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SENATE BILL 6164

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State of Washington

56th Legislature

2000 Regular Session

By Senators Fairley, Thibaudeau, Kline and Kohl-Welles

Read first time 01/10/2000. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to removing gender specific references from Title  
2 49 RCW and making other technical corrections; and amending RCW  
3 49.04.010, 49.04.050, 49.04.080, 49.08.050, 49.12.050, 49.12.250,  
4 49.17.020, 49.17.050, 49.17.060, 49.17.070, 49.17.080, 49.17.090,  
5 49.17.100, 49.17.110, 49.17.130, 49.17.160, 49.17.170, 49.17.180,  
6 49.17.190, 49.17.200, 49.17.220, 49.17.240, 49.17.260, 49.24.040,  
7 49.24.150, 49.24.180, 49.24.190, 49.24.220, 49.24.230, 49.24.260,  
8 49.24.290, 49.24.310, 49.24.370, 49.26.010, 49.28.100, 49.32.020,  
9 49.32.030, 49.32.072, 49.32.110, 49.32.080, 49.36.015, 49.40.040,  
10 49.40.050, 49.40.060, 49.44.020, 49.44.030, 49.44.060, 49.44.080,  
11 49.46.040, 49.46.070, 49.46.090, 49.46.100, 49.46.130, 49.48.010,  
12 49.48.030, 49.48.050, 49.48.060, 49.48.090, 49.48.120, 49.48.150,  
13 49.52.010, 49.52.020, 49.52.050, 49.52.070, 49.52.090, 49.56.010,  
14 49.56.030, 49.64.030, 49.66.020, 49.66.030, 49.66.050, 49.66.060,  
15 49.66.080, 49.66.090, and 49.70.170.

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

17 **Sec. 1.** RCW 49.04.010 and 1984 c 287 s 97 are each amended to read  
18 as follows:

1 The director of labor and industries shall appoint an  
2 apprenticeship council, composed of three representatives each from  
3 employer and employee organizations, respectively. The terms of office  
4 of the members of the apprenticeship council first appointed by the  
5 director of labor and industries shall be as follows: One  
6 representative each of employers and employees shall be appointed for  
7 one year, two years, and three years, respectively. Thereafter, each  
8 member shall be appointed for a term of three years. The governor  
9 shall appoint a public member to the apprenticeship council for a  
10 three-year term. The appointment of the public member is subject to  
11 confirmation by the senate. Each member shall hold office until his or  
12 her successor is appointed and has qualified and any vacancy shall be  
13 filled by appointment for the unexpired portion of the term. The state  
14 official who has been designated by the commission for vocational  
15 education as being in charge of trade and industrial education and the  
16 state official who has immediate charge of the state public employment  
17 service shall ex officio be members of (~~said~~) the council, without  
18 vote. Each member of the council, not otherwise compensated by public  
19 moneys, shall be reimbursed for travel expenses in accordance with RCW  
20 43.03.050 and 43.03.060 and shall be compensated in accordance with RCW  
21 43.03.240. The apprenticeship council with the consent of employee and  
22 employer groups shall: (1) Establish standards for apprenticeship  
23 agreements in conformity with the provisions of this chapter; (2) issue  
24 such rules and regulations as may be necessary to carry out the intent  
25 and purposes of this chapter, including a procedure to resolve an  
26 impasse should a tie vote of the council occur; and (3) perform such  
27 other duties as are hereinafter imposed. Not less than once a year the  
28 apprenticeship council shall make a report to the director of labor and  
29 industries of its activities and findings which shall be available to  
30 the public.

31 **Sec. 2.** RCW 49.04.050 and 1979 ex.s. c 37 s 3 are each amended to  
32 read as follows:

33 Standards of apprenticeship agreements are as follows:

34 (1) A statement of the trade or craft to be taught and the required  
35 hours for completion of apprenticeship which shall be not less than two  
36 thousand hours of reasonably continuous employment.

1 (2) A statement of the processes in the trade or craft divisions in  
2 which the apprentice is to be taught and the approximate amount of time  
3 to be spent at each process.

4 (3) A statement of the number of hours to be spent by the  
5 apprentice in work and the number of hours to be spent in related and  
6 supplemental instruction which instruction shall be not less than one  
7 hundred forty-four hours per year.

8 (4) A statement of the age of the apprentice which may not be less  
9 than sixteen years of age.

10 (5) A statement of the progressively increasing scale of wages to  
11 be paid the apprentice.

12 (6) Provision for a period of probation during which the  
13 apprenticeship council or the supervisor of apprenticeship may  
14 terminate an apprenticeship agreement at the request in writing of any  
15 party thereto. After the probationary period the apprenticeship  
16 council, or the supervisor of apprenticeship, under the procedure  
17 approved by the council, shall be empowered to terminate the  
18 apprenticeship agreement in accordance with the provisions of such  
19 agreement.

