
SENATE BILL 5259

State of Washington

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By Senators Fairley, Prentice, Winsley, Costa, Kline, Patterson,
Constantine, Kohl-Welles, Spanel, Jacobsen and Gardner

Read first time 01/17/2001. Referred to Committee on Labor, Commerce
& Financial Institutions.

1 AN ACT Relating to temporary services agencies; amending RCW
2 49.12.005, 49.12.130, and 49.12.170; adding new sections to
3 chapter 49.12 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 49.12.005 and 1998 c 334 s 1 are each amended to read
6 as follows:

7 ~~((For the purposes of))~~ The definitions in this section apply
8 throughout this chapter((÷)) unless the context clearly requires
9 otherwise.

10 (1) ~~((The term))~~ "Department" means the department of labor and
11 industries.

12 (2) ~~((The term))~~ "Director" means the director of the
13 department of labor and industries, or the director's designated
14 representative.

15 (3) ~~((The term))~~ "Employer" means any person, firm,
16 corporation, partnership, business trust, legal representative, or
17 other business entity which engages in any business, industry,
18 profession, or activity in this state and employs one or more

1 employees and for the purposes of RCW 49.12.270 through 49.12.295
2 and 49.12.450 also includes the state, any state institution, any
3 state agency, political subdivisions of the state, and any
4 municipal corporation or quasi-municipal corporation.

5 (4) (~~The term~~) "Employee" means an employee who is employed
6 in the business of the employee's employer whether by way of
7 manual labor or otherwise.

8 (5) (~~The term~~) "Conditions of labor" shall mean and include
9 the conditions of rest and meal periods for employees including
10 provisions for personal privacy, practices, methods and means by
11 or through which labor or services are performed by employees and
12 includes bona fide physical qualifications in employment, but
13 shall not include conditions of labor otherwise governed by
14 statutes and rules and regulations relating to industrial safety
15 and health administered by the department.

16 (6) "Temporary services agency" means any individual or entity
17 that is engaged in the business of furnishing individuals to
18 perform services on a part-time or temporary basis for a third
19 party.

20 (7) For the purpose of chapter 16, Laws of 1973 2nd ex. sess. a
21 minor is defined to be a person of either sex under the age of
22 eighteen years.

23 NEW SECTION. Sec. 2. A new section is added to chapter 49.12
24 RCW to read as follows:

25 The legislature declares that it is the public policy of this
26 state to foster the employment of all individuals in the state,
27 including those working for temporary services agencies, and to
28 safeguard their right to obtain and hold employment without
29 discrimination.

30 NEW SECTION. Sec. 3. A new section is added to chapter 49.12
31 RCW to read as follows:

32 Temporary services agencies shall:

33 (1) For each new job assignment offered to an employee, give
34 that employee:

35 (a) The exact address of, directions to, and public
36 transportation available to the worksite;

1 (b) A written notice of the job characteristics including a job
2 description, the rate of pay, available benefits, estimated
3 longevity of the assignment, work schedules, complete and accurate
4 information concerning any health or safety hazards they may face,
5 and whether the employee will need or be charged for using special
6 attire, accessories, or tools; and

7 (c) A telephone number at the worksite at which an employee can
8 be reached for emergency purposes.

9 The information required by this subsection (1) shall be kept
10 on file for a period of one year by the temporary services agency;

11 (2) Include a written notification with each payment of wages
12 to its employees specifying the rate paid, or payable, to the
13 temporary services agency by or on behalf of the recipient of the
14 employee's services for the work performed by the employee, or for
15 any services rendered by the temporary services agency with
16 respect to the employee;

17 (3) Provide workers information about state and federal
18 employment laws and what to do if they experience discrimination
19 or a health and safety violation while working;

20 (4) Provide, or require that the third party client provide,
21 without charge, safety training appropriate to the job assignment
22 and whatever safety equipment is required at or on the job
23 assignment;

24 (5) Not prohibit employees from accepting a job directly with a
25 third party client, nor shall they otherwise restrict, penalize,
26 or discriminate against employees in any manner for doing so; nor
27 shall temporary services agencies restrict the right of such
28 clients to offer permanent employment to temporary services agency
29 employees. Temporary services agencies shall allow time off for
30 interviews, provide references promptly on request, and shall not
31 discriminate in job assignments against those employees looking
32 for permanent work;

33 (6) Provide to employees upon request information on the
34 percentage of long-term placements at each of the agency's clients
35 and the rate at which agency employees have become permanent
36 employees at each of the agency's clients; and

37 (7) Not charge any employee for payment in cash or for cashing

1 a check or voucher issued by the agency for wages earned by that
2 employee.

