

**WAC 296-128-90100 Enforcement—Retaliation.** (1) An entertainer

who believes that they were subject to retaliation by their establishment, as defined in WAC 296-128-90010, for the exercise of any entertainer rights under RCW 49.46.360 or associated rules, may file a complaint with the department within 180 days of the alleged retaliatory action. The department may, at its discretion, extend the 180-day period on recognized equitable principles or because extenuating circumstances exist. For example, the department may extend the 180-day period when there is evidence that the establishment may have concealed or misled the entertainer regarding the alleged retaliatory action.

(2) If an entertainer files a timely complaint with the department alleging retaliation, the department will investigate the complaint and issue either a citation and notice of assessment or a determination of compliance, unless the complaint is otherwise resolved.

(3) The department may consider a complaint to be otherwise resolved when the entertainer and the establishment reach a mutual agreement to remedy any retaliatory action, or the entertainer voluntarily withdraws the complaint. Mutual agreements include, but are not limited to, rehiring, reinstatement, and payment of amounts due.

(4) If the department's investigation finds that the entertainer's allegation of retaliation cannot be substantiated, the department will issue a determination of compliance to the entertainer and the establishment detailing such finding.

(5) If the department's investigation finds that the establishment retaliated against the entertainer, and the complaint is not otherwise resolved, the department may, at its discretion, notify the establishment that the department intends to issue a citation and notice of assessment. The department may provide up to 30 days after the date of such notification for the establishment to take corrective action to remedy the retaliatory action. If the complaint is not otherwise resolved, then the department shall issue a citation and notice of assessment. The department's citation and notice of assessment may:

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

(b) Order the establishment to restore the entertainer to the position held by the entertainer when the retaliation occurred, or restore the entertainer to an equivalent position with equivalent hours, schedule, benefits, pay, and other terms and conditions of entertainer's position;

(c) Order the establishment to cease using any policy that may lead to or result in discipline against the entertainer for exercising their rights under RCW 49.46.360 or associated rules;

(d) Order the establishment to update and correct any written contracts, policies, or notices that are in violation of RCW 49.46.360 or associated rules;

(e) For the first violation, order the establishment to pay the department a civil penalty as specified in WAC 296-128-790; and

(f) For a repeat violation, order the establishment to pay the department up to double the civil penalty as specified in WAC 296-128-790.

(6) The department will send the citation and notice of assessment or determination of compliance to both the establishment and entertainer.

(7) During an investigation of the entertainer's retaliation complaint, if the department discovers information suggesting alleged violations by the establishment of the entertainer's other rights under chapter 49.46 RCW, and all associated rules, the department may investigate and take appropriate enforcement action without requiring the entertainer to file a new or separate complaint. If the department determines that the establishment violated additional rights of the entertainer under chapter 49.46 RCW or any associated rules, the establishment may be subject to additional enforcement actions for the violation of such rights. If the department discovers information alleging the establishment retaliated against or otherwise violated rights of other entertainers under chapter 49.46 RCW or any associated rules, the department may launch further investigation under chapter 49.46 RCW or any associated rules, without requiring additional complaints to be filed.

(8) Nothing in WAC 296-128-90010 through 296-128-90100 impedes the department's ability to investigate under the authority prescribed in RCW 49.48.040.

(9) Nothing in WAC 296-128-90010 through 296-128-90100 precludes an entertainer's right to pursue private legal action.

[Statutory Authority: RCW 49.46.360. WSR 24-24-075, s 296-128-90100, filed 12/2/24, effective 1/2/25.]