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14 PART I

15 LEGISLATIVE INTENT

16 NEW SECTION. **Sec. 101.** The legislature finds that in today's
17 economy, workers are finding it increasingly difficult to balance the
18 demands of work and the need to maintain healthy families. For many
19 families, economic survival requires two incomes. If both parents
20 work, the conflicts between job and family often are unavoidable.
21 Parents must find substitute care for children and for adult family
22 members who are unable to care for themselves. Family care is made
23 even more difficult when employees work under conditions that are not
24 flexible or supportive of families. Furthermore, children are working
25 at jobs for long hours, frequently in unsafe work environments, leaving
26 little energy for school work. These problems are exacerbated when
27 the state minimum wage fails to keep families above poverty level.

1 in this state and includes any unit of local government including, but
2 not limited to, a county, city, town, municipal corporation, quasi-
3 municipal corporation, or political subdivision, which (i) employed a
4 daily average of ~~((one hundred))~~ fifty or more employees during the
5 last calendar quarter at the place where the employee requesting leave
6 reports for work, or (ii) employed a daily average of ~~((one hundred))~~
7 fifty or more employees during the last calendar quarter within a
8 twenty mile radius of the place where the employee requesting leave
9 reports for work, where the employer maintains a central hiring
10 location and customarily transfers employees among workplaces; and (b)
11 the state, state institutions, and state agencies.

12 (5) "Family leave" means leave from employment, as provided in RCW
13 49.78.030, to care for a newborn ~~((or)), a newly adopted child ~~((under~~~~
14 the age of six or a child under eighteen years old with a terminal
15 health condition, as provided in RCW 49.78.030)), or a newly placed
16 foster child, or to care for a family member with a serious health
17 condition.

18 (6) "Family member" means a child of the employee, the spouse of
19 the employee, or a parent of the employee or the employee's spouse.

20 (7) "Health care provider" means a person licensed as a physician
21 under chapter 18.71 ~~((RCW or an osteopath under chapter))~~ or 18.57 RCW.

22 ~~((+7))~~ (8) "Parent" means a biological, foster, or adoptive
23 parent, ~~((or))~~ a stepparent, or legal guardian.

24 ~~((+8))~~ (9) "Reduced leave schedule" means leave scheduled for
25 fewer than an employee's usual number of hours or days per workweek.

26 ~~((+9))~~ ~~"Terminal health condition" means a condition caused by~~
27 ~~injury, disease, or illness, that, within reasonable medical judgment,~~
28 ~~is incurable and will produce death within the period of leave to which~~
29 ~~the employee is entitled.)~~

1 (10) "Serious health condition" means an illness, injury,
2 impairment, or physical or mental condition, whether or not
3 preexisting, that requires:

4 (a) Inpatient care in a hospital, hospice, or residential medical
5 care facility; or

6 (b) Continuing treatment or continuing supervision by a health care
7 provider.

8 **Sec. 202.** RCW 49.78.030 and 1989 1st ex.s. c 11 s 3 are each
9 amended to read as follows:

10 (1) An employee is entitled to twelve workweeks of family leave
11 during any twenty-four month period to: (a) Care for a newborn child
12 ~~((or))~~ of the employee, an adopted child of the employee who is under
13 the age of ~~((six))~~ sixteen at the time of placement for adoption~~((7))~~
14 or~~((7))~~ a foster child when placement with the employee is the
15 permanent plan and the foster child is under the age of sixteen at the
16 time of placement; or (b) care for ~~((a child under eighteen years old~~
17 of the employee who has a terminal)) a family member with a serious
18 health condition. Leave under subsection (1)(a) of this section shall
19 be completed within twelve months after the birth or placement for
20 adoption or foster care, as applicable. ~~((An employee is entitled to~~
21 leave under subsection (1)(b) of this section only once for any given
22 child)) For the leave under subsection (1)(b) of this section to apply
23 for the care of the employee's child, the child must be under the age
24 of eighteen, or be eighteen years of age or older and incapable of
25 self-care because of a mental or physical impairment.

26 (2) Family leave may be taken on a reduced leave schedule subject
27 to the approval of the employer.

28 (3) The leave required by this section may be unpaid. If an
29 employer provides paid family leave for fewer than twelve workweeks,

1 the additional workweeks of leave added to attain the twelve-workweek
2 total may be unpaid. An employer may require an employee to first use
3 up the employee's total accumulation of leave to which the employee is
4 otherwise entitled before going on family leave; however, except as
5 provided in subsection (4) of this section, nothing in this section
6 requires more than twelve total workweeks of family leave during any
7 twenty-four month period. An employer is not required to allow an
8 employee to use the employee's other leave in place of the leave
9 provided under this chapter.

10 (4) The leave required by this section is in addition to any leave
11 for sickness or temporary disability because of pregnancy or
12 childbirth.

13 (5) An employer may limit or deny family leave to either:

14 (a) Up to ten percent of the employer's (~~workforce~~) work force in
15 the state designated as key personnel by the employer. Any designation
16 made under this (~~section~~) subsection shall take effect thirty days
17 after it is issued and may be changed no more than once in any twelve-
18 month period. The designation shall be in writing and shall be
19 displayed in a conspicuous place. An employer shall not designate key
20 personnel on the basis of age or gender or for the purpose of evading
21 the requirements of this chapter. No employee may be designated as key
22 personnel after giving notice of intent to take leave pursuant to RCW
23 49.78.040(~~(. The designation shall be in writing and shall be~~
24 ~~displayed in a conspicuous place))~~); or

25 (b) If the employer does not designate key personnel, the employees
26 designated as the highest paid ten percent of the employer's employees
27 in the state. Any designation made under this subsection shall be in
28 writing and may be changed no more than once in any twelve-month
29 period. The designation shall take effect thirty days after the
30 affected employees have been given written notice.

1 **Sec. 203.** RCW 49.78.040 and 1989 1st ex.s. c 11 s 4 are each
2 amended to read as follows:

3 (1) An employee planning to take family leave under RCW
4 49.78.030(1)(a) shall provide the employer with written notice at least
5 thirty days in advance of the anticipated date of delivery or placement
6 for adoption or foster care, stating the dates during which the
7 employee intends to take family leave. The employee shall adhere to
8 the dates stated in the notice unless:

9 (a) The birth is premature;

10 (b) The mother is incapacitated due to birth such that she is
11 unable to care for the child;

12 (c) The employee takes physical custody of the newly adopted child
13 at an unanticipated time and is unable to give notice thirty days in
14 advance; ~~((or))~~

15 (d) The employee takes physical custody of the newly placed foster
16 child at an unanticipated time and is unable to give notice thirty days
17 in advance; or

18 (e) The employer and employee agree to alter the dates of family
19 leave stated in the notice.

20 (2) In cases of premature birth, incapacity, or unanticipated
21 placement for adoption or foster care referred to in subsection (1) of
22 this section, the employee must give notice of revised dates of family
23 leave as soon as possible but at least within one working day of the
24 birth or placement ~~((for adoption))~~ or incapacitation of the mother.

25 (3) If family leave under RCW 49.78.030(1)(b) is foreseeable, the
26 employee shall provide the employer with written notice at least
27 fourteen days in advance of the expected leave and shall make a
28 reasonable effort to schedule the leave so as not to unduly disrupt the
29 operations of the employer. If family leave under RCW 49.78.030(1)(b)
30 is not foreseeable fourteen or more days before the leave is to take

1 place, the employee shall notify the employer of the expected leave as
2 soon as possible, but at least within one working day of the beginning
3 of the leave.