20 (7) Provision that the services of the supervisor and the  
21 apprenticeship council may be utilized for consultation regarding the  
22 settlement of differences arising out of the apprenticeship agreement  
23 where such differences cannot be adjusted locally or in accordance with  
24 the established trade procedure.

25 (8) Provision that if an employer is unable to fulfill his or her  
26 obligation under the apprenticeship agreement he or she may transfer  
27 such obligation to another employer.

28 (9) Such additional standards as may be prescribed in accordance  
29 with the provisions of this chapter.

30 **Sec. 3.** RCW 49.04.080 and 1963 c 172 s 1 are each amended to read  
31 as follows:

32 Under the supervision of the director of labor and industries and  
33 with the advice and guidance of the apprenticeship council, the  
34 supervisor of apprenticeship shall encourage and promote the making of  
35 such other types of on-the-job training agreements and projects, in  
36 addition to apprenticeship agreements, as ((he)) the supervisor of  
37 apprenticeship in his or her discretion shall find meritorious.

1       **Sec. 4.** RCW 49.08.050 and 1903 c 58 s 5 are each amended to read  
2 as follows:

3       Upon the failure of the director of labor and industries, in any  
4 case, to secure the creation of a board of arbitration, it shall become  
5 his or her duty to request a sworn statement from each party to the  
6 dispute of the facts upon which their dispute and their reasons for not  
7 submitting the same to arbitration are based. Any sworn statement made  
8 to the director of labor and industries under this provision shall be  
9 for public use and shall be given publicly in such newspapers as desire  
10 to use it.

11       **Sec. 5.** RCW 49.12.050 and 1994 c 164 s 15 are each amended to read  
12 as follows:

13       Every employer shall keep a record of the names of all employees  
14 employed by him or her, and shall on request permit the director to  
15 inspect such record.

16       **Sec. 6.** RCW 49.12.250 and 1985 c 336 s 2 are each amended to read  
17 as follows:

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

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

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

34       **Sec. 7.** RCW 49.17.020 and 1997 c 362 s 2 are each amended to read  
35 as follows:

1       (~~For the purposes of this chapter:~~) The definitions in this  
2 section apply throughout this chapter unless the context clearly  
3 requires otherwise.

4       (1) (~~The term~~) "Agriculture" means farming and includes, but is  
5 not limited to:

6       (a) The cultivation and tillage of the soil;

7       (b) Dairying;

8       (c) The production, cultivation, growing, and harvesting of any  
9 agricultural or horticultural commodity;

10       (d) The raising of livestock, bees, fur-bearing animals, or  
11 poultry; and

12       (e) Any practices performed by a farmer or on a farm, incident to  
13 or in connection with such farming operations, including but not  
14 limited to preparation for market and delivery to:

15       (i) Storage;

16       (ii) Market; or

17       (iii) Carriers for transportation to market.

18       (~~The term~~) "Agriculture" does not mean a farmer's processing for  
19 sale or handling for sale a commodity or product grown or produced by  
20 a person other than the farmer or the farmer's employees.

21       (2) (~~The term~~) "Director" means the director of the department of  
22 labor and industries, or his or her designated representative.

23       (3) (~~The term~~) "Department" means the department of labor and  
24 industries.

25       (4) (~~The term~~) "Employer" means any person, firm, corporation,  
26 partnership, business trust, legal representative, or other business  
27 entity which engages in any business, industry, profession, or activity  
28 in this state and employs one or more employees or who contracts with  
29 one or more persons, the essence of which is the personal labor of such  
30 person or persons and includes the state, counties, cities, and all  
31 municipal corporations, public corporations, political subdivisions of  
32 the state, and charitable organizations: PROVIDED, That any person,  
33 partnership, or business entity not having employees, and who is  
34 covered by the industrial insurance act shall be considered both an  
35 employer and an employee.

36       (5) (~~The term~~) "Employee" means an employee of an employer who is  
37 employed in the business of his or her employer whether by way of  
38 manual labor or otherwise and every person in this state who is engaged  
39 in the employment of or who is working under an independent contract

1 the essence of which is his or her personal labor for an employer under  
2 this chapter whether by way of manual labor or otherwise.

3 (6) (~~The term~~) "Person" means one or more individuals,  
4 partnerships, associations, corporations, business trusts, legal  
5 representatives, or any organized group of persons.

6 (7) (~~The term~~) "Safety and health standard" means a standard  
7 which requires the adoption or use of one or more practices, means,  
8 methods, operations, or processes reasonably necessary or appropriate  
9 to provide safe or healthful employment and places of employment.

