shall be subject to a penalty determined by the  
35 commissioner but not to exceed two hundred fifty dollars or two  
36 hundred percent of the quarterly tax for each offense, whichever is  
37 greater.

38 **Sec. 3.** RCW 50.12.220 and 2007 c 146 s 3 are each amended to  
39 read as follows:

1 (1) If an employer fails to file a timely report as required by  
2 RCW 50.12.070, or the rules adopted pursuant thereto, the employer is  
3 subject to a penalty of twenty-five dollars per violation, unless the  
4 penalty is waived by the commissioner or subsection (2)(c) of this  
5 section applies.

6 (2) An employer who files an incomplete or incorrectly formatted  
7 tax and wage report as required by RCW 50.12.070 must receive a  
8 warning letter for the first occurrence. The warning letter will  
9 provide instructions for accurate reporting or notify the employer  
10 how to obtain technical assistance from the department. Except as  
11 provided in subsections (3) and (4) of this section, for subsequent  
12 occurrences within five years of the last occurrence, the employer is  
13 subject to a penalty as follows:

14 (a) When no contributions are due: For the second occurrence, the  
15 penalty is seventy-five dollars; for the third occurrence, the  
16 penalty is one hundred fifty dollars; and for the fourth occurrence  
17 and for each occurrence thereafter, the penalty is two hundred fifty  
18 dollars.

19 (b) When contributions are due: For the second occurrence, the  
20 penalty is ten percent of the quarterly contributions due, but not  
21 less than seventy-five dollars and not more than two hundred fifty  
22 dollars; for the third occurrence, the penalty is ten percent of the  
23 quarterly contributions due, but not less than one hundred fifty  
24 dollars and not more than two hundred fifty dollars; and for the  
25 fourth occurrence and each occurrence thereafter, the penalty is two  
26 hundred fifty dollars.

27 (c) An employer whose tax and wage report is incomplete due to a  
28 failure to report the standard occupational classification or job  
29 title of each worker must pay an incomplete report penalty under this  
30 subsection only if the employer knowingly failed to report the  
31 standard occupational classification or job title of each worker.

32 (3) If an employer knowingly misrepresents to the employment  
33 security department the amount of his or her payroll upon which  
34 contributions under this title are based, the employer shall be  
35 liable to the state for up to ten times the amount of the difference  
36 in contributions paid, if any, and the amount the employer should  
37 have paid and for the reasonable expenses of auditing his or her  
38 books and collecting such sums. Such liability may be enforced in the  
39 name of the department.

1 (4) If contributions are not paid on the date on which they are  
2 due and payable as prescribed by the commissioner, there shall be  
3 assessed a penalty of five percent of the amount of the contributions  
4 for the first month or part thereof of delinquency; there shall be  
5 assessed a total penalty of ten percent of the amount of the  
6 contributions for the second month or part thereof of delinquency;  
7 and there shall be assessed a total penalty of twenty percent of the  
8 amount of the contributions for the third month or part thereof of  
9 delinquency. No penalty so added shall be less than ten dollars.  
10 These penalties are in addition to the interest charges assessed  
11 under RCW 50.24.040.

12 (5) Penalties shall not accrue on contributions from an estate in  
13 the hands of a receiver, executor, administrator, trustee in  
14 bankruptcy, common law assignee, or other liquidating officer  
15 subsequent to the date when such receiver, executor, administrator,  
16 trustee in bankruptcy, common law assignee, or other liquidating  
17 officer qualifies as such, but contributions accruing with respect to  
18 employment of persons by a receiver, executor, administrator, trustee  
19 in bankruptcy, common law assignee, or other liquidating officer  
20 shall become due and shall be subject to penalties in the same manner  
21 as contributions due from other employers.

22 (6) Where adequate information has been furnished to the  
23 department and the department has failed to act or has advised the  
24 employer of no liability or inability to decide the issue, penalties  
25 shall be waived by the commissioner. Penalties may also be waived for  
26 good cause if the commissioner determines that the failure to file  
27 timely, complete, and correctly formatted reports or pay timely  
28 contributions was not due to the employer's fault.

29 (7) Any decision to assess a penalty as provided by this section  
30 shall be made by the chief administrative officer of the tax branch  
31 or his or her designee.

32 (8) Nothing in this section shall be construed to deny an  
33 employer the right to appeal the assessment of any penalty. Such  
34 appeal shall be made in the manner provided in RCW 50.32.030.

35 NEW SECTION. **Sec. 4.** By November 1, 2026, the employment  
36 security department, in coordination with the workforce training and  
37 education coordinating board, shall report to the appropriate  
38 committees of the legislature and the governor on how the standard  
39 occupational classification or job title data required to be reported

1 under section 2 of this act has been used to evaluate educational  
2 investments, add new or modify existing training programs, or improve  
3 worksource job placement results.

4 NEW SECTION. **Sec. 5.** This act takes effect October 1, 2021.

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