4 (4) If the employee fails to give the notice required by this
5 section, the employer may reduce or increase the family leave required
6 by this chapter by three weeks.

7 **Sec. 204.** RCW 49.78.050 and 1989 1st ex.s. c 11 s 5 are each
8 amended to read as follows:

9 (1) In the event of any dispute under this chapter regarding
10 premature birth, incapacitation of the mother, maternity disability, or
11 (~~terminal condition of a child~~) serious health condition of a family
12 member, an employer may require confirmation by a health care provider
13 of: (a) The date of the birth; (b) the date on which incapacity
14 because of childbirth or disability because of pregnancy or childbirth
15 commenced or will probably commence, and its probable duration; or (c)
16 for family leave under RCW 49.78.030(1)(b), the fact that the (~~child~~
17 ~~has a terminal~~) family member has a serious health condition.

18 (2) An employer may require, at the employer's expense, that the
19 employee obtain the opinion of a second health care provider selected
20 by the employer concerning any information required under subsection
21 (1) of this section. If the health care providers disagree on any
22 factor which is determinative of the employee's eligibility for family
23 leave, the two health care providers shall select a third health care
24 provider, whose opinion, obtained at the employer's expense, shall be
25 conclusive.

26 **Sec. 205.** RCW 49.78.070 and 1989 1st ex.s. c 11 s 7 are each
27 amended to read as follows:

1 (1) Subject to subsection (2) of this section, an employee who
2 exercises any right provided under RCW 49.78.030 shall be entitled, in
3 the following order of priority, upon return from leave or during any
4 reduced leave schedule:

5 (a) To the same position held by the employee when the leave
6 commenced; or

7 (b) If the employer's circumstances have so changed that the
8 employee cannot be reinstated under (a) of this subsection, to a
9 position with equivalent benefits and pay at a workplace within twenty
10 miles of the employee's workplace when leave commenced; or

11 (c) If the employer's circumstances have so changed that the
12 employee cannot be reinstated (~~(to the same position, or a position of~~
13 ~~equivalent pay and benefits)) under either (a) or (b) of this
14 subsection, the employee shall be reinstated in any other position
15 which is vacant and for which the employee is qualified. The filling
16 of a position held by an employee on family leave under this chapter
17 shall not by itself constitute changed circumstances.~~

18 (2) The entitlement under subsection (1) of this section is subject
19 to bona fide changes in compensation or work duties, and does not apply
20 if:

21 (a) The employee's position is eliminated by a bona fide
22 restructuring, or reduction-in-force;

23 (b) The employee's workplace is permanently or temporarily shut
24 down for at least thirty days;

25 (c) The employee's workplace is moved to a location at least sixty
26 miles from the location of the workplace when leave commenced;

27 (d) An employee on family leave takes (~~(another job))~~ a job with
28 another employer working twenty hours or more per week; or

1 (e) The employee fails to provide timely notice of family leave as
2 required under RCW 49.78.040, or fails to return on the established
3 ending date of leave.

4 **Sec. 206.** RCW 49.78.130 and 1989 1st ex.s. c 11 s 13 are each
5 amended to read as follows:

6 No employer, employment agency, labor union, or other person shall
7 discharge, expel, or otherwise discriminate against any person because
8 he or she has opposed any practices forbidden by this chapter, or
9 because he or she has filed a complaint, testified, or assisted in any
10 proceeding under this chapter, or has exercised any rights afforded by
11 this chapter. No employer policy may be applied to limit or discourage
12 the use of the leave rights available under this chapter.

13 NEW SECTION. **Sec. 207.** A new section is added to chapter 49.12
14 RCW to read as follows:

15 No employer may discharge or in any manner discriminate against any
16 employee because he or she has filed a complaint, testified, or
17 assisted in any proceeding under RCW 49.12.270 through 49.12.295, or
18 has exercised any rights afforded by RCW 49.12.270 through 49.12.295.
19 No employer policy may be applied to limit or discourage the use of the
20 leave rights available under RCW 49.12.270 through 49.12.295.

21 NEW SECTION. **Sec. 208.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 49.78.060 and 1989 1st ex.s. c 11 s 6; and

24 (2) RCW 49.78.210 and 1989 1st ex.s. c 11 s 21.

25 NEW SECTION. **Sec. 209.** A new section is added to chapter 49.78
26 RCW to read as follows:

1 To facilitate the orderly application of chapter ... (H-1144/91),
2 Laws of 1991, to employees covered by an unexpired collective
3 bargaining agreement that expires on or after September 1, 1991, or by
4 an employee benefit program or plan with a stated year ending on or
5 after the effective date of this section, the chapter shall apply to
6 these employees the later of: (1) The first day following expiration
7 of the collective bargaining agreement; or (2) the first day of the
8 next plan year, as applicable.

9 PART III

10 EMPLOYER-ASSISTED CHILD CARE

11 A. Child Care Partnership

12 NEW SECTION. **Sec. 301.** The legislature finds that efforts by
13 Washington state to encourage employers' involvement in meeting their
14 employees' child care needs represent an effective and successful
15 public-private partnership. It is the intent of the legislature to
16 build upon the successful efforts of the child care partnership and the
17 child care facility fund and to increase the effectiveness of these
18 programs.

19 **Sec. 302.** RCW 74.13.0902 and 1989 c 381 s 6 are each amended to
20 read as follows:

21 An employer liaison position is established in the department of
22 social and health services to be co-located at the business assistance
23 center established under RCW 43.31.083. The employer liaison shall,
24 within appropriated funds:

25 (1) Staff and assist the child care partnership in the
26 implementation of its duties under RCW 74.13.0901;

1 (2) Provide technical assistance to employers regarding child care
2 services, working with and through (~~local~~) community-based child care
3 resource and referral organizations whenever possible. Such technical
4 assistance shall include at a minimum:

5 (a) Assessing the child care needs of employees and prospective
6 employees;

7 (b) Reviewing options available to employers interested in
8 increasing access to child care for their employees;

9 (c) Developing techniques to permit small businesses to increase
10 access to child care for their employees;

11 (d) Reviewing methods of evaluating the impact of child care
12 activities on employers; and

13 (e) Preparing, collecting, and distributing current information for
14 employers on options for increasing involvement in child care; and

15 (3) Provide assistance to (~~local~~) community-based child care
16 resource and referral organizations to increase their capacity to
17 provide quality technical assistance to employers in their community.

18 **Sec. 303.** RCW 43.31.512 and 1989 c 430 s 7 are each amended to
19 read as follows:

20 The child care facility fund committee shall award loan guarantees,
21 loans or grants to those persons, businesses, or organizations meeting
22 the minimum standards set forth in this chapter who will best serve the
23 intent of the chapter to increase the availability of high quality,
24 affordable child care in Washington state. Employee organizations may
25 also submit applications for loan guarantees, loans, or grants:
26 PROVIDED, That such applications are submitted jointly by the
27 businesses or employers whose employees will be served by the child
28 care facility that is the subject of the application. The committee
29 shall (~~promulgate~~) adopt rules regarding the application for and

1 disbursement of loan guarantees, loans, or grants from the fund,
2 including loan terms and repayment procedures.