10 (8) (~~The term~~) "Workplace" means any plant, yard, premises, room,  
11 or other place where an employee or employees are employed for the  
12 performance of labor or service over which the employer has the right  
13 of access or control, and includes, but is not limited to, all  
14 workplaces covered by industrial insurance under Title 51 RCW, as now  
15 or hereafter amended.

16 (9) (~~The term~~) "Working day" means a calendar day, except  
17 Saturdays, Sundays, and all legal holidays as set forth in RCW  
18 1.16.050, as now or hereafter amended, and for the purposes of the  
19 computation of time within which an act is to be done under the  
20 provisions of this chapter, shall be computed by excluding the first  
21 working day and including the last working day.

22 **Sec. 8.** RCW 49.17.050 and 1998 c 224 s 1 are each amended to read  
23 as follows:

24 In the adoption of rules and regulations under the authority of  
25 this chapter, the director shall:

26 (1) Provide for the preparation, adoption, amendment, or repeal of  
27 rules and regulations of safety and health standards governing the  
28 conditions of employment of general and special application in all  
29 workplaces;

30 (2) Provide for the adoption of occupational health and safety  
31 standards which are at least as effective as those adopted or  
32 recognized by the United States secretary of labor under the authority  
33 of the Occupational Safety and Health Act of 1970 (Public Law 91-596;  
34 84 Stat. 1590);

35 (3) Provide a method of encouraging employers and employees in  
36 their efforts to reduce the number of safety and health hazards at  
37 their workplaces and to stimulate employers and employees to institute

1 new and to perfect existing programs for providing safe and healthful  
2 working conditions;

3 (4) Provide for the promulgation of health and safety standards and  
4 the control of conditions in all workplaces concerning gases, vapors,  
5 dust, or other airborne particles, toxic materials, or harmful physical  
6 agents which shall set a standard which most adequately assures, to the  
7 extent feasible, on the basis of the best available evidence, that no  
8 employee will suffer material impairment of health or functional  
9 capacity even if such employee has regular exposure to the hazard dealt  
10 with by such standard for the period of his or her working life; any  
11 such standards shall require where appropriate the use of protective  
12 devices or equipment and for monitoring or measuring any such gases,  
13 vapors, dust, or other airborne particles, toxic materials, or harmful  
14 physical agents;

15 (5) Provide for appropriate reporting procedures by employers with  
16 respect to such information relating to conditions of employment which  
17 will assist in achieving the objectives of this chapter;

18 (6) Provide for the frequency, method, and manner of the making of  
19 inspections of workplaces without advance notice; (~~and,~~)

20 (7) Provide for the publication and dissemination to employers,  
21 employees, and labor organizations and the posting where appropriate by  
22 employers of informational, education, or training materials calculated  
23 to aid and assist in achieving the objectives of this chapter;

24 (8) Provide for the establishment of new and the perfection and  
25 expansion of existing programs for occupational safety and health  
26 education for employers and employees, and, in addition institute  
27 methods and procedures for the establishment of a program for voluntary  
28 compliance solely through the use of advice and consultation with  
29 employers and employees with recommendations including recommendations  
30 of methods to abate violations relating to the requirements of this  
31 chapter and all applicable safety and health standards and rules and  
32 regulations promulgated pursuant to the authority of this chapter;

33 (9) Provide for the adoption of safety and health standards  
34 requiring the use of safeguards in trenches and excavations and around  
35 openings of hoistways, hatchways, elevators, stairways, and similar  
36 openings;

37 (10) Provide for the promulgation of health and safety standards  
38 requiring the use of safeguards for all vats, pans, trimmers, cut off,  
39 gang edger, and other saws, planers, presses, formers, cogs, gearing,

1 belting, shafting, coupling, set screws, live rollers, conveyors,  
2 mangles in laundries, and machinery of similar description, which can  
3 be effectively guarded with due regard to the ordinary use of such  
4 machinery and appliances and the danger to employees therefrom, and  
5 with which the employees of any such workplace may come in contact  
6 while in the performance of their duties and prescribe methods,  
7 practices, or processes to be followed by employers which will enhance  
8 the health and safety of employees in the performance of their duties  
9 when in proximity to machinery or appliances mentioned in this  
10 subsection; and

11 (11) Certify that no later than twenty business days prior to the  
12 effective date of any significant legislative rule, as defined by RCW  
13 34.05.328, a meeting of impacted parties is convened to: (a) Identify  
14 ambiguities and problem areas in the rule; (b) coordinate education and  
15 public relations efforts by all parties; (c) provide comments regarding  
16 internal department training and enforcement plans; and (d) provide  
17 comments regarding appropriate evaluation mechanisms to determine the  
18 effectiveness of the new rule. The meeting shall include a balanced  
19 representation of both business and labor from impacted industries,  
20 department personnel responsible for the above subject areas, and other  
21 agencies or key stakeholder groups as determined by the department. An  
22 existing advisory committee may be utilized if appropriate.

