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**SENATE BILL 6247**

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

**By** Senators Saldaña, Keiser, Conway, Nguyen, Randall, Darneille, Das, Hasegawa, Kuderer, Pedersen, Stanford, Wilson, C., Frockt, and Hunt; by request of Attorney General and Governor Inslee

AN ACT Relating to providing labor protections for domestic workers; amending RCW 49.46.010 and 49.60.040; adding a new chapter to Title 49 RCW; prescribing penalties; and providing effective dates.

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

NEW SECTION. **Sec.**  Whereas domestic workers were historically excluded from many basic labor protections and whereas these protections have been identified as a priority to the people of the state of Washington, this act declares that health, safety, wage protections, and general welfare are guaranteed for domestic workers. This includes meal and rest breaks, clarity on what constitutes working time, sick time to care for themselves and their families, and the freedom from discrimination and sexual harassment.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Casual labor" refers to work that is irregular, uncertain, and incidental in nature and duration or is different in nature from the type of paid work in which the worker is customarily engaged in.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of labor and industries.

(4) "Domestic service" means services related to the care of persons in private homes or the maintenance of private homes or their premises.

(5)(a) "Domestic worker" includes hourly and salaried employees and includes any worker who:

(i) Works for one or more hiring entity; and

(ii) Is an individual who works in residences as a nanny, house cleaner, home care worker, cook, gardener, or household manager, or for any domestic service purpose including but not limited to: Caring for a child; providing support services for a person who is sick, convalescing, elderly, or a person with a disability; providing housekeeping or house cleaning services; cooking; providing food or butler services; parking cars; cleaning laundry; gardening; or working as a household manager.

(b) "Domestic worker" does not include:

(i) Persons who provide babysitting on a casual labor basis;

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

(iii) Individual providers, as defined in RCW 74.39A.240;

(iv) Persons who perform house sitting, pet sitting, and dog walking duties that do not involve domestic service.

(6) "Employ" includes to permit to work.

(7) "Family member" shall be liberally construed to include, but not be limited to, a parent, child, sibling, aunt, uncle, cousin, grandparent, grandchild, grandniece, or grandnephew, or such relatives when related by marriage.

(8) "Hiring entity" means any employer, as defined in RCW 49.46.010(4), and in RCW 49.60.040(11), who employs a domestic worker, as well as any individual, partnership, association, corporation, business trust, or any combination thereof, which pays a wage or pays wages for the services of a domestic worker. It includes any such entity, person, or group of persons that provides compensation directly or indirectly to a domestic worker for the performance of domestic services and any such entity, person, or persons acting directly or indirectly in the interest of the hiring entity in relation to the worker. "Hiring entity" does not include state agencies or in-home services agencies as defined in RCW 70.127.010 to the extent that the home care services are funded through RCW 74.39A.310.

(9) "Standard rate of pay" means the agreed-upon rate of pay between the hiring entity and domestic worker, as reflected in the written agreement.

NEW SECTION. **Sec.**  A hiring entity employing a domestic worker must follow these requirements:

(1) A hiring entity employing a domestic worker shall pay the domestic worker at least the minimum hourly rate as provided by RCW 49.46.020. This constitutes a wage payment requirement as defined in RCW 49.48.082.

(2) A hiring entity employing a domestic worker shall pay the domestic worker an overtime wage at a rate of one and one-half times the worker's regular rate for hours worked in excess of forty hours in a workweek as provided by RCW 49.46.130. This constitutes a wage payment requirement as defined in RCW 49.48.082.

(3) Domestic workers are entitled to an uninterrupted meal period of at least thirty minutes which commences no less than two hours nor more than five hours from the beginning of the shift. Meal periods shall be on the hiring entity's time when the domestic worker is required by the hiring entity to remain on duty on the premises or at a prescribed worksite in the interest of the hiring entity.

(a) No domestic worker shall be required to work more than five consecutive hours without a meal period.

(b) Domestic workers working three or more hours longer than a normal workday shall be allowed at least one thirty-minute meal period prior to or during the overtime period.