3 (1) At a minimum, such rules shall require an applicant to submit
4 a plan which includes a detailed description of:

5 ~~((1))~~ (a) The need for a new or improved child care facility in
6 the area served by the applicant;

7 ~~((2))~~ (b) The steps the applicant will take to serve a reasonable
8 number of handicapped children, as ~~((defined))~~ described in chapter
9 72.40 RCW, sick children, infants, children requiring night time or
10 weekend care, or children whose costs of care are subsidized by
11 government;

12 ~~((3))~~ (c) Why financial assistance from the state is needed to
13 start or improve the child care facility;

14 ~~((4))~~ (d) How the guaranteed loan, loan, or grant will be used,
15 and how such uses will meet the described need;

16 ~~((5))~~ (e) The child care services to be available at the facility
17 and the capacity of the applicant to provide those services; and

18 ~~((6))~~ (f) The financial status of the applicant, including other
19 resources available to the applicant which will ensure the continued
20 viability of the facility and the availability of its described
21 services.

22 (2) Each employer applying for a loan guarantee, loan, or grant
23 shall conduct, either directly or by contract, an assessment of its
24 employees' child care needs. In determining whether to award a loan
25 guarantee, loan, or grant to an employer applicant, the committee shall
26 consider the extent to which the application reflects the results of
27 the employer's child care needs assessment.

28 (3) Recipients shall annually for two years following the receipt
29 of the loan guarantee, loan, or grant, submit to the child care

1 facility fund committee a report on the facility and how it is meeting
2 the child care needs for which it was intended.

3 B. Child Care Resource and Referral

4 NEW SECTION. **Sec. 304.** The legislature recognizes that an
5 integrated child care services system is needed to ensure that planning
6 and coordination of child care services occurs and that linkages
7 between employers, consumers, and child care providers are established.
8 The legislature finds that establishment of the office of the child
9 care resources coordinator, the child care coordinating committee, and
10 the child care partnership are first steps toward achieving an
11 integrated child care system. Additional steps, including the support
12 of existing community-based child care resource and referral programs,
13 and the development of new child care resource and referral programs,
14 must be taken to help parents obtain appropriate child care for their
15 children, increase the supply of child care services and coordination
16 with employers, and improve the quality of child care services through
17 training and support of child care providers.

18 The legislature intends that child care resource and referral
19 services be provided in collaboration with local communities,
20 employers, consumers, and state and federal agencies.

21 NEW SECTION. **Sec. 305.** A new section is added to chapter 74.13
22 RCW to read as follows:

23 (1) Persons or organizations may apply for funding to establish or
24 operate a community-based child care resource and referral program
25 through the office of the child care resources coordinator. In
26 evaluating applications for funding, the coordinator shall consider
27 the applicant's ability to offer, or make progress towards offering,

1 the activities provided in subsection (2) of this section. The
2 coordinator shall also consider the number of children under age twelve
3 in the geographic area that will be served by the program when
4 determining the level of funding for the program.

5 (2) Community-based child care resource and referral programs shall
6 develop a service plan that includes the following components:

7 (a) Provide parents with information regarding child care,
8 including but not limited to the location of child care services,
9 information regarding child care licensing requirements, how to choose
10 quality child care services, and the availability of funds to subsidize
11 child care costs;

12 (b) Participate with other community agencies or organizations in
13 the provision of parent support services, such as parent education
14 classes and information on community services available to families;

15 (c) Provide support to child care providers, such as: Information
16 regarding training opportunities, development of appropriate training
17 as needed, resource libraries, toy lending libraries, meeting space,
18 information regarding the operation of child care as a small business,
19 and liaison with department child care licensors;

20 (d) Recruit licensed child care providers, emphasizing geographic
21 or program areas that have an inadequate supply of child care services;

22 (e) In cooperation with the child care partnership established
23 under this chapter, provide technical assistance to employers regarding
24 employee child care benefits;

25 (f) Directly or through a coalition of child care resource and
26 referral programs, and in collaboration with the office of the child
27 care resources coordinator where appropriate, provide information to
28 local and state policy makers regarding child care supply and demand,
29 and advocate for increased public and private sector resources for
30 child care services; and

1 (g) Coordinate a local response to the demand for quality child
2 care services, and participate in coordinated efforts for delivery of
3 services to families.

4 (3)(a) At least twenty-five percent of the funding for community-
5 based child care resource and referral agencies under this section
6 shall be community matching funds provided by private or public
7 entities in the community served by the program requesting funding.
8 Contributions of materials, supplies, or physical facilities may be
9 considered as all or part of the matching funds provided.

10 (b) Community-based child care resource and referral agencies under
11 this section may establish reasonable fees for services provided on an
12 ability-to-pay basis.

13 **Sec. 306.** RCW 74.13.0903 and 1989 c 381 s 5 are each amended to
14 read as follows:

15 The office of the child care resources coordinator is established
16 to operate under the authority of the department of social and health
17 services. The office shall, within appropriated funds:

18 (1) Staff and assist the child care coordinating committee in the
19 implementation of its duties under RCW 74.13.090;

20 (2) Work with local governments, nonprofit organizations,
21 businesses, and community child care advocates to create local child
22 care resource and referral organizations(~~(. These organizations may~~
23 ~~carry out needs assessments, resource development, provider training,~~
24 ~~technical assistance, and parent information and training))~~);

25 (3) Actively seek public and private money for distribution as
26 grants to potential or existing (~~(local))~~ community-based child care
27 resource and referral (~~(organizations. No grant shall be distributed~~
28 ~~that is greater than twenty five thousand dollars))~~ programs as
29 provided in section 305 of this act;

1 ~~((4))~~ ~~((Adopt rules regarding the application for and distribution of~~
2 ~~grants to local child care resource and referral organizations. The~~
3 ~~rules shall, at a minimum, require an applicant to submit a plan for~~
4 ~~achieving the following objectives:~~

5 ~~(a) Provide parents with information about child care resources,~~
6 ~~including location of services and subsidies;~~

7 ~~(b) Carry out child care provider recruitment and training~~
8 ~~programs;~~

9 ~~(c) Offer support services, such as parent and provider seminars,~~
10 ~~toy-lending libraries, and substitute banks;~~

11 ~~(d) Provide information for businesses regarding child care supply~~
12 ~~and demand;~~

13 ~~(e) Advocate for increased public and private sector resources~~
14 ~~devoted to child care; and~~

15 ~~(f) Provide technical assistance to employers regarding employee~~
16 ~~child care services;~~

17 ~~(5))~~ Provide staff support and technical assistance to ~~((local))~~
18 community-based child care resource and referral organizations and
19 coalitions thereof;

20 ~~((6) Organize the local child care resource and referral~~
21 ~~organizations into a state-wide system;~~

22 ~~(7))~~ (5) As a component of licensing, maintain a ~~((state-wide~~
23 ~~child care referral))~~ data bank ~~((and work with department of social~~
24 ~~and health services licensors))~~ of licensed providers to provide
25 information, including periodic updates of providers' license status,
26 to ~~((local))~~ community-based child care resource and referral
27 organizations about licensed child care providers in the state;

28 ~~((8))~~ (6) Through local resource and referral organizations,
29 compile data about local child care needs and availability for future
30 planning and development;

1 (~~(9)~~) (7) Coordinate the provision of training and technical
2 assistance to child care providers; and

3 (~~(10)~~) (8) Collect and assemble information regarding the
4 availability of insurance and of federal and other child care funding
5 to assist state and local agencies, businesses, and other child care
6 providers in offering child care services.