23 **Sec. 9.** RCW 49.17.060 and 1973 c 80 s 6 are each amended to read  
24 as follows:

25 Each employer:

26 (1) Shall furnish to each of his or her employees a place of  
27 employment free from recognized hazards that are causing or likely to  
28 cause serious injury or death to his or her employees: PROVIDED, That  
29 no citation or order assessing a penalty shall be issued to any  
30 employer solely under the authority of this subsection except where no  
31 applicable rule or regulation has been adopted by the department  
32 covering the unsafe or unhealthful condition of employment at the  
33 workplace; and

34 (2) Shall comply with the rules, regulations, and orders  
35 promulgated under this chapter.

36 **Sec. 10.** RCW 49.17.070 and 1973 c 80 s 7 are each amended to read  
37 as follows:



1       (1) The director, or ((his)) the director's authorized  
2 representative, in carrying out his or her duties under this chapter,  
3 upon the presentation of appropriate credentials to the owner, manager,  
4 operator, or agent in charge, is authorized:

5       ((+1)) (a) To enter without delay and at all reasonable times the  
6 factory, plant, establishment, construction site, or other area,  
7 workplace, or environment where work is performed by an employee of an  
8 employer; and

9       ((+2)) (b) To inspect, survey, and investigate during regular  
10 working hours and at other reasonable times, and within reasonable  
11 limits and in a reasonable manner, any such workplace and all pertinent  
12 conditions, structures, machines, apparatus, devices, equipment, and  
13 materials therein, and to question privately any such employer, owner,  
14 operator, agent, or employee((+)).

15       ((+3)) (2) In making inspections and making investigations under  
16 this chapter the director may require the attendance and testimony of  
17 witnesses and the production of evidence under oath. Witnesses shall  
18 be paid the same fees and mileage that are paid witnesses in the  
19 superior courts. In the case of contumacy, failure, or refusal of any  
20 person to obey such an order, any superior court within the  
21 jurisdiction of which such person is found, or resides, or transacts  
22 business, upon the application of the director, shall have jurisdiction  
23 to issue to such person an order requiring such person to appear to  
24 produce evidence if, as, and when so ordered, and to give testimony  
25 relating to the matter under investigation or in question, and any  
26 failure to obey such order of the court may be punished by ((said)) the  
27 court as a contempt thereof.

28       **Sec. 11.** RCW 49.17.080 and 1973 c 80 s 8 are each amended to read  
29 as follows:

30       (1) Any employer may apply to the director for a temporary order  
31 granting a variance from any safety and health standard promulgated by  
32 rule or regulation under the authority of this chapter. Such temporary  
33 order shall be granted only if the employer files an application which  
34 meets the requirements of subsection (2) of this section and  
35 establishes that the employer is unable to comply with a safety or  
36 health standard because of the unavailability of professional or  
37 technical personnel or of materials and equipment needed to come into  
38 compliance with the safety and health standard or because necessary

1 construction or alteration of facilities cannot be completed by the  
2 effective date of such safety and health standard, that ((he)) the  
3 employer is taking all available steps to safeguard his or her  
4 employees against the hazards covered by the safety and health  
5 standard, and ((he)) the employer has an effective program for coming  
6 into compliance with such safety and health standard as quickly as  
7 practicable. Any temporary order issued under the authority of this  
8 subsection shall prescribe the practices, means, methods, operations,  
9 and processes which the employer must adopt and use while the order is  
10 in effect and state in detail ((his)) the employer's program for coming  
11 into compliance with the safety and health standard. Such a temporary  
12 order may be granted only after notice to employees and an opportunity  
13 for a hearing upon request of the employer or any affected employee.  
14 The name of any affected employee requesting a hearing under the  
15 provisions of this subsection shall be confidential and shall not be  
16 disclosed without the consent of such employee. The director may issue  
17 one interim order to be effective until a determination is made or a  
18 decision rendered if a hearing is demanded. No temporary order may be  
19 in effect for longer than the period needed by the employer to achieve  
20 compliance with the standard, or one year, whichever is shorter, except  
21 that such an order may be renewed not more than twice, so long as the  
22 requirements of this subsection are met and if an application for  
23 renewal is filed at least ninety days prior to the expiration date of  
24 the order. No renewal of a temporary order may remain in effect for  
25 longer than one hundred eighty days.