(c) Domestic workers shall be allowed a rest period of not less than ten minutes, on the hiring entity's time, for each four hours of working time. Rest periods shall be scheduled as near as possible to the midpoint of the work period. No domestic worker shall be required to work more than three hours without a rest period.

(d) A hiring entity may not discourage meal and rest breaks and cannot request that a domestic worker voluntarily waive meal and rest break requirements.

(e) Where the nature of the work allows employees to take intermittent rest periods equivalent to ten minutes for each four hours worked, scheduled rest periods are not required.

(f) If the nature of the work does not allow a domestic worker to be relieved of all duties and an uninterrupted meal break or intermittent rest breaks may be impractical or impossible, a hiring entity must compensate the domestic worker for that time at the standard rate of pay for that worker.

(4) Subsections (1), (2), and (3) of this section do not apply where a domestic worker voluntarily provides additional homecare in excess of a written agreement between only the domestic worker and a family member to whom the domestic worker is providing services.

(5) For domestic workers living in the home of their hiring entities, the hiring entity must permit the domestic worker to cook and consume the worker's own food, subject to reasonable restrictions based on the religious or health needs of the home's residents.

(6) The domestic worker must have the right to retain personal effects, including any legal documents, including forms of identification, passports, or other immigration documents.

(7) All terms and expectations of employment must be in a written agreement as specified in RCW 49.46.010. This includes but is not limited to: Location where the work will be done; rate of pay, including overtime expectations and compensation for additional duties, if any; the work schedule at the time of hire including meal and rest breaks; if applicable, deduction agreements, information about days of rest, sick days, vacation days, personal days, and holidays; transportation, severance, and health insurance costs; and any fees or other costs for the domestic worker associated with expectations of employment.

(a) All written agreements under this subsection (7) shall be:

(i) Provided in a language or languages understood by both the worker and hiring entity; and

(ii) Signed and dated by both the hiring entity and the domestic worker, after any time requested for review by either party has passed.

(b) No provisions in the written agreement may waive a domestic worker's rights under federal, state, or local law.

(c) The agreements may not contain mandatory predispute arbitration clauses for employee claims of their legal rights, noncompete agreements, nondisclosure agreements, or nondisparagement agreements that inhibit a domestic worker's claims of their legal rights under this chapter, or noncompete agreements that limit the ability of domestic workers to seek any other form of domestic work postemployment.

(8) Any time a hiring entity initiates a written agreement of employment, a disclosure of rights specified in section 16 of this act must accompany that agreement.

(9) The hiring entity shall provide a minimum two-week notification period before termination of the employment**.** For live-in domestic workers, a minimum four-week notification period before termination of the employment relationship shall be provided.

(a) No notification period is required if:

(i) It is in connection with termination of work performed on a casual labor basis for a hiring entity;

(ii) It occurs during an agreed-upon probationary period.

(b) Notice of termination requirements do not apply if:

(i) The hiring entity terminates employment based on a good faith belief that the domestic worker has engaged in misconduct as defined in RCW 50.04.294 or if circumstances outside of the hiring entity or the hiring entity's control apply. This includes death, or if both the hiring entity and domestic worker agree that the care needs have significantly changed and cannot be addressed by the current employment relationship. If an investigation into termination commences, the hiring entity must be able to articulate and support the allegations of misconduct or change of circumstances;

(ii) If the domestic worker becomes unable to meet the stated requirements for compensation as outlined in the written agreement.

(c) Failure to provide notification as required under this subsection shall entitle the domestic worker to severance pay in the amount of the worker's standard rate of pay multiplied by the regular number of hours worked over the period of time during which the required notification was not provided.

(10) A hiring entity shall create and maintain records documenting hours worked, pay rate, the existence of a written contract, and, where applicable, the leave time earned and used. If a complaint is filed and an investigation commences, the hiring entity must make these records accessible.

(11) The enforcement entity shall maintain the confidentiality of all records it obtains in connection with enforcement activities to the full extent permitted by law.