7 NEW SECTION. Sec. 307. A state employee child care liaison
8 position is established in the department of personnel to be co-located
9 in the department of social and health services. The state employee
10 child care liaison shall:

11 (1) Provide information and technical assistance to state agencies
12 in meeting the child care needs of their employees; and

13 (2) Develop a comprehensive plan for state support of its
14 employees' child care needs. The plan shall incorporate the results of
15 the child care needs assessment conducted by the department of
16 personnel as provided in RCW 41.04.380, and recommendations of any
17 existing or newly established interagency efforts addressing state
18 employee child care issues. The plan shall be reported to the
19 governor, the child care coordinating committee established pursuant to
20 RCW 74.13.090, and appropriate committees of the legislature on or
21 before September 1, 1992.

22 **Sec. 308.** RCW 41.04.385 and 1986 c 135 s 1 are each amended to
23 read as follows:

24 (1) The legislature finds that (~~(1)~~) (a) demographic, economic,
25 and social trends underlie a critical and increasing demand for child
26 day care in the state of Washington; (~~(2)~~) (b) working parents and
27 their children benefit when the employees' child care needs have been
28 resolved; and (~~(3)~~) (c) the state of Washington should serve as a

1 model employer by creating a supportive atmosphere, to the extent
2 feasible, in which its employees may meet their child day care needs.
3 The legislature finds further that resolving employee child day care
4 concerns not only benefits the employees and their children, but may
5 benefit the employer by reducing absenteeism, increasing employee
6 productivity, improving morale, and enhancing the employer's position
7 in recruiting and retaining employees. Therefore, the legislature
8 declares that it is the policy of the state of Washington to assist
9 state employees by creating a supportive atmosphere in which they may
10 meet their child day care needs.

11 (2) Support for state employees' child care needs may include, but
12 is not limited to:

13 (a) Operation of on-site child care centers for children of state
14 employees;

15 (b) Contracts with existing licensed child care providers to care
16 for children of state employees;

17 (c) Provision of grants for capital expansion or establishment of
18 licensed child care facilities, conditioned upon a commitment by the
19 provider to care for a negotiated number of children of state
20 employees; and

21 (d) Contracts for child care resource and referral services.

22 PART IV
23 CHILD LABOR

24 A. Hours of Work

25 **Sec. 401.** RCW 49.12.121 and 1989 c 1 s 3 are each amended to read
26 as follows:

1 (~~The committee, or the director,~~) (1) The department may at any
2 time inquire into wages, hours, and conditions of labor of minors
3 employed in any trade, business or occupation in the state of
4 Washington and may adopt special rules for the protection of the
5 safety, health and welfare of minor employees. (~~The minimum wage for~~
6 ~~minors shall be as prescribed in RCW 49.46.020.~~)

7 (2) The (~~committee~~) department shall issue work permits to
8 employers for the employment of minors(~~(, after being assured)~~) if the
9 proposed employment (~~of a minor~~) meets the standards (~~set forth~~
10 ~~concerning~~) for the health, safety and welfare of minors (~~as set~~
11 ~~forth in the rules and regulations promulgated by the committee~~)
12 required by this chapter or adopted by department rule. To implement
13 state policy to assure the attendance of children in the public
14 schools, an employer employing a minor shall obtain a work permit
15 issued by the department. The permit shall be kept on file during the
16 employment of minors. No minor person shall be employed in any
17 occupation, trade or industry subject to this 1973 amendatory act,
18 unless a work permit has been properly issued, with the consent of the
19 parent, guardian or other person having legal custody of the minor and
20 with the approval of the school which (~~such~~) the minor may then be
21 attending.

22 (3)(a) Minors legally required to attend school may not be employed
23 during school hours except by special permission of school officials as
24 provided in RCW 28A.225.010 and 28A.225.080.

25 (b) Minors under the age of sixteen may not work more than three
26 hours a day on school days or more than eighteen hours a week during
27 the school year.

28 (c) Minors who are sixteen and seventeen years of age may not work
29 more than four hours a day on school days or more than twenty-eight
30 hours a week during the school year.

1 (d) No minor may work more than eight hours a day or more than
2 forty hours a week. No minor may work more than five days in a week.

3 (e) This subsection (3) shall not apply to minors sixteen years of
4 age or older who are emancipated by court order.

5 (4) The minimum wage for minors shall be as prescribed in RCW
6 49.46.020.

7 (5) For the purposes of this section, "school year" means the weeks
8 during which school is in session in the school district attended by
9 the minor or, if the minor is not enrolled in school, in the school
10 district in which the minor resides.

11 **Sec. 402.** RCW 49.12.105 and 1973 2nd ex.s. c 16 s 8 are each
12 amended to read as follows:

13 An employer may apply to the ~~((committee))~~ department for an order
14 for a variance from any rule or regulation establishing a standard for
15 wages, hours, or conditions of labor ~~((promulgated))~~ adopted by the
16 ~~((committee))~~ department under this chapter, or from the requirements
17 of section 401(3)(c) of this act for a minor who is participating in a
18 work study program approved by the school that the minor is attending.
19 The ~~((committee))~~ department shall issue an order granting a variance
20 if it determines ~~((or decides))~~ that the applicant for the variance has
21 shown good cause for the lack of compliance. Any order so issued shall
22 prescribe the conditions the employer must maintain, and the practices,
23 means, methods, operations, standards and processes which he or she
24 must adopt and utilize to the extent they differ from the standard in
25 question. At any time the ~~((committee))~~ department may terminate and
26 revoke ~~((such))~~ the order, provided the employer was notified by the
27 ~~((committee))~~ department of the termination at least thirty days prior
28 to ~~((said))~~ the termination.

1 NEW SECTION. **Sec. 403.** RCW 49.12.123 and 1983 c 3 s 156 & 1973
2 c 51 s 3 are each repealed.

3 B. Enforcement of Child Labor Standards

4 NEW SECTION. **Sec. 404.** The legislature finds that the future of
5 the state depends on the education and well-being of the state's
6 children. Investigations of three hundred ninety-five workplace
7 injuries to minors by the department of labor and industries indicates
8 that over forty percent of the injuries occurred at worksites not in
9 compliance with child labor laws. Almost half of the injuries that
10 resulted in time off work occurred at a worksite not in compliance with
11 child labor laws.

12 The legislature finds that employment of minors requires strict
13 adherence to standards that protect the safety and health of children
14 and ensure that their education receives top priority. The purposes of
15 this act are to protect children in the work force and provide the
16 department of labor and industries the enforcement resources necessary
17 to assure that minors are employed in accordance with the state's child
18 labor standards.

19 NEW SECTION. **Sec. 405.** (1)(a) Except as otherwise provided in
20 subsection (2) of this section, if the director, or the director's
21 designee, finds that an employer has violated any of the requirements
22 of RCW 49.12.121, or a rule or order adopted or variance granted under
23 RCW 49.12.121, a citation stating the violations shall be issued to the
24 employer. The citation shall be in writing, describing the nature of
25 the violation including reference to the standards, rules, or orders
26 alleged to have been violated. An initial citation for failure to
27 comply with RCW 49.12.121 or rules requiring a minor work permit and

1 maintenance of records shall state a specific time for abatement of the
2 violation to allow the employer to correct the violation without
3 penalty. The director or the director's designee may establish a
4 specific time for abatement of other nonserious violations in lieu of
5 a penalty for first time violations. The citation and a proposed
6 penalty assessment shall be given to the highest management official
7 available at the workplace or be mailed to the employer at the
8 workplace. In addition, the department will mail a copy of the
9 citation and proposed penalty assessment to the central personnel
10 office of the employer. Citations issued under this section shall be
11 posted at or near the place where the violation occurred.