26 (2) An application for a temporary order under this section shall  
27 contain:

28 (a) A specification of the safety and health standard or portion  
29 thereof from which the employer seeks a variance;

30 (b) A representation by the employer, supported by representations  
31 from qualified persons having first hand knowledge of the facts  
32 represented, that he or she is unable to comply with the safety and  
33 health standard or portion thereof and a detailed statement of the  
34 reasons therefor;

35 (c) A statement of the steps the employer has taken and will take,  
36 with specific dates, to protect employees against the hazard covered by  
37 the standard;

38 (d) A statement as to when the employer expects to be able to  
39 comply with the standard or portion thereof and what steps he or she

1 has taken and will take, with dates specified, to come into compliance  
2 with the standard; and

3 (e) A certification that the employer, by the date of mailing or  
4 delivery of the application to the director, has informed his or her  
5 employees of the application by providing a copy thereof to his or her  
6 employees or their authorized representative by posting a copy of such  
7 application in a place or places reasonably accessible to all employees  
8 or by other appropriate means of notification and by mailing a copy to  
9 the authorized representative of such employees; the application shall  
10 set forth the manner in which the employees have been so informed. The  
11 application shall also advise employees and their employee  
12 representatives of their right to apply to the director to conduct a  
13 hearing upon the application for a variance.

14 **Sec. 12.** RCW 49.17.090 and 1973 c 80 s 9 are each amended to read  
15 as follows:

16 Any employer may apply to the director for an order for a variance  
17 from any rule or regulation establishing a safety and health standard  
18 promulgated under this chapter. Affected employees shall be given  
19 notice of each such application and in the manner prescribed by RCW  
20 49.17.080 shall be informed of their right to request a hearing on any  
21 such application. The director shall issue such order granting a  
22 variance, after opportunity for an inspection, if ~~((he))~~ the director  
23 determines or decides after a hearing has been held, if request for  
24 hearing has been made, that the applicant for the variance has  
25 demonstrated by a preponderance of the evidence that the conditions,  
26 practices, means, methods, operations, or processes used or proposed to  
27 be used by such applicant employer will provide employment and places  
28 of employment to his or her employees which are as safe and healthful  
29 as those which would prevail if he or she complied with the safety and  
30 health standard or standards from which the variance is sought. The  
31 order so issued shall prescribe the conditions the employer must  
32 maintain, and the practices, means, methods, operations, and processes  
33 which he or she must adopt and utilize to the extent they differ from  
34 the standard in question. At any time after six months has elapsed  
35 from the date of the issuance of the order granting a variance upon  
36 application of an employer, employee, or the director on ~~((his))~~ the  
37 director's own motion, after notice has been given in the manner  
38 prescribed for the issuance of such order may modify or revoke the

1 order granting the variance from any standard promulgated under the  
2 authority of this chapter.

3 **Sec. 13.** RCW 49.17.100 and 1986 c 192 s 1 are each amended to read  
4 as follows:

5 A representative of the employer and an employee representative  
6 authorized by the employees of such employer shall be given an  
7 opportunity to accompany the director, or ~~((his))~~ the director's  
8 authorized representative, during the physical inspection of any  
9 workplace for the purpose of aiding such inspection. Where there is no  
10 authorized employee representative, the director or ~~((his))~~ the  
11 director's authorized representative shall consult with a reasonable  
12 number of employees concerning matters of health and safety in the  
13 workplace. The director may adopt procedural rules and regulations to  
14 implement the provisions of this section: PROVIDED, That neither this  
15 section, nor any other provision of this chapter, shall be construed to  
16 interfere with, impede, or in any way diminish the right of employees  
17 to bargain collectively with their employers through representatives of  
18 their own choosing concerning wages or standards or conditions of  
19 employment which equal or exceed those established under the authority  
20 of this chapter.

21 **Sec. 14.** RCW 49.17.110 and 1973 c 80 s 11 are each amended to read  
22 as follows:

23 Each employee shall comply with the provisions of this chapter and  
24 all rules, regulations, and orders issued pursuant to the authority of  
25 this chapter which are applicable to his or her own actions and conduct  
26 in the course of his or her employment. Any employee or representative  
27 of employees who in good faith believes that a violation of a safety or  
28 health standard, promulgated by rule under the authority of this  
29 chapter exists that threatens physical harm to employees, or that an  
30 imminent danger to such employees exists, may request an inspection of  
31 the workplace by giving notice to the director or ~~((his))~~ the  
32 director's authorized representative of such violation or danger. Any  
33 such notice shall be reduced to writing, shall set forth with  
34 reasonable particularity the grounds for the notice, and shall be  
35 signed by the employee or representative of employees. A copy of the  
36 notice shall be provided the employer or ~~((his))~~ the employer's agent  
37 no later than at the time of inspection, except that, upon the request

1 of the person giving such notice, his or her name and the names of  
2 individual employees referred to therein shall not appear in such copy  
3 or on any record published, released, or made available pursuant to any  
4 provision of this chapter. If upon receipt of such notification the  
5 director determines that there are reasonable grounds to believe that  
6 such violation or danger exists, (~~he~~) the director shall make a  
7 special inspection as soon as practicable, to determine if such  
8 violation or danger exists. If the director determines there are no  
9 reasonable grounds to believe that a violation or danger exists, he or  
10 she shall notify the employer and the employee or representative of the  
11 employees in writing of such determination.