NEW SECTION. **Sec.**  A hiring entity that employs a domestic worker may not:

(1) Request that the domestic worker allow the hiring entity, on either a mandatory or voluntary basis, to have possession of any personal effects, including any legal documents, including forms of identification, passports, or other immigration documents;

(2) Engage in any form of discrimination and harassment as defined by chapter 49.60 RCW. A domestic worker who files a complaint or brings suit alleging discrimination in violation of RCW 49.60.180 shall be entitled to all the procedural and substantive rights available under chapter 49.60 RCW;

(3) Subject a domestic worker to conduct with the purpose or effect of unreasonable interfering with the domestic worker's work performance by creating an intimidating, hostile, or offensive work environment;

(4) Monitor or record, through any means, the activities of the domestic worker using a bathroom or similar facility, in the domestic worker's private living quarters, or while the domestic worker is engaged in personal activities associated with dressing or changing clothes;

(5) Monitor, record, or interfere with the private communications of a domestic worker;

(6) Communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness or intent to inform a government employee or contracted organization suspected citizenship or immigration status of a domestic worker or a family member to a federal, state, or local agency because the domestic worker has exercised any right under this chapter;

(7) Take any adverse action against a domestic worker because the domestic worker has exercised their rights provided under this chapter. Such rights include, but are not limited to: Filing an action, organizing or communicating amongst themselves, participating in political speech, disclosing their immigration status, or instituting or causing to be instituted any proceeding under or related to this chapter.

NEW SECTION. **Sec.**  Where more than one hiring entity has an employment relationship with a domestic worker in connection with the same work or where more than one hiring entity has an overlapping employment relationship with a domestic worker, the hiring entities are subject to liability as well as concurrent fines and penalties for violations of this chapter. Any state agency that does not contract with or employ domestic workers in the ordinary course of business shall not be subject to liability unless that state agency directly interferes with the rights established for domestic workers under this act.

NEW SECTION. **Sec.**  (1) If a domestic worker files a complaint with the department alleging a violation of the domestic worker's rights under section 3 of this act, the department may investigate the complaint under this section.

(a) The department may not investigate any such alleged violation of rights that occurred more than three years before the date that the domestic worker filed the complaint.

(b) If a domestic worker files a timely complaint with the department, the department may investigate the complaint and issue either a citation assessing a civil penalty or a closure letter within sixty days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the domestic worker and the hiring entity setting forth good cause for an extension of the period and specifying the duration of the extension.

(c) If the department investigates a violation under this section, the department may send notice of a citation assessing a civil penalty or the closure letter to both the hiring entity and the domestic worker 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.

(2) Unless otherwise resolved, if the department's investigation finds that the domestic worker's allegation cannot be substantiated, the department will issue a closure letter to the domestic worker and the hiring entity detailing such finding.

(3) If the department determines that the violation of rights under this chapter was a willful violation, the department may order the hiring entity to pay the department a civil penalty as specified in (a) of this subsection.

(a) A citation assessing a civil penalty for a willful violation of such rights will be one thousand dollars for each willful violation. For a repeat willful violator, the citation assessing a civil penalty will not be less than two thousand dollars for each repeat willful violation, but no greater than twenty thousand dollars for each repeat willful violation.

(b) The department may not issue a citation assessing a civil penalty if the hiring entity reasonably relied on:

(i) A written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or

(ii) An interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department will maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether a hiring entity is immune from civil penalties under this subsection (3)(b).

(c) The department may, at any time, waive or reduce a civil penalty assessed under this section.

(d) The department will deposit civil penalties paid under this section into a domestic workers rights grant program for the purpose of enforcing rights for domestic workers under this act, educating domestic workers of their rights under this act, educating domestic worker hiring entities of their responsibilities under this act, and assisting domestic workers in pursuing their workplace rights under this act. The department will administer the grant program for community organizations that further this purpose.

(4) For purposes of this section, the following definitions apply:

(a) "Repeat willful violator" means any hiring entity that has been the subject of a final and binding citation for a willful violation of one or more rights under this chapter, and all applicable rules, within three years of the date of issuance of the most recent citation for a willful violation of one or more such rights.