12 (b) Except when an employer corrects a violation as provided in (a)
13 of this subsection, he or she shall be assessed a civil penalty of not
14 more than one thousand dollars depending on the size of the business
15 and the gravity of the violation. The employer shall pay the amount
16 assessed within thirty days of receipt of the assessment or notify the
17 director of his or her intent to appeal the citation or the assessment
18 penalty as provided in section 406 of this act.

19 (2) If the director, or the director's designee, finds that an
20 employer has committed a serious or repeated violation of the
21 requirements of RCW 49.12.121, or any rule or order adopted or variance
22 granted under RCW 49.12.121, the employer is subject to a civil penalty
23 of not more than one thousand dollars for each day the violation
24 continues. For the purposes of this subsection, a serious violation
25 shall be deemed to exist if death or serious physical or emotional harm
26 has resulted or could result from a condition that exists, or from one
27 or more practices, means, methods, operations, or processes that have
28 been adopted or are in use by the employer, unless the employer did
29 not, and could not with the exercise of reasonable diligence, know of
30 the presence of the violation.

1 (3) In addition to any other authority provided in this section,
2 if, upon inspection or investigation, the director, or director's
3 designee, believes that an employer has violated RCW 49.12.121, or a
4 rule or order adopted or variance granted under RCW 49.12.121, and that
5 the violation creates a danger from which there is a substantial
6 probability that death or serious physical harm could result to a minor
7 employee, the director, or director's designee, may issue an order
8 immediately restraining the condition, practice, method, process, or
9 means creating the danger in the workplace. An order issued under this
10 subsection may require the employer to take steps necessary to avoid,
11 correct, or remove the danger and to prohibit the employment or
12 presence of a minor in locations or under conditions where the danger
13 exists.

14 (4) An employer who violates any of the posting requirements of RCW
15 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed
16 a civil penalty of not more than one hundred dollars for each
17 violation.

18 (5) A person who gives advance notice, without the authority of the
19 director, of an inspection to be conducted under this chapter shall be
20 assessed a civil penalty of not more than one thousand dollars.

21 (6) Penalties assessed under this section shall be paid to the
22 director and deposited into the general fund.

23 NEW SECTION. **Sec. 406.** A person, firm, or corporation aggrieved
24 by an action taken or decision made by the department under section 405
25 of this act may appeal the action or decision to the director by filing
26 notice of the appeal with the director within thirty days of the
27 department's action or decision. A notice of appeal filed under this
28 section shall stay the effectiveness of a citation or notice of the
29 assessment of a penalty pending review of the appeal by the director,

1 but such appeal shall not stay the effectiveness of an order of
2 immediate restraint issued under section 405 of this act. Upon receipt
3 of an appeal, a hearing shall be held in accordance with chapter 34.05
4 RCW. The director shall issue all final orders after the hearing. The
5 final orders are subject to appeal in accordance with chapter 34.05
6 RCW. Orders not appealed within the time period specified in chapter
7 34.05 RCW are final and binding.

8 NEW SECTION. **Sec. 407.** An employer who knowingly or recklessly
9 violates the requirements of RCW 49.12.121, or a rule or order adopted
10 under RCW 49.12.121, is guilty of a gross misdemeanor. An employer
11 whose practices in violation of the requirements of RCW 49.12.121, or
12 a rule or order adopted under RCW 49.12.121, result in the death or
13 permanent disability of a minor employee is guilty of a class C felony.

14 **Sec. 408.** RCW 49.12.170 and 1973 2nd ex.s. c 16 s 16 are each
15 amended to read as follows:

16 Except as otherwise provided in section 405 or 407 of this act, any
17 employer employing any person for whom a minimum wage or standards,
18 conditions, and hours of labor have been specified, at less than said
19 minimum wage, or under standards, or conditions of labor or at hours of
20 labor prohibited by the rules and regulations of the committee; or
21 violating any other of the provisions of this 1973 amendatory act,
22 shall be deemed guilty of a misdemeanor, and shall, upon conviction
23 thereof, be punished by a fine of not less than twenty-five dollars nor
24 more than one thousand dollars.

25 NEW SECTION. **Sec. 409.** The penalties established in sections
26 405 and 407 of this act for violations of RCW 49.12.121 are exclusive
27 remedies.

PART V

WAGES AND HOURS STANDARDS

A. Overtime Hours of Work

Sec. 501. RCW 49.46.130 and 1989 c 104 s 1 are each amended to read as follows:

(1) ~~((No employer shall employ any of his employees for a work week longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed, except that the provisions of this subsection (1) shall))~~ No employer shall employ any employee more than forty hours in any work week unless the employee receives compensation for his or her employment at a rate of pay not less than one and one-half times the employee's regular rate of pay for all hours worked over forty hours in the work week.

(2) This section does not apply to:

(a) Any person exempted pursuant to RCW 49.46.010(5) ((as now or hereafter amended and the provision of this subsection shall not apply to));

(b) Employees who request compensating time off in lieu of overtime pay ((nor to));

(c) Any individual employed as a seaman whether or not the seaman is employed on a vessel other than an American vessel((, nor to));

(d) Seasonal employees who are employed at concessions and recreational establishments at agricultural fairs, including those seasonal employees employed by agricultural fairs, within the state provided that the period of employment for any seasonal employee at any

1 or all agricultural fairs does not exceed fourteen working days a
2 year(~~(, nor to))i~~

3 (e) Any individual employed as a motion picture projectionist if
4 that employee is covered by a contract or collective bargaining
5 agreement which regulates hours of work and overtime pay(~~(, nor to))i~~

6 (f) An individual employed as a truck or bus driver who is subject
7 to the provisions of the Federal Motor Carrier Act (49 U.S.C. Sec. 3101
8 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the compensation system
9 under which the truck or bus driver is paid includes overtime pay,
10 reasonably equivalent to that required by this subsection, for working
11 longer than forty hours per week(~~(,~~

12 ~~(2) No public agency shall be deemed to have violated subsection~~
13 ~~(1) of this section with respect to the employment of any employee in~~
14 ~~fire protection activities or any employee in law enforcement~~
15 ~~activities (including security personnel in correctional institutions)~~
16 ~~if: (a) In a work period of twenty eight consecutive days the employee~~
17 ~~receives for tours of duty which in the aggregate exceed two hundred~~
18 ~~and forty hours; or (b) in the case of such an employee to whom a work~~
19 ~~period of at least seven but less than twenty eight days applies, in~~
20 ~~his work period the employee receives for tours of duty which in the~~
21 ~~aggregate exceed a number of hours which bears the same ratio to the~~
22 ~~number of consecutive days in his work period as two hundred forty~~
23 ~~hours bears to twenty eight days; compensation at a rate not less than~~
24 ~~one and one half times the regular rate at which he is employed:~~
25 ~~PROVIDED, That this section shall not apply to))i~~

26 (g) Any individual employed (i) on a farm, in the employ of any
27 person, in connection with the cultivation of the soil, or in
28 connection with raising or harvesting any agricultural or horticultural
29 commodity, including raising, shearing, feeding, caring for, training,
30 and management of livestock, bees, poultry, and furbearing animals and

