
SUBSTITUTE SENATE BILL 5388

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Commerce & Trade (originally sponsored by Senators Johnson, T. Sheldon, Sheahan, Reardon, Hale, Parlette, Benton, Winsley, Schmidt, Haugen, Hewitt, Brandland and Esser)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to information provided by former or current
2 employers to prospective employers; amending RCW 49.12.250; adding a
3 new section to chapter 4.24 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that employers are
6 becoming increasingly discouraged from disclosing job reference
7 information. The legislature further finds that full disclosure of
8 such information will increase productivity, enhance the safety of the
9 workplace, and provide greater opportunities to disadvantaged groups
10 who may not have the educational background or resumes of other
11 workers.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW
13 to read as follows:

14 (1) An employer who discloses information about a former or current
15 employee's job performance to an entity or person that it reasonably
16 believes is a prospective employer, or employment agency as defined by
17 RCW 49.60.040, at the specific request of that individual employer or
18 employment agency, is presumed to be acting in good faith and is immune

1 from civil liability for such disclosure or its consequences. For
2 purposes of this section, the presumption of good faith may only be
3 rebutted upon a showing by clear and convincing evidence that the
4 information disclosed by the employer was knowingly false or
5 deliberately misleading.

6 (2) For the purposes of this section, "job performance" means the
7 manner in which the employee performs the duties of a position of
8 employment and includes an analysis of the employee's attendance at
9 work; conduct, attitude, effort, knowledge, behavior, and skills, that
10 are work-related; and adherence to the employer's employment policies
11 and to safety and health laws subject to the limitation of RCW
12 51.48.025.

13 **Sec. 3.** RCW 49.12.250 and 1985 c 336 s 2 are each amended to read
14 as follows:

15 (1) Each employer shall make such file(s) available locally within
16 a reasonable period of time after the employee requests the file(s).

17 (2) An employee annually may petition that the employer review all
18 information in the employee's personnel file(s) that are regularly
19 maintained by the employer as a part of his business records or are
20 subject to reference for information given to persons outside of the
21 company. The employer shall determine if there is any irrelevant or
22 erroneous information in the file(s), and shall remove all such
23 information from the file(s). If an employee does not agree with the
24 employer's determination, the employee may at his or her request have
25 placed in the employee's personnel file a statement containing the
26 employee's rebuttal or correction. Nothing in this subsection prevents
27 the employer from removing information more frequently.

28 (3) A former employee shall retain the right of rebuttal or
29 correction for a period not to exceed two years.

30 (4) Within a reasonable period of time after an employee or former
31 employee submits a written request, an employer shall make available,
32 in writing, information disclosed during a reference by the employer to
33 a prospective employer or employment agency.

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