12 Prior to or during any inspection of a workplace, any employee or  
13 representative of employees employed in such workplace may notify the  
14 director or any representative of the director responsible for  
15 conducting the inspection, in writing, of any violation of this chapter  
16 which he or she has reason to believe exists in such workplace. The  
17 director shall, by rule, establish procedures for informal review of  
18 any refusal by a representative of the director to issue a citation  
19 with respect to any such alleged violation, and shall furnish the  
20 employee or representative of employees requesting such review a  
21 written statement of the reasons for the director's final disposition  
22 of the case.

23 **Sec. 15.** RCW 49.17.130 and 1973 c 80 s 13 are each amended to read  
24 as follows:

25 (1) If upon inspection or investigation, the director, or (~~his~~)  
26 the director's authorized representative, believes that an employer has  
27 violated a requirement of RCW 49.17.060, or any safety or health  
28 standard promulgated by rules of the department, or any conditions of  
29 an order granting a variance, which violation is such that a danger  
30 exists from which there is a substantial probability that death or  
31 serious physical harm could result to any employee, the director or  
32 (~~his~~) the director's authorized representative shall issue a citation  
33 and may issue an order immediately restraining any such condition,  
34 practice, method, process, or means in the workplace. Any order issued  
35 under this section may require such steps to be taken as may be  
36 necessary to avoid, correct, or remove such danger and prohibit the  
37 employment or presence of any individual in locations or under  
38 conditions where such danger exists, except individuals whose presence

1 is necessary to avoid, correct, or remove such danger or to maintain  
2 the capacity of a continuous process operation in order that the  
3 resumption of normal operations may be had without a complete cessation  
4 of operations, or where a cessation of operations is necessary, to  
5 permit such to be accomplished in a safe and orderly manner. In  
6 addition, if any machine or equipment, or any part thereof, is in  
7 violation of a requirement of RCW 49.17.060 or any safety or health  
8 standard promulgated by rules of the department, and the operation of  
9 such machine or equipment gives rise to a substantial probability that  
10 death or serious physical harm could result to any employee, and an  
11 order of immediate restraint of the use of such machine or equipment  
12 has been issued under this subsection, the use of such machine or  
13 equipment is prohibited, and a notice to that effect shall be attached  
14 thereto by the director or ((his)) the director's authorized  
15 representative.

16 (2) Whenever the director, or ((his)) director's authorized  
17 representative, concludes that a condition of employment described in  
18 subsection (1) of this section exists in any workplace, he or she shall  
19 promptly inform the affected employees and employers of the danger.

20 (3) At any time that a citation or a citation and order restraining  
21 any condition of employment or practice described in subsection (1) of  
22 this section is issued by the director, or ((his)) the director's  
23 authorized representative, he or she may in addition request the  
24 attorney general to make an application to the superior court of the  
25 county wherein such condition of employment or practice exists for a  
26 temporary restraining order or such other relief as appears to be  
27 appropriate under the circumstances.

28 **Sec. 16.** RCW 49.17.160 and 1973 c 80 s 16 are each amended to read  
29 as follows:

30 (1) No person shall discharge or in any manner discriminate against  
31 any employee because such employee has filed any complaint or  
32 instituted or caused to be instituted any proceeding under or related  
33 to this chapter, or has testified or is about to testify in any such  
34 proceeding or because of the exercise by such employee on behalf of  
35 himself or herself or others of any right afforded by this chapter.

36 (2) Any employee who believes that he or she has been discharged or  
37 otherwise discriminated against by any person in violation of this  
38 section may, within thirty days after such violation occurs, file a

1 complaint with the director alleging such discrimination. Upon receipt  
2 of such complaint, the director shall cause such investigation to be  
3 made as ((he)) the director deems appropriate. If upon such  
4 investigation, the director determines that the provisions of this  
5 section have been violated, ((he)) the director shall bring an action  
6 in the superior court of the county wherein the violation is alleged to  
7 have occurred against the person or persons who is alleged to have  
8 violated the provisions of this section. If the director determines  
9 that the provisions of this section have not been violated, the  
10 employee may institute the action on his or her own behalf within  
11 thirty days of such determination. In any such action the superior  
12 court shall have jurisdiction, for cause shown, to restrain violations  
13 of subsection (1) of this section and order all appropriate relief  
14 including rehiring or reinstatement of the employee to his or her  
15 former position with back pay.