(b) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

NEW SECTION. **Sec.**  (1) A person, firm, or corporation aggrieved by a citation assessing a civil penalty issued by the department under section 6 of this act may appeal the citation to the director by filing a notice of appeal with the director within thirty days of the department's issuance of the citation. A citation not appealed within thirty days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director under this section will stay the effectiveness of the citation pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director will 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 will be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation will be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within thirty days after service of the initial order. The director will conduct the administrative review in accordance with chapter 34.05 RCW.

(4) The director will 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.

(5) 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.

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

NEW SECTION. **Sec.**  Collections of unpaid citations administered under sections 10 and 11 of this act will be handled pursuant to the procedures outlined in RCW 49.48.086.

NEW SECTION. **Sec.**  (1) It is unlawful for a hiring entity to interfere with, restrain, or deny the exercise of any right provided under or in connection with this chapter. This means a hiring entity may not use a domestic worker's exercise of any of the rights provided in this chapter as a negative factor in any employment action such as evaluation, promotion, or termination, or otherwise subject a domestic worker to discipline for the exercise of any rights provided under this chapter.

(2) No hiring entity or any other person shall communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness or intent to inform a government employee or contracted organization suspected citizenship or immigration status of a domestic worker or a family member to a federal, state, or local agency because the domestic worker has exercised a right under this chapter.

(3) It is unlawful for a hiring entity to take any adverse action against a domestic worker because the domestic worker has exercised their rights provided under this chapter. Such rights include, but are not limited to: Disclosing their immigration status or instituting or causing to be instituted any proceeding under or related to this chapter.

(4) Adverse action means any action taken or threatened by a hiring entity against a domestic worker for their exercise of rights under this chapter, which may include, but is not limited to:

(a) Denying the use of any rights provided under this chapter;

(b) Denying or delaying payment due under this chapter;

(c) Terminating, suspending, demoting, or denying a promotion;

(d) Reducing the number of work hours for which the domestic worker is scheduled;

(e) Altering the domestic worker's preexisting work schedule;

(f) Reducing the domestic worker's rate of pay; and

(g) Threatening to take, or taking action, based upon the immigration status of a domestic worker or a domestic worker's family member.

(5) It shall be considered a rebuttable presumption of retaliation if the hiring entity or any other person takes an adverse action against a domestic worker within ninety calendar days of the domestic worker's exercise of rights protected under this chapter. However, in the case of seasonal employment that ended before the close of the ninety calendar day period, the presumption also applies if the hiring entity fails to rehire a former domestic worker at the next opportunity for work in the same position. The hiring entity may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

NEW SECTION. **Sec.**  (1) A domestic worker who believes that they were subject to retaliation by their hiring entity, as defined in this chapter, except for section 4 of this act, for the exercise of any domestic worker right under this chapter, may file a complaint with the department within one hundred eighty days of the alleged retaliatory action. The department may, at its discretion, extend the one hundred eighty day period on recognized equitable principles or because extenuating circumstances exist. For example, the department may extend the one hundred eighty day period when there is evidence that the hiring entity has concealed or misled the domestic worker regarding the alleged retaliatory action.

(2) If a domestic worker files a timely complaint with the department alleging retaliation, the department may investigate the complaint and issue either a citation and notice of assessment or a determination of compliance within ninety days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the domestic worker and the hiring entity setting forth good cause for an extension of the period and specifying the duration of the extension.

(3) The department may consider a complaint to be otherwise resolved when the domestic worker and the hiring entity reach a mutual agreement to remedy any retaliatory action, or the domestic worker voluntarily and on the domestic worker's own initiative withdraws the complaint. Mutual agreements include, but are not limited to, rehiring, reinstatement, back pay, and reestablishment of benefits.

(4) If the department's investigation finds that the domestic worker's allegation of retaliation cannot be substantiated, the department may issue a determination of compliance to the domestic worker and the hiring entity detailing such finding.

