

SENATE BILL REPORT

SB 6310

AS OF JANUARY 19, 1994

Brief Description: Providing for penalties for violation of industrial welfare laws.

SPONSORS: Senators Snyder and Fraser; by request of Department of Labor & Industries

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Jonathan Seib (786-7427)

Hearing Dates: January 20, 1994

BACKGROUND:

RCW 49.12, the state Industrial Welfare Act, contains various provisions regulating wages, hours, and other conditions of employment, and authorizes the Department of Labor and Industries to enforce these provisions. In particular, the act contains provisions regarding minimum wage, child labor, wage discrimination, family care, and family leave. Civil penalties are authorized for violations of some of these provisions.

RCW 49.46 is the state minimum wage law. Employers paying less than required by the minimum wage law are liable for wages owed plus reasonable attorney's fees. Violators of the act, if convicted, are also guilty of a gross misdemeanor and subject to up to one year in jail and/or a fine of up to \$1,000.

RCW 49.48 governs the unlawful withholding of wages and the enforcement of wage claims, including those under the minimum wage law and the prevailing wage law. It authorizes the Department of Labor and Industries to order the payment of wages owed and institute actions necessary for their collection. If an employer fails to pay wages within 30 days of notification by the department that they are owed, the employer is liable for a 10 percent penalty. Any person successful in recovery wages owed shall also receive reasonable attorney's fees.

RCW 49.48 also authorizes the Department of Labor and Industries to require an employer, in certain circumstances, to obtain a bond in an amount adequate to assure that the employer will pay required wages.

RCW 39.12 is the state prevailing wage law. Contractors who fail to pay prevailing wages are subject to a civil penalty of not less than \$1,000 or an amount equal to 20 percent of the total prevailing wage violation, whichever is greater.

SUMMARY:

The Department of Labor and Industries is authorized to assess a penalty of not more than \$500 for each violation of the Industrial Welfare Act not abated by the employer after a reasonable period of time. A penalty of up to \$1,000 may be assessed against an employer for each day of a repeated violation, and against any person giving unauthorized notice of a department inspection. A penalty of up to \$100 may be assessed for violation of any of the act's posting requirements. These penalty provisions do not apply to violations of the family care law.

For a violation of the recordkeeping requirements of the minimum wage act, the Department of Labor and Industries is authorized to assess a penalty of not more than \$1,000, depending on the size of the business and the gravity of the violations. For failure to pay the applicable minimum wage, the department may assess a penalty equal to 20 percent of the wage violation. Willful or repeated violation of the act is a gross misdemeanor. The department may also order the reinstatement of, and payment of backpay to, any person discharged for exercising their rights under the minimum wage law.

For a violation of the prevailing wage law, the minimum wage law, or the law prohibiting the unlawful withholding of wages, the Department of Labor and Industries may order the payment of all wages plus interest of up to 1 percent per month. If such payment is not made within 30 days, the department may impose a penalty of 20 percent of the wage claim.

The Department of Labor and Industries is authorized to require an employer who has repeatedly violated the wage payment statutes to post a bond as a guarantee for wages owed.

Appropriation: none

Revenue: yes

Fiscal Note: requested January 18, 1994