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**SUBSTITUTE SENATE BILL 5104**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Hasegawa, Bateman, Conway, Nobles, Saldaña, Stanford, Valdez, Wellman, and C. Wilson)

AN ACT Relating to protecting employees from coercion in the workplace based on immigration status; amending RCW 49.46.010; adding a new section to chapter 49.46 RCW; creating a new section; prescribing penalties; providing an effective date; and declaring an emergency.

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

**Sec.**  RCW 49.46.010 and 2024 c 132 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Employ" includes to permit to work;

(3) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) Any farm intern providing his or her services to a small farm which has a special certificate issued under RCW 49.12.471;

(p) An individual who is at least 16 years old but under twenty-one years old, in his or her capacity as a player for a junior ice hockey team that is a member of a regional, national, or international league and that contracts with an arena owned, operated, or managed by a public facilities district created under chapter 36.100 RCW; or

(q) Any individual who has entered into a contract to play baseball at the minor league level and who is compensated pursuant to the terms of a collective bargaining agreement that expressly provides for wages and working conditions;

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

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

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

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

(8) "Coercion" means a threat to compel or induce a person to engage in conduct which the person has a legal right to abstain from, or to abstain from conduct in which the person has a legal right to engage in;

(9) "Threat" means any implicit or explicit communication specifically pertaining to an employee's or an employee's family member's immigration status that is made by the employer to deter an employee from engaging in protected activities or exercising a right under this chapter, chapter 49.12, 49.30, or 49.48 RCW, or any rules issued by the department of labor and industries pursuant to those chapters.

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

(1) Any employer that coerces an employee in furtherance of the employer committing a violation of wage payment requirements as defined in chapter 49.48 RCW, condition of labor requirements as defined in chapter 49.12 RCW, or any violations under chapter 49.30 RCW, including rules issued by the department pursuant to chapter 49.30 RCW, is subject to a civil penalty under this section, in addition to any other penalty that may be imposed by the department against an employer for those violations. If an employer's violation subjects the employer to a penalty under this section and a separate penalty under RCW 49.46.100, the employer must be assessed the higher amount of the two penalties.

(2) A worker who believes the worker was subject to coercion by the worker's employer based on the worker's immigration status may file a complaint with the department within 180 days of the alleged coercive action.

(3)(a) The department must investigate a complaint of coercion by an employer based on immigration status.

(b) Unless otherwise resolved, the department shall issue either a notice of citation assessing a penalty or a closure letter no later than 90 days after the date on which the department received the complaint.

(c) The department may extend the time period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the time period and specifying the duration of the extension.

(d) The department shall send the citation assessing a penalty or closure letter to both the employer and the employee by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(e) If the department's investigation finds that the employee's allegation cannot be substantiated, the department must issue a closure letter to the employee and employer detailing such finding.

(f) If the department determines the employer violated this section, the department must assess a civil penalty for each coercive act as follows:

(i) For the first violation, a civil penalty not to exceed $1,000;

(ii) For the second violation, a civil penalty not to exceed $5,000; and

(iii) For any subsequent violation, a civil penalty not to exceed $10,000.

(4) Each act of coercion against each affected employee constitutes a separate violation of this act.

(5) The department shall deposit all civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(6)(a) The penalties payable pursuant to this section shall be adjusted for inflation every three years, beginning July 1, 2028, based upon changes in the consumer price index during that time period.

(b) For purposes of this subsection, "consumer price index" means, for any calendar year, that year's average consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(7) Any personal information about the employee or the employee's family members, including names, in a complaint or investigation is confidential and may be disclosed only to the employer. Any personal information may not be disclosed to any other person or entity without the written permission of the employee.

(8) If, during an investigation of any other complaint, the department discovers information that suggests an employer has coerced an employee based on immigration status, the department may investigate and take appropriate enforcement action without requiring the employee to file a new or separate complaint.

(9)(a) A person, firm, or corporation aggrieved by a citation assessing a civil penalty issued by the department under this section may appeal the citation to the director by filing a notice of appeal with the director within 30 days of the department's issuance of the citation. A citation assessing a civil penalty not appealed within 30 days is final and binding, and not subject to further appeal.

(b) A notice of appeal filed with the director under this section stays the effectiveness of the citation assessing a civil penalty pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(c) Upon receipt of a notice of appeal, the director shall assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures must be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation assessing a civil penalty shall be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within 30 days after service of the initial order. The director will conduct administrative review in accordance with chapter 34.05 RCW.

(d) The director shall issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(e) Orders that are not appealed within the period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(f) An employer who fails to allow adequate inspection of records in an investigation by the department under this section within a reasonable time period may not use such records in any appeal under such rules to challenge the correctness of any determination by the department of penalties assessed.

(10) The collections procedures under RCW 49.48.086 apply to this section.

(11) For the purposes of this section, "department" means the department of labor and industries.

NEW SECTION. **Sec.**  The department of labor and industries may adopt rules to implement this act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2025.

**--- END ---**