16 (3) Within ninety days of the receipt of the complaint filed under  
17 this section, the director shall notify the complainant of his or her  
18 determination under subsection (2) of this section.

19 **Sec. 17.** RCW 49.17.170 and 1973 c 80 s 17 are each amended to read  
20 as follows:

21 (1) In addition to and after having invoked the powers of restraint  
22 vested in the director as provided in RCW 49.17.130 the superior courts  
23 of the state of Washington shall have jurisdiction upon petition of the  
24 director, through the attorney general, to enjoin any condition or  
25 practice in any workplace from which there is a substantial probability  
26 that death or serious physical harm could result to any employee  
27 immediately or before the imminence of such danger can be eliminated  
28 through the enforcement procedures otherwise provided by this chapter.  
29 Any order issued under this section may require such steps to be taken  
30 as may be necessary to avoid, correct, or remove such danger and  
31 prohibit the employment or presence of any individual in locations or  
32 under conditions where such danger exists, except individuals whose  
33 presence is necessary to avoid, correct, or remove such danger or to  
34 maintain the capacity of a continuous process operation to resume  
35 normal operation without a complete cessation of operations, or where  
36 a cessation of operations is necessary, to permit such to be  
37 accomplished in a safe and orderly manner.

1 (2) Upon the filing of any such petition the superior courts of the  
2 state of Washington shall have jurisdiction to grant such injunctive  
3 relief or temporary restraining order pending the outcome of  
4 enforcement proceedings pursuant to this chapter, except that no  
5 temporary restraining order issued without notice shall be effective  
6 for a period longer than five working days.

7 (3) Whenever and as soon as any authorized representative of the  
8 director concludes that a condition or practice described in subsection  
9 (1) exists in any workplace, he or she shall inform the affected  
10 employees and employers of the danger and may recommend to the director  
11 that relief be sought under this section.

12 (4) If the director arbitrarily or capriciously fails to invoke his  
13 or her restraining authority under RCW 49.17.130 or fails to seek  
14 relief under this section, any employee who may be injured by reason of  
15 such failure, or the representative of such employees, may bring an  
16 action against the director in the superior court for the county in  
17 which the danger is alleged to exist for a writ of mandamus to compel  
18 the director to seek such an order and for such further relief as may  
19 be appropriate or seek the director to exercise his or her restraining  
20 authority under RCW 49.17.130.

21 **Sec. 18.** RCW 49.17.180 and 1995 c 403 s 629 are each amended to  
22 read as follows:

23 (1) Except as provided in RCW 43.05.090, any employer who willfully  
24 or repeatedly violates the requirements of RCW 49.17.060, of any safety  
25 or health standard promulgated under the authority of this chapter, of  
26 any existing rule or regulation governing the conditions of employment  
27 promulgated by the department, or of any order issued granting a  
28 variance under RCW 49.17.080 or 49.17.090 may be assessed a civil  
29 penalty not to exceed seventy thousand dollars for each violation. A  
30 minimum penalty of five thousand dollars shall be assessed for a  
31 willful violation.

32 (2) Any employer who has received a citation for a serious  
33 violation of the requirements of RCW 49.17.060, of any safety or health  
34 standard promulgated under the authority of this chapter, of any  
35 existing rule or regulation governing the conditions of employment  
36 promulgated by the department, or of any order issued granting a  
37 variance under RCW 49.17.080 or 49.17.090 as determined in accordance



1 with subsection (6) of this section, shall be assessed a civil penalty  
2 not to exceed seven thousand dollars for each such violation.

3 (3) Any employer who has received a citation for a violation of the  
4 requirements of RCW 49.17.060, of any safety or health standard  
5 promulgated under this chapter, of any existing rule or regulation  
6 governing the conditions of employment promulgated by the department,  
7 or of any order issued granting a variance under RCW 49.17.080 or  
8 49.17.090, where such violation is specifically determined not to be of  
9 a serious nature as provided in subsection (6) of this section, may be  
10 assessed a civil penalty not to exceed seven thousand dollars for each  
11 such violation, unless such violation is determined to be de minimis.

12 (4) Any employer who fails to correct a violation for which a  
13 citation has been issued under RCW 49.17.120 or 49.17.130 within the  
14 period permitted for its correction, which period shall not begin to  
15 run until the date of the final order of the board of industrial  
16 insurance appeals in the case of any review proceedings under this  
17 chapter initiated by the employer in good faith and not solely for  
18 delay or avoidance of penalties, may be assessed a civil penalty of not  
19 more than seven thousand dollars for each day during which such failure  
20 or violation continues.

