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**SUBSTITUTE SENATE BILL 5090**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Wellman, Kuderer, Nguyen, Hasegawa, Randall, and Saldaña)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to wage and salary information; adding a new  
2 section to chapter 49.12 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12  
5 RCW to read as follows:

6 (1) An employer may not seek the wage or salary history of an  
7 applicant from the applicant or a current or former employer or  
8 require that an applicant's prior wage or salary history meet certain  
9 criteria, except as provided in subsection (2) of this section.

10 (2) A prospective employer may confirm an applicant's wage or  
11 salary history:

12 (a) If the applicant has voluntarily disclosed the applicant's  
13 wage or salary history; or

14 (b) After an offer of employment with compensation has been  
15 negotiated and made to the applicant.

16 (3)(a) Upon complaint by an employee, the director must  
17 investigate to determine if there has been compliance with this  
18 section and the rules adopted under this section. The director may  
19 also initiate an investigation on behalf of one or more employees for  
20 a violation of this section and the rules adopted under this section.

1 The director may require the testimony of witnesses and production of  
2 documents as part of an investigation.

3 (b) If the director determines that a violation occurred, the  
4 director may order the employer to pay to the complainant actual  
5 damages; statutory damages equal to the actual damages or five  
6 thousand dollars, whichever is greater; and interest of one percent  
7 per month on all compensation owed. The director may also order  
8 payment to the department of a civil penalty of not more than two  
9 hundred dollars for a first violation and not more than one thousand  
10 dollars for a repeat violation, payment to the department of the  
11 costs of investigation and enforcement, and any other appropriate  
12 relief. For purposes of a civil penalty for violation of this  
13 section, the violation as to each affected employee constitutes a  
14 separate violation.

15 (c) An appeal from the director's determination may be taken in  
16 accordance with chapter 34.05 RCW. An employee who prevails is  
17 entitled to costs and reasonable attorneys' fees.

18 (d) The department must deposit civil penalties paid under this  
19 subsection in the supplemental pension fund established under RCW  
20 51.44.033.

21 (e) Any wages and interest owed must be calculated from the first  
22 date wages were owed to the employee.

23 (4) An employee may bring a civil action against an employer for  
24 violation of this section for actual damages; statutory damages equal  
25 to the actual damages or five thousand dollars, whichever is greater;  
26 interest of one percent per month on all compensation owed; and costs  
27 and reasonable attorneys' fees. The court may also order  
28 reinstatement and injunctive relief. Any wages and interest owed must  
29 be calculated from the first date wages were owed to the employee.  
30 Filing a civil action under this chapter shall terminate the  
31 director's processing of the complaint under subsection (3) of this  
32 section.

33 (5) The definitions in this subsection apply throughout this  
34 section unless the context clearly requires otherwise.

35 (a) "Employee" means a worker who is employed in the business of  
36 an employer. "Employee," for the purposes of this section, also  
37 includes workers performing in an executive, administrative,  
38 professional, or outside sales capacity.

39 (b) "Employer" means any person, firm, corporation, partnership,  
40 business trust, legal representative, or other business entity that

1 engages in any business, industry, profession, or activity in this  
2 state and employs one or more employees. Employer also includes the  
3 state, any state institution, any state agency, political  
4 subdivisions of the state, and any municipal corporation or quasi-  
5 municipal corporation.

6 (6) The department may adopt rules to implement this section.

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