1 wildlife, or in the employ of the owner or tenant or other operator of
2 a farm in connection with the operation, management, conservation,
3 improvement, or maintenance of such farm and its tools and equipment;
4 or (ii) (~~in packing, packaging, grading, storing or delivering to~~
5 ~~storage, or to market or to a carrier for transportation to market, any~~
6 ~~agricultural or horticultural commodity; or (iii) commercial canning,~~
7 ~~commercial freezing, or any other commercial processing, or~~) with
8 respect to services performed in connection with the cultivation,
9 raising, harvesting, and processing of oysters (~~or in connection with~~
10 ~~any agricultural or horticultural commodity after its delivery to a~~
11 ~~terminal market for distribution for consumption: PROVIDED FURTHER,~~
12 ~~That in~~)); or

13 (h) Any industry in which federal law provides for an overtime
14 payment based on a work week other than forty hours ((then provisions
15 of this section shall not apply;)). However, the provisions of the
16 federal law regarding overtime payment based on a work week other than
17 forty hours shall nevertheless apply to employees covered by this
18 section without regard to the existence of actual federal jurisdiction
19 over the industrial activity of the particular employer within this
20 state(~~(: PROVIDED FURTHER, That~~)). For the purposes of this
21 subsection, "industry" ((as that term is used in this section shall
22 mean)) means a trade, business, industry, or other activity, or branch,
23 or group thereof, in which individuals are gainfully employed (section
24 3(h) of the Fair Labor Standards Act of 1938, as amended (Public Law
25 93-259).

26 (3) No public agency shall be deemed to have violated subsection
27 (1) of this section with respect to the employment of any employee in
28 fire protection activities or any employee in law enforcement
29 activities, including security personnel in correctional institutions,
30 if the employee receives compensation at a rate not less than one and

1 one-half times the regular rate at which he or she is employed for
2 tours of duty that:

3 (a) In the aggregate, in a work period of twenty-eight consecutive
4 days, exceed two hundred twelve hours in the case of employees in fire
5 protection activities and one hundred seventy-one hours in the case of
6 employees in law enforcement activities; or

7 (b) In the case of an employee to whom a work period of at least
8 seven but less than twenty-eight days applies, in the aggregate exceed
9 a number of hours which bears the same ratio to the number of
10 consecutive days in his or her work period: (i) For an employee in
11 fire protection activity, as two hundred twelve hours bears to
12 twenty-eight days, or (ii) for an employee in law enforcement
13 activities, as one hundred seventy-one hours bears to twenty-eight
14 days.

15 NEW SECTION. Sec. 502. (1) Except as otherwise provided in this
16 section, no employer may require an employee to work: (a) More than
17 eight hours in any work day; or (b) more than forty hours in any work
18 week. However, this section does not prohibit an employee from
19 voluntarily agreeing to work more than eight hours in any work day or
20 more than forty hours in any work week, subject to the requirements of
21 RCW 49.46.130.

22 (2) Notwithstanding subsection (1) of this section, an employee may
23 be required to work up to ten hours in a work day if the employer's
24 work week is based on four ten-hour days in a work week. An employee
25 is not prohibited from voluntarily agreeing to work more than ten hours
26 in a work day, subject to the requirements of RCW 49.46.130.

27 (3)(a) Notwithstanding subsection (1) of this section, an employee
28 may be required to work part of the next succeeding work shift
29 following the work shift completed by the employee if:

1 (i) The work is required because of an unanticipated event,
2 including but not limited to employee illness or emergency repair of
3 production equipment, but not including a need to increase production
4 to meet an increase in market demand, and the unanticipated event has
5 or may halt a continuous production operation;

6 (ii)(A) In good faith, the employer has exhausted reasonable
7 attempts to obtain voluntary work during the succeeding shift; or

8 (B) The employee has critical skills and expertise that are
9 required for the work; and

10 (iii) As requested by the employee, the employer has assisted the
11 employee to acquire safe transportation to his or her residence
12 following the succeeding shift, and has assisted the employee to
13 address child care or other family obligations successfully. At the
14 time of requiring the employee to work part of the next succeeding
15 shift, the employer shall inform the employee of the employer's
16 obligation under this subsection.

17 (b) This subsection (3) shall not permit an employer to require any
18 employee to work more than twelve consecutive hours, or to work during
19 more than two consecutive work shifts, or to require, in any calendar
20 month, more than sixteen hours beyond the hours of work that may be
21 required under subsection (1) of this section.

22 (c) For the purposes of this subsection (3):

23 (i) "Continuous production operation" means a work place that
24 routinely operates twenty-four hours a day in the following industries:

25 (A) Primary metal processing, in an industry assigned the major group
26 standard industrial classification code "33" by the employment security
27 department; or (B) paper and allied products, in an industry assigned
28 the major group standard industrial classification code "26" by the
29 employment security department.

1 (ii) "Standard industrial classification code" means the code
2 identified in RCW 50.29.025(6)(c).

3 (4)(a) An employer may petition the department for a variance from
4 the requirements of subsection (1) of this section if at least eighty
5 percent of the employer's employees in the affected work unit or, if
6 the employees are represented by an exclusive bargaining
7 representative, in the affected bargaining unit vote by secret ballot
8 to approve a written proposal for regularly scheduled hours of work of
9 more than eight hours in a work day or of more than forty hours in a
10 work week. The agreement shall not permit the employer to require any
11 employee to work more than twelve hours in a work day or more than an
12 average of forty-two hours per work week in four consecutive work
13 weeks.

14 (b) The department shall adopt rules providing for the election
15 procedures and documentation required to apply for a variance under
16 this subsection. The rules shall include provisions that require
17 employee approval of the variance no less than annually, and that make
18 supervisors ineligible to vote. For the purposes of this subsection
19 (b), "supervisor" means any employee having authority, in the interest
20 of the employer, to hire, transfer, suspend, lay off, recall, promote,
21 discharge, assign, reward, or discipline other employees, or
22 responsibly to direct them, or to adjust their grievances, or
23 effectively to recommend such action, if in connection with the
24 foregoing the exercise of such authority is not of a merely routine or
25 clerical nature, but requires the use of independent judgment.

26 (c) Nothing in this subsection limits the application of RCW
27 49.46.130 to the employees covered by a variance under this subsection.

28 (5) This section does not apply to:

29 (a) An employer who employs fewer than one hundred individuals;

1 (b) An individual exempt under RCW 49.46.010(5), except that
2 employees of the state legislature are not exempt unless employed in a
3 bona fide executive, administrative, or professional capacity, or RCW
4 49.46.130(2), except for RCW 49.46.130(2)(f);

5 (c) Emergency work necessary for the public health and safety,
6 otherwise prohibited by subsection (1) of this section, performed by an
7 employee of a public or private electric, gas, fuel oil, sewer, or
8 water utility company, if the utility has exhausted reasonable efforts
9 to have the work performed voluntarily by other employees;

10 (d)(i) Work performed:

11 (A) In an industry processing perishable agricultural or
12 horticultural commodities, or perishable freshwater or saltwater fish
13 or shellfish or their products when the occurrence of seasonal factors
14 that are customary to the industry, as determined by department rule,
15 could result in loss or deterioration of the product because of failure
16 to complete the work in a timely manner; or

17 (B) For an employer when at least seventy-five percent of the
18 employer's business is supplying essential goods for the production and
19 distribution of perishable agricultural or horticultural commodities,
20 or perishable freshwater or saltwater fish or shellfish or their
21 products to an industry under (i)(A) of this subsection, but only
22 during the seasonal time periods applicable to the industry under
23 (i)(A) of this subsection. An employer who does not meet the
24 requirements of this subsection (i)(B) based on the total production of
25 the employer's business may apply with the department for an exemption
26 for a particular workplace when the production at that workplace meets
27 the requirements of this subsection (i)(B).