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

5 Employees of temporary services agencies have a right to refuse
6 a job assignment, without reprisal, or discrimination, including
7 opposing a request for unemployment benefits, for any of the
8 following reasons:

9 (1) The job will expose them to dangerous conditions or
10 hazardous materials;

11 (2) The job would require them to travel an unreasonable
12 distance or spend an unreasonable amount of uncompensated time in
13 travel;

14 (3) They are inadequately trained or prepared for the job;

15 (4) They would receive pay lower than they customarily earn;

16 (5) The hours of work expected are incompatible with available
17 child care arrangements;

18 (6) They have been given insufficient notice prior to the
19 expected start date of the job;

20 (7) The job assignment would extend beyond the anticipated
21 duration; and

22 (8) The job assignment would cause them to cross picket lines
23 or to work as replacement workers during a strike.

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

26 (1) Any worker may complain to the director regarding a
27 violation of this act and the director shall investigate the same.

28 (2) The director shall, upon determining that a person has
29 violated the provisions of, or rules or orders adopted or issued
30 pursuant to, section 3 or 4 of this act, send a written notice of
31 the violation to the person at his or her last known address
32 containing a description of the fines contained in this
33 subsection. Any person determined by the director to have: (a)
34 Committed a second violation of, or rules or orders adopted or
35 issued pursuant to, section 3 or 4 of this act, within five years
36 of the first violation, or (b) discharged, reduced the

1 compensation of, or otherwise discriminated against any employee
2 for making a complaint regarding a violation of this act or
3 otherwise asserting any rights under this title, shall be assessed
4 a civil penalty of not less than one thousand dollars a day for
5 each such violation. Each and every such violation shall be a
6 separate and distinct offense, and in case of a continuing
7 violation, every day's continuance shall be a separate and distinct
8 violation. Any penalty amount set in excess of one thousand dollars
9 shall be set by the director in consideration of any previous
10 history of violations by the violator. A violation occurring more
11 than five years from the date of a previous violation shall be
12 considered a first violation.

13 (3) In addition to any other penalty provided by law, an
14 employee who has suffered from a violation of, or rules or orders
15 adopted or issued pursuant to, section 3 or 4 of this act, may
16 bring an action in any court of competent jurisdiction to recover
17 damages for the violation in the amount of five thousand
18 dollars. In any such action, the court shall award reasonable
19 attorneys' fees to a prevailing plaintiff.

20 (4) A criminal action need not be brought against an employer
21 for that employer to be civilly liable under this section.

22 (5) A notice of sections 2, 3, and 4 of this act must be posted
23 and maintained at all temporary services agencies where workers
24 can view it.

25 **Sec. 6.** RCW 49.12.130 and 1913 c 174 s 16 are each amended to read
26 as follows:

27 Any employer who discharges, or in any other manner
28 discriminates against any employee because such employee has
29 testified or is about to testify, or because such employer
30 believes that said employee may testify in any investigation or
31 proceedings relative to the enforcement of RCW 49.12.010 through
32 49.12.180 or sections 3 through 5 of this act, shall be deemed
33 guilty of a misdemeanor and upon conviction thereof, shall be
34 punished by a fine of from ((~~twenty-five~~)) five hundred dollars
35 to ((~~one hundred~~)) two thousand dollars for each such misdemeanor.

36

1 **Sec. 7.** RCW 49.12.170 and 1994 c 164 s 21 are each amended to read
2 as follows:

3 Except as otherwise provided in RCW 49.12.390 or 49.12.410, any
4 employer employing any person for whom a minimum wage or
5 standards, conditions, and hours of labor have been specified, at
6 less than said minimum wage, or under standards, or conditions of
7 labor or at hours of labor prohibited by the rules and regulations
8 of the director; or violating any other of the provisions of
9 chapter 16, Laws of 1973 2nd ex. sess., or sections 3 through 5 of
10 this act, shall be deemed guilty of a misdemeanor, and shall, upon
11 conviction thereof, be punished by a fine of not less than
12 ~~((twenty-five))~~ five hundred dollars nor more than ~~((one))~~ two
13 thousand dollars.

14 NEW SECTION. **Sec. 8.** A new section is added to chapter 49.12
15 RCW to read as follows:

16 The director shall prescribe rules as necessary to enforce this
17 act.

18 NEW SECTION. **Sec. 9.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

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