
SUBSTITUTE HOUSE BILL 1217

State of Washington

68th Legislature

2023 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Ortiz-Self, Fosse, Berry, Reed, Simmons, Gregerson, Ramel, Macri, and Pollet)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to improving worker recovery in wage complaints
2 by authorizing the collection of interest and studying other options;
3 amending RCW 49.48.083; creating a new section; and providing an
4 expiration date.

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

6 **Sec. 1.** RCW 49.48.083 and 2011 c 301 s 16 are each amended to
7 read as follows:

8 (1) (a) If an employee files a wage complaint with the department,
9 the department shall investigate the wage complaint. For all
10 complaints filed on or after October 1, 2024, the department may
11 demand all amounts owed, including interest of one percent per month.
12 The department may not waive or reduce any interest on any amounts
13 owed unless an employee expressly requests a waiver or reduction of
14 interest.

15 (b) Unless otherwise resolved, the department shall issue either
16 a citation and notice of assessment or a determination of compliance
17 no later than ~~((sixty))~~ 60 days after the date on which the
18 department received the wage complaint. The department may extend the
19 time period by providing advance written notice to the employee and
20 the employer setting forth good cause for an extension of the time
21 period and specifying the duration of the extension. The department

1 may not investigate any alleged violation of a wage payment
2 requirement that occurred more than three years before the date that
3 the employee filed the wage complaint. The department shall send the
4 citation and notice of assessment or the determination of compliance
5 to both the employer and the employee by service of process or using
6 a method by which the mailing can be tracked or the delivery can be
7 confirmed to their last known addresses.

8 (2) If the department determines that an employer has violated a
9 wage payment requirement and issues to the employer a citation and
10 notice of assessment, the department may order the employer to pay
11 employees all wages owed, including interest of one percent per month
12 on all wages owed, to the employee. The wages and interest owed must
13 be calculated from the first date wages were owed to the employee,
14 except that the department may not order the employer to pay any
15 wages and interest that were owed more than three years before the
16 date the wage complaint was filed with the department.

17 (3) If the department determines that the violation of the wage
18 payment requirement was a willful violation, the department also may
19 order the employer to pay the department a civil penalty as specified
20 in (a) of this subsection.

21 (a) A civil penalty for a willful violation of a wage payment
22 requirement shall be not less than one thousand dollars or an amount
23 equal to ten percent of the total amount of unpaid wages, whichever
24 is greater. The maximum civil penalty for a willful violation of a
25 wage payment requirement shall be twenty thousand dollars.

26 (b) The department may not assess a civil penalty if the employer
27 reasonably relied on: (i) A rule related to any wage payment
28 requirement; (ii) a written order, ruling, approval, opinion, advice,
29 determination, or interpretation of the director; or (iii) an
30 interpretive or administrative policy issued by the department and
31 filed with the office of the code reviser. In accordance with the
32 department's retention schedule obligations under chapter 40.14 RCW,
33 the department shall maintain a complete and accurate record of all
34 written orders, rulings, approvals, opinions, advice, determinations,
35 and interpretations for purposes of determining whether an employer
36 is immune from civil penalties under (b)(ii) of this subsection.

37 (c) The department shall waive any civil penalty assessed against
38 an employer under this section if the employer is not a repeat
39 willful violator, and the director determines that the employer has
40 provided payment to the employee of all wages that the department

1 determined that the employer owed to the employee, including
2 interest, within ten business days of the employer's receipt of the
3 citation and notice of assessment from the department.

4 (d) The department may waive or reduce at any time a civil
5 penalty assessed under this section if the director determines that
6 the employer paid all wages and interest owed to an employee.

7 (e) The department shall deposit civil penalties paid under this
8 section in the supplemental pension fund established under RCW
9 51.44.033.

10 (4) Upon payment by an employer, and acceptance by an employee,
11 of all wages and interest assessed by the department in a citation
12 and notice of assessment issued to the employer, the fact of such
13 payment by the employer, and of such acceptance by the employee,
14 shall: (a) Constitute a full and complete satisfaction by the
15 employer of all specific wage payment requirements addressed in the
16 citation and notice of assessment; and (b) bar the employee from
17 initiating or pursuing any court action or other judicial or
18 administrative proceeding based on the specific wage payment
19 requirements addressed in the citation and notice of assessment. The
20 citation and notice of assessment shall include a notification and
21 summary of the specific requirements of this subsection.

22 (5) The applicable statute of limitations for civil actions is
23 tolled during the department's investigation of an employee's wage
24 complaint against an employer. For the purposes of this subsection,
25 the department's investigation begins on the date the employee files
26 the wage complaint with the department and ends when: (a) The wage
27 complaint is finally determined through a final and binding citation
28 and notice of assessment or determination of compliance; or (b) the
29 department notifies the employer and the employee in writing that the
30 wage complaint has been otherwise resolved or that the employee has
31 elected to terminate the department's administrative action under RCW
32 49.48.085.

33 NEW SECTION. **Sec. 2.** (1) The department of labor and industries
34 shall convene a work group to develop and recommend strategies for
35 eliminating wage theft and for helping workers who are victims of
36 wage theft recover and be made whole as quickly and as fully as
37 possible.

38 (2) The work group shall identify options to enhance the
39 department of labor and industries' ability to provide swift relief

1 to workers. Options the work group must explore include, but are not
2 limited to:

3 (a) The creation of a wage recovery fund or other similar
4 mechanism, the purpose of which is to enable the department of labor
5 and industries to provide relief to victims of wage theft as quickly
6 as possible, including before the employer has paid the worker or the
7 department of labor and industries under an administrative order; and

8 (b) Procedures and mechanisms used in other states that ensure
9 full and timely recovery for workers and that deter future
10 violations.

11 (3) (a) Recommendations from the work group must be made by
12 consensus.

13 (b) For each recommendation, the work group must identify and
14 address implementation issues and assess feasibility.

15 (4) The work group must include at least one representative from
16 each of the following:

17 (a) The department of labor and industries;

18 (b) A worker advocacy organization;

19 (c) A civil legal services organization;

20 (d) A statewide business advocacy organization that represents
21 both large and small employers;

22 (e) A statewide small business advocacy organization; and

23 (f) An academic institution with legal scholars who specialize in
24 employment law.

25 (5) The work group shall submit a report with its recommendations
26 to the appropriate committees of the legislature by September 1,
27 2024.

28 (6) This section expires September 1, 2025.

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