28 (ii) This subsection (d) shall not permit an employer to require
29 any employee to work more than twelve consecutive hours, or to require
30 any employee to work, in any calendar month, more than thirty-six hours

1 beyond the hours of work that may be required under subsection (1) of
2 this section;

3 (e) An individual employed in fire protection or law enforcement
4 activities; or

5 (f) Work performed in emergency situations that endanger public
6 health and safety, including, but not limited to, fires, natural
7 disasters, civil disorders, utility interruptions, emergency medical
8 services regulated under chapter 18.73 RCW, services required by the
9 armed forces of the United States, including work performed under a
10 contract with the United States department of defense when the work is
11 necessary because of the declaration of a national emergency, or other
12 situations determined by the department to be emergencies endangering
13 public health and safety.

14 No exemption under this section shall be deemed to provide an
15 exemption under RCW 49.46.130.

16 NEW SECTION. **Sec. 503.** (1) No employer may discharge or in any
17 manner discriminate against an employee because the employee exercises
18 any of the rights provided in section 502 of this act, including the
19 right to vote under section 502(4) of this act.

20 (2) Any employee who believes that he or she has been discharged or
21 otherwise discriminated against in violation of this section may,
22 within one year after such violation occurs, file a complaint with the
23 director alleging such discrimination. Upon receipt of a complaint,
24 the director shall cause an investigation to be made as the director
25 deems appropriate. If after investigation, the director determines
26 that the provisions of this section have been violated, the director
27 may bring an action in superior court of the county in which the
28 violation is alleged to have occurred against the person or persons
29 alleged to have violated the provisions of this section. If the

1 director declines to investigate a complaint of discrimination under
2 the provisions of this section, or declines to institute legal action
3 following an investigation, the employee may institute the action on
4 his or her own behalf after receiving notice of the director's decision
5 to not investigate or not initiate legal action on the case. In any
6 action under this section, the superior court shall have jurisdiction,
7 for cause shown, to restrain violations of subsection (1) of this
8 section and to order all appropriate relief including rehiring or
9 reinstatement of the employee to his or her former position with back
10 pay.

11 (3) Within ninety days of the receipt of the complaint filed under
12 this section, the director shall notify the complainant of the
13 determination under subsection (2) of this section.

14 NEW SECTION. **Sec. 504.** If employees are covered by an unexpired
15 collective bargaining agreement containing terms that conflict with
16 section 502 of this act, and the agreement expires on or after the
17 effective date of this act, section 502 of this act shall apply to
18 these employees on the first day following expiration of the collective
19 bargaining agreement.

20 B. Minimum Wage

21 **Sec. 505.** RCW 49.46.020 and 1989 c 1 s 2 are each amended to read
22 as follows:

23 (1) Every employer shall pay to each of his or her employees who
24 has reached the age of eighteen years wages at a rate of not less than
25 (~~three dollars and eighty five cents per hour except as may be~~
26 ~~otherwise provided under this section.~~ Beginning January 1, 1990, the

1 ~~state minimum wage shall be~~) four dollars and twenty-five cents per
2 hour, except that the wage rate is:

3 (a) Beginning on July 1, 1991, four dollars and seventy-five cents
4 per hour;

5 (b) Beginning on January 1, 1992, five dollars and twenty-five
6 cents per hour; and

7 (c) Beginning on April 1, 1993, and readjusted beginning on each
8 April 1st thereafter, adjusted to the nearest cent which bears the
9 ratio of its original amount that exists between the index for 1991 and
10 the index for the calendar year prior to the year of adjustment. For
11 the purposes of this subsection "index" means the same as RCW
12 2.12.037(1).

13 (2) The director shall by regulation establish the minimum wage for
14 employees under the age of eighteen years.

15 C. Enforcement of Wage and Hour Standards

16 NEW SECTION. Sec. 506. The legislature finds that over twenty-
17 five thousand state residents per year file cases and complaints with
18 the department of labor and industries alleging they have been denied
19 payment for work they performed. Each month an average of over one
20 million dollars in back wages is sought by workers.

21 The legislature further finds that the Washington state minimum
22 wage law and wage claim laws do not require payment of interest on back
23 wages owed and do not authorize adequate penalties against violators.
24 To improve compliance, the department of labor and industries should be
25 allowed to assess interest on back wages and impose civil penalties
26 against employers who are found to be not in compliance with chapters
27 49.46 and 49.48 RCW.

1 **Sec. 507.** RCW 49.46.100 and 1959 c 294 s 10 are each amended to
2 read as follows:

3 (1) Any employer who hinders or delays the director or ~~((his))~~ the
4 director's authorized representatives in the performance of ~~((his))~~ the
5 director's duties in the enforcement of this chapter, or refuses to
6 admit the director or ~~((his))~~ the director's authorized representatives
7 to any place of employment, or fails to make, keep, and preserve any
8 records as required under the provisions of this chapter, or falsifies
9 any such record, or refuses to make any record accessible to the
10 director or ~~((his))~~ the director's authorized representatives upon
11 demand, or refuses to furnish a sworn statement of such record or any
12 other information required for the proper enforcement of this chapter
13 to the director or ~~((his))~~ the director's authorized representatives
14 upon demand(~~(, or pays or agrees to pay wages at a rate less than the~~
15 ~~rate applicable under this chapter, or otherwise violates any provision~~
16 ~~of this chapter or of any regulation issued under this chapter)) shall
17 be deemed in violation of this chapter and shall(~~(, upon conviction~~
18 ~~therefor, be guilty of a gross misdemeanor)) be assessed a civil
19 penalty for each violation of not more than one thousand dollars
20 depending on the size of the business and the gravity of the violation.~~~~

21 (2) ~~((Any))~~ (a) An employer who pays or agrees to pay wages at a
22 rate less than the rate applicable under this chapter or any rule or
23 order adopted under this chapter may be assessed civil penalties of an
24 amount equal to twenty percent of the wage violation.

25 (b) An employer who willfully or repeatedly pays or agrees to pay
26 wages at a rate less than the rate applicable under this chapter or a
27 rule or order adopted under this chapter is in violation of this
28 chapter, and shall, upon conviction, be guilty of a gross misdemeanor.

29 (3) Upon a finding by the director that an employer who discharges
30 or in any other manner discriminates against any employee because such

1 employee has made any complaint to his or her employer, to the
2 director, or his or her authorized representatives that he or she has
3 not been paid wages in accordance with the provisions of this chapter,
4 or that the employer has violated any provision of this chapter, or
5 because such employee has caused to be instituted or is about to cause
6 to be instituted any proceeding under or related to this chapter, or
7 because such employee has testified or is about to testify in any such
8 proceeding (~~(shall be deemed in violation of this chapter and shall,~~
9 ~~upon conviction therefor, be guilty of a gross misdemeanor)~~), the
10 director may require an employer who has discharged or discriminated
11 against an employee in violation of this chapter to reinstate the
12 employee to the same position with back pay and interest up to one
13 percent per month.

14 (4) Civil penalties imposed under this chapter shall be paid to the
15 director for deposit in the general fund. Civil penalties may be
16 recovered and other civil remedies authorized by this chapter may be
17 enforced in a civil action in the name of the department brought in the
18 superior court of the county where the violation is alleged to have
19 occurred, or the department may use the procedures for collection of
20 wages set forth in chapter 49.48 RCW.