(5) If the department's investigation finds that the hiring entity retaliated against the domestic worker, and the complaint is not otherwise resolved, the department may, at its discretion, notify the hiring entity that the department intends to issue a citation and notice of assessment, and may provide up to thirty days after the date of such notification for the hiring entity to take corrective action to remedy the retaliatory action. If the complaint is not otherwise resolved, then the department may issue a citation and notice of assessment. The department's citation and notice of assessment may:

(a) Order the hiring entity to make payable to the domestic worker earnings that the domestic worker did not receive due to the hiring entity's retaliatory action, including interest of one percent per month on all earnings owed. The earnings and interest owed will be calculated from the first date earnings were owed to the domestic worker;

(b) Order the hiring entity to restore the domestic worker to the position of employment held by the domestic worker when the retaliation occurred, or restore the domestic worker to an equivalent position with equivalent employment hours, work schedule, benefits, pay, and other terms and conditions of employment;

(c) For the first violation, order the hiring entity to pay the department a civil penalty as specified in this chapter; and

(d) For a repeat violation, order the hiring entity to pay the department up to double the civil penalty as specified in this chapter.

(6) If the department issues a citation and notice of assessment or determination of compliance, the department will send the citation and notice of assessment or determination of compliance to both the hiring entity and domestic worker 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.

(7) During an investigation of the domestic worker's retaliation complaint, if the department discovers information suggesting alleged violations by the hiring entity of the domestic worker's other rights under this chapter, and all applicable rules, the department may investigate and take appropriate enforcement action without requiring the domestic worker to file a new or separate complaint. If the department determines that the hiring entity violated additional rights of the domestic worker under this chapter, and all applicable rules, the hiring entity may be subject to additional enforcement actions for the violation of such rights. If the department discovers information alleging the hiring entity retaliated against or otherwise violated rights of other domestic workers under this chapter, and all applicable rules, the department may launch further investigation under this chapter, and all applicable rules, without requiring additional complaints to be filed.

(8) The department may prioritize retaliation investigations as needed to allow for timely resolution of complaints.

(9) Nothing in this chapter limits the department's ability to investigate under any other authority.

(10) Nothing in this chapter limits a domestic worker's right to pursue private legal action.

NEW SECTION. **Sec.**  (1) If the department's investigation finds that a hiring entity retaliated against a domestic worker, pursuant to the procedures outlined in sections 9 and 10 of this act, the department may order the hiring entity to pay the department a civil penalty. A civil penalty for a hiring entity's retaliatory action will not be less than one thousand dollars or an amount equal to ten percent of the total amount of unpaid earnings attributable to the retaliatory action, whichever is greater. The maximum civil penalty for a hiring entity's retaliatory action shall be twenty thousand dollars for the first violation, and forty thousand dollars for each repeat violation.

(2) The department may, at any time, waive or reduce any civil penalty assessed against a hiring entity under this section if the department determines that the hiring entity has taken corrective action to remedy the retaliatory action.

(3) The department will deposit civil penalties paid under this section in a fund dedicated to enforcement of this chapter.

(4) Collections of amounts owed for unpaid citations and notices of assessment in this section will be handled pursuant to the procedures outlined in RCW 49.48.086.

NEW SECTION. **Sec.**  (1) A person, firm, or corporation aggrieved by a citation and notice of assessment or a determination of compliance may, within thirty days after the date of such decision, submit a request for reconsideration to the department setting forth the grounds for seeking such reconsideration, or submit an appeal to the director pursuant to the procedures outlined in subsection (4) of this section. If the department receives a timely request for reconsideration, the department will either accept the request or treat the request as a notice of appeal.

(2) If a request for reconsideration is accepted, the department will send notice of the request for reconsideration to the hiring entity and the domestic worker. The department will determine if there are any valid reasons to reverse or modify the department's original decision to issue a citation and notice of assessment or determination of compliance within thirty days of receipt of such request. The department may extend this period by providing advance written notice to the domestic worker and hiring entity setting forth good cause for an extension of the period and specifying the duration of the extension. After reviewing the reconsideration, the department will either:

(a) Notify the domestic worker and the hiring entity that the citation and notice of assessment or determination of compliance is affirmed; or

(b) Notify the domestic worker and the hiring entity that the citation and notice of assessment or determination of compliance has been reversed or modified.