21 **Sec. 508.** RCW 49.48.040 and 1987 c 172 s 1 are each amended to
22 read as follows:

23 (1) The department of labor and industries may:

24 (a) Conduct investigations to ensure compliance with chapters
25 39.12, 49.46, and 49.48 RCW, upon obtaining information indicating an
26 employer may be committing a violation under chapters 39.12, 49.46, and
27 49.48 RCW(~~, conduct investigations to ensure compliance with chapters~~
28 39.12, ~~49.46, and 49.48 RCW)~~);

1 (b) Order the payment of all wages owed the workers, including
2 interest of up to one percent per month on back wages owed, and
3 institute actions necessary for the collection of the sums determined
4 owed; and

5 (c) Take assignments of wage claims and prosecute actions for the
6 collection of wages and interest of up to one percent per month on back
7 wages owed of persons who are financially unable to employ counsel when
8 in the judgment of the director of the department the claims are valid
9 and enforceable in the courts.

10 (2) Upon being informed of a wage claim against an employer or
11 former employer, the director shall, if such claim appears to be just,
12 immediately notify the employer or former employer, of such claim by
13 mail. If the employer or former employer fails to pay the claim or
14 make satisfactory explanation to the director of the failure to do so,
15 within thirty days thereafter, the employer or former employer shall be
16 liable to a penalty of twenty percent of that portion of the claim
17 found to be justly due. The director shall have a cause of action
18 against the employer or former employer for the recovery of such
19 penalty, and the same may be included in any subsequent action by the
20 director on said wage claim, or may be exercised separately after
21 adjustment of such wage claim without court action. Civil penalties
22 imposed under this section shall be paid to the director for deposit in
23 the general fund.

24 (3) The director of the department or any authorized representative
25 may, for the purpose of carrying out RCW 49.48.040 through 49.48.080:
26 (a) Issue subpoenas to compel the attendance of witnesses or parties
27 and the production of books, papers, or records; (b) administer oaths
28 and examine witnesses under oath; (c) take the verification of proof of
29 instruments of writing; and (d) take depositions and affidavits. If

1 assignments for wage claims are taken, court costs shall not be payable
2 by the department for prosecuting such suits.

3 ~~((3))~~ (4) The director shall have a seal inscribed "Department of
4 Labor and Industries--State of Washington" and all courts shall take
5 judicial notice of such seal. Obedience to subpoenas issued by the
6 director or authorized representative shall be enforced by the courts
7 in any county.

8 ~~((4))~~ (5) The director or authorized representative shall have
9 free access to all places and works of labor. Any employer or any
10 agent or employee of such employer who refuses the director or
11 authorized representative admission therein, or who, when requested by
12 the director or authorized representative, willfully neglects or
13 refuses to furnish the director or authorized representative any
14 statistics or information pertaining to his or her lawful duties, which
15 statistics or information may be in his or her possession or under the
16 control of the employer or agent, shall be guilty of a misdemeanor.

17 (6) An action for relief under this section shall be commenced
18 within three years after the cause of action accrues, unless a longer
19 period of time applies under law.

20 **Sec. 509.** RCW 49.48.060 and 1971 ex.s. c 55 s 4 are each amended
21 to read as follows:

22 (1) If upon investigation by the director, after taking assignments
23 of any wage claim under RCW 49.48.040, it appears to the director that
24 the employer is representing to ~~((his))~~ employees that ~~((he))~~ the
25 employer is able to pay wages for their services and that the employees
26 are not being paid for their services or if the director determines an
27 employer has repeatedly violated the provisions of chapter 39.12, 49.46
28 or 49.48 RCW requiring payment of wages, the director may require the
29 employer to give a bond in such sum as the director deems reasonable

1 and adequate in the circumstances, with sufficient surety, conditioned
2 that the employer will for a definite future period not exceeding six
3 months conduct ((his)) business and pay ((his)) employees in accordance
4 with the laws of the state of Washington.

5 (2) If within ten days after demand for such bond the employer
6 fails to provide the same, the director may commence a suit against the
7 employer in the superior court of appropriate jurisdiction to compel
8 ((him)) the employer to furnish such bond or cease doing business until
9 ((he)) the employer has done so. The employer shall have the burden of
10 proving the amount thereof to be excessive.

11 (3) If the court finds that there is just cause for requiring such
12 bond and that the same is reasonable, necessary or appropriate to
13 secure the prompt payment of the wages of the employees of such
14 employer and his compliance with RCW 49.48.010 through 49.48.080, the
15 court shall enjoin such employer from doing business in this state
16 until the requirement is met, or shall make other, and may make
17 further, orders appropriate to compel compliance with the requirement.

18 ~~((Upon being informed of a wage claim against an employer or former
19 employer, the director shall, if such claim appears to be just,
20 immediately notify the employer or former employer, of such claim by
21 mail. If the employer or former employer fails to pay the claim or
22 make satisfactory explanation to the director of his failure to do so,
23 within thirty days thereafter, the employer or former employer shall be
24 liable to a penalty of ten percent of that portion of the claim found
25 to be justly due. The director shall have a cause of action against
26 the employer or former employer for the recovery of such penalty, and
27 the same may be included in any subsequent action by the director on
28 said wage claim, or may be exercised separately after adjustment of
29 such wage claim without court action.))~~

1 **Sec. 510.** RCW 49.46.010 and 1989 c 1 s 1 are each amended to read
2 as follows:

3 As used in this chapter:

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

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

10 (3) "Employ" includes to permit to work;

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

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

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

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

27 (c) Any individual employed in a bona fide executive,
28 administrative, or professional capacity or in the capacity of outside
29 salesman as those terms are defined and delimited by regulations of the
30 director. However, those terms shall be defined and delimited by the

1 state personnel board pursuant to chapter 41.06 RCW and the higher
2 education personnel board pursuant to chapter 28B.16 RCW for employees
3 employed under their respective jurisdictions;

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

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

22 (f) Any newspaper vendor or carrier;

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

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

27 (i) Any individual employed by any charitable institution charged
28 with child care responsibilities engaged primarily in the development
29 of character or citizenship or promoting health or physical fitness or

1 providing or sponsoring recreational opportunities or facilities for
2 young people or members of the armed forces of the United States;

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

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

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

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

16 (n) Any individual employed as a seaman on a vessel other than an
17 American vessel.

18 (6) "Occupation" means any occupation, service, trade, business,
19 industry, or branch or group of industries or employment or class of
20 employment in which employees are gainfully employed.

21 PART VI

22 APPROPRIATIONS

23 NEW SECTION. **Sec. 601.** The sum of five hundred thousand
24 dollars, or as much thereof as may be necessary, is appropriated for
25 the biennium ending June 30, 1993, from the general fund to the
26 department of labor and industries for additional full-time equivalents
27 to enhance enforcement of employment standards.

1 NEW SECTION. **Sec. 705.** Part headings as used in this act
2 constitute no part of the law.

3 NEW SECTION. **Sec. 706.** Sections 401 through 409 and 505 of this
4 act are necessary for the immediate preservation of the public peace,
5 health, or safety, or support of the state government and its existing
6 public institutions, and shall take effect July 1, 1991.

7 NEW SECTION. **Sec. 707.** Sections 201 through 209 of this act
8 shall take effect September 1, 1991.

9 NEW SECTION. **Sec. 708.** Sections 405 through 407 and section 409
10 of this act are each added to chapter 49.12 RCW.

11 NEW SECTION. **Sec. 709.** Sections 502 through 504 of this act are
12 each added to chapter 49.46 RCW.