(3) A request for reconsideration submitted to the department shall stay the effectiveness of the citation and notice of assessment or the determination of compliance pending the reconsideration decision by the department.

(4) Within thirty days after the date the department issues a citation and notice of assessment or a determination of compliance, or within thirty days after the date the department issues its decision on the request for reconsideration, a person, firm, or corporation aggrieved by a citation and notice of assessment or a determination of compliance may file with the director a notice of appeal.

(5) A notice of appeal filed with the director under this section shall stay the effectiveness of the citation and notice of assessment or the determination of compliance pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(6) 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 shall be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment or determination of compliance shall be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within thirty days after service of the initial order. The director shall conduct administrative review in accordance with chapter 34.05 RCW.

(7) If a request for reconsideration is not submitted to the department within thirty days after the date of the original citation and notice of assessment or determination of compliance, and a person, firm, or corporation aggrieved by a citation and notice of assessment or determination of compliance did not submit an appeal to the director, then the citation and notice of assessment or determination of compliance is final and binding, and not subject to further appeal.

(8) 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.

(9) Director's orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(10) A hiring entity who fails to allow adequate inspection of records in an investigation by the department within a reasonable time period may not use such records in any appeal to challenge the correctness of any determination by the department.

NEW SECTION. **Sec.**  The department may adopt rules to implement this chapter.

NEW SECTION. **Sec.**  This chapter establishes minimum standards for wages and working conditions of domestic workers in this state, unless exempted herefrom, and is in addition to and supplementary to any other federal, state, or local law or ordinance, or any rule or regulation issued thereunder. Any standards or rights established by any applicable federal, state, or local law or ordinance, or any rule or regulation issued thereunder, which are more favorable to domestic workers than the minimum standards and rights established by this chapter, or any rule or regulation issued hereunder, shall not be affected by this chapter and such other laws, or rules or regulations, shall be in full force and effect and may be enforced as provided by law. The remedies provided by this chapter are not exclusive and are concurrent with any other remedy provided by law.

NEW SECTION. **Sec.**  The attorney general's office shall develop and make available a model disclosure statement which describes a hiring entity's obligations and domestic worker's rights under this chapter, in at least eight of the most commonly spoken languages in Washington state. The disclosure statement must include notice about any state law, rule, or regulation governing maternity disability leave and indicate that federal or local ordinances, laws, rules, or regulations may also apply. The model disclosure must also include a telephone number and an address of the department to enable domestic workers to obtain more rights, obligations, and enforcement.

NEW SECTION. **Sec.**  The attorney general's office shall develop and make available a model written agreement, which describes a hiring entity's obligations and domestic worker's rights under this act in at least eight of the most commonly spoken languages.

NEW SECTION. **Sec.**  (1) A domestic worker who deems themselves injured by a violation of this act has the right to bring forward any civil action, in a court of competent jurisdiction, for any violation of rights pursuant to this act. This means any legal action necessary to collect such claim, and the hiring entity shall be required to pay the costs and such reasonable attorneys' fees as may be allowed by the court.

(2) Any agreement between such domestic worker and the hiring entity allowing the domestic worker to receive less than what is due under this chapter shall be no defense to such action.

NEW SECTION. **Sec.**  (1) The department may:

(a) Upon obtaining information indicating a hiring entity may be committing a violation under this chapter, except for section 4 of this act, conduct investigations to ensure compliance with this chapter;

(b) Order the payment of all wages owed the domestic worker and institute actions necessary for the collection of the sums determined owed; and

(c) Take assignments of wage claims and prosecute actions for the collection of wages of persons who are financially unable to employ counsel when in the judgment of the director of the department the claims are valid and enforceable in the courts.

(2) The director of the department or any authorized representative may, for the purpose of carrying out this chapter:

(a) Issue subpoenas to compel the attendance of witnesses or parties and the production of books, papers, or records;

(b) Administer oaths and examine witnesses under oath;

(c) Take the verification of proof of instruments of writing; and

(d) Take depositions and affidavits. If assignments for wage claims are taken, court costs shall not be payable by the department for prosecuting such suits.

(3) The director shall have a seal inscribed "Department of Labor and Industries—State of Washington" and all courts shall take judicial notice of such seal. Obedience to subpoenas issued by the director or authorized representative shall be enforced by the courts in any county.

NEW SECTION. **Sec.**  (1) A work group on domestic workers administered by the attorney general's office is formed to establish:

(a) A structure for an ongoing domestic worker standards board, including determining the authority and scope of the board. Such authority and scope shall include, but are not limited to, training on relevant labor laws, benefits, and protections; discrimination and sexual harassment; workplace safety standards; requirements on tax obligations; job skills and accreditation; fair scheduling practices; scope of rights and benefits that may apply to independent contractors; outreach, education, and enforcement practices to ensure compliance with applicable labor standards and to provide effective and updated information to both hiring entities and domestic workers;

(b) An infrastructure and outreach plan regarding paid sick leave, paid family and medical leave provisions of the minimum wage act for domestic workers, and accessing to other applicable benefits including, but not limited to, paid time off and health care benefits;

(c) Methods to make the Washington state industrial insurance state fund available for hiring entities to provide industrial insurance coverage for domestic workers.

(2) The work group shall also make recommendations to the department on legislative, regulatory, or other changes that should be made to the way hiring entities or domestic workers engage with the department system and explore the possible role of intermediary nonprofit organizations that assist or refer directly impacted domestic workers.

(3) The work group shall include at least one representative from each of the following groups that reflects a balance in membership and interests:

(a) Directly impacted domestic workers employed in private homes;

(b) Unions, work centers, or intermediary nonprofit organizations that assist or refer such directly impacted workers;

(c) Hiring entities who directly employ single domestic workers in private homes;

(d) An organization that educates and organizes household hiring entities;

(e) Legislators from both caucuses of each chamber of the legislature, appointed by their respective caucus;

(f) At least two members of the department in an ex officio capacity with dedicated expertise of industrial insurance and wage and hour laws and rules; and

(g) One representative from the department of social and health services.

(4) Representatives shall be appointed by the governor by June 1, 2020.

(5) The work group shall report its findings to the appropriate committees of the legislature and the department by April 1, 2021.

**Sec.**  RCW 49.46.010 and 2015 c 299 s 3 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, except for domestic workers as defined in section 2 of this act;

(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) An individual who is at least sixteen 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;

(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.

**Sec.**  RCW 49.60.040 and 2018 c 176 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur.

(2) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution.

(3) "Commission" means the Washington state human rights commission.

(4) "Complainant" means the person who files a complaint in a real estate transaction.

(5) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units.

(6) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred.

(7)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

(8) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons.

(9) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(10) "Employee" does not include any individual employed by his or her parents, spouse, or child((~~, or in the domestic service of any person~~)).

(11) "Employer" includes any person acting in the interest of an employer or hiring entity, directly or indirectly, who employs eight or more persons, unless hiring for domestic services, and does not include any religious or sectarian organization not organized for private profit.

(12) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees ((~~for an employer~~)).

(13) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(14) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, to be treated as not welcome, accepted, desired, or solicited.

(15) "Honorably discharged veteran or military status" means a person who is:

(a) A veteran, as defined in RCW 41.04.007; or

(b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(16) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment.

(17) "Marital status" means the legal status of being married, single, separated, divorced, or widowed.

(18) "National origin" includes "ancestry."

(19) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof.

(20) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building.

(21) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services.

(22) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

(23) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction.

(24) "Service animal" means any dog or miniature horse, as discussed in RCW 49.60.214, that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work or tasks performed by the service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks. This subsection does not apply to RCW 49.60.222 through 49.60.227 with respect to housing accommodations or real estate transactions.

(25) "Sex" means gender.

(26) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

NEW SECTION. **Sec.**  Sections 1 through 19 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec.**  Sections 1 through 18, 20, and 21 of this act take effect July 1, 2021.

NEW SECTION. **Sec.**  Section 19 of this act takes effect July 1, 2020.

**--- END ---**