21 (5) Any employer who violates any of the posting requirements of  
22 this chapter, or any of the posting requirements of rules promulgated  
23 by the department pursuant to this chapter related to employee or  
24 employee representative's rights to notice, including but not limited  
25 to those employee rights to notice set forth in RCW 49.17.080,  
26 49.17.090, 49.17.120, 49.17.130, 49.17.220(1) and 49.17.240(2), shall  
27 be assessed a penalty not to exceed seven thousand dollars for each  
28 such violation. Any employer who violates any of the posting  
29 requirements for the posting of informational, educational, or training  
30 materials under the authority of RCW 49.17.050(7), may be assessed a  
31 penalty not to exceed seven thousand dollars for each such violation.

32 (6) For the purposes of this section, a serious violation shall be  
33 deemed to exist in a workplace if there is a substantial probability  
34 that death or serious physical harm could result from a condition which  
35 exists, or from one or more practices, means, methods, operations, or  
36 processes which have been adopted or are in use in such workplace,  
37 unless the employer did not, and could not with the exercise of  
38 reasonable diligence, know of the presence of the violation.

1 (7) The director, or ((his)) the director's authorized  
2 representatives, shall have authority to assess all civil penalties  
3 provided in this section, giving due consideration to the  
4 appropriateness of the penalty with respect to the number of affected  
5 employees of the employer being charged, the gravity of the violation,  
6 the size of the employer's business, the good faith of the employer,  
7 and the history of previous violations.

8 (8) Civil penalties imposed under this chapter shall be paid to the  
9 director for deposit in the supplemental pension fund established by  
10 RCW 51.44.033. Civil penalties may be recovered in a civil action in  
11 the name of the department brought in the superior court of the county  
12 where the violation is alleged to have occurred, or the department may  
13 utilize the procedures for collection of civil penalties as set forth  
14 in RCW 51.48.120 through 51.48.150.

15 **Sec. 19.** RCW 49.17.190 and 1986 c 20 s 3 are each amended to read  
16 as follows:

17 (1) Any person who gives advance notice of any inspection to be  
18 conducted under the authority of this chapter, without the consent of  
19 the director or ((his)) the director's authorized representative,  
20 shall, upon conviction be guilty of a gross misdemeanor and be punished  
21 by a fine of not more than one thousand dollars or by imprisonment for  
22 not more than six months, or by both.

23 (2) Whoever knowingly makes any false statement, representation, or  
24 certification in any application, record, report, plan, or other  
25 document filed or required to be maintained pursuant to this chapter  
26 shall, upon conviction be guilty of a gross misdemeanor and be punished  
27 by a fine of not more than ten thousand dollars, or by imprisonment for  
28 not more than six months or by both.

29 (3) Any employer who willfully and knowingly violates the  
30 requirements of RCW 49.17.060, any safety or health standard  
31 promulgated under this chapter, any existing rule or regulation  
32 governing the safety or health conditions of employment and adopted by  
33 the director, or any order issued granting a variance under RCW  
34 49.17.080 or 49.17.090 and that violation caused death to any employee  
35 shall, upon conviction be guilty of a gross misdemeanor and be punished  
36 by a fine of not more than one hundred thousand dollars or by  
37 imprisonment for not more than six months or by both; except, that if  
38 the conviction is for a violation committed after a first conviction of

1 such person, punishment shall be a fine of not more than two hundred  
2 thousand dollars or by imprisonment for not more than one year, or by  
3 both.

4 (4) Any employer who has been issued an order immediately  
5 restraining a condition, practice, method, process, or means in the  
6 workplace, pursuant to RCW 49.17.130 or 49.17.170, and who nevertheless  
7 continues such condition, practice, method, process, or means, or who  
8 continues to use a machine or equipment or part thereof to which a  
9 notice prohibiting such use has been attached, shall be guilty of a  
10 gross misdemeanor, and upon conviction shall be punished by a fine of  
11 not more than ten thousand dollars or by imprisonment for not more than  
12 six months, or by both.

13 (5) Any employer who shall knowingly remove, displace, damage, or  
14 destroy, or cause to be removed, displaced, damaged, or destroyed any  
15 safety device or safeguard required to be present and maintained by any  
16 safety or health standard, rule, or order promulgated pursuant to this  
17 chapter, or pursuant to the authority vested in the director under RCW  
18 43.22.050 shall, upon conviction, be guilty of a misdemeanor and be  
19 punished by a fine of not more than one thousand dollars or by  
20 imprisonment for not more than ninety days, or by both.

21 (6) Whenever the director has reasonable cause to believe that any  
22 provision of this section defining a crime has been violated by an  
23 employer, the director shall cause a record of such alleged violation  
24 to be prepared, a copy of which shall be referred to the prosecuting  
25 attorney of the county wherein such alleged violation occurred, and the  
26 prosecuting attorney of such county shall in writing advise the  
27 director of the disposition he or she shall make of the alleged  
28 violation.

29 **Sec. 20.** RCW 49.17.200 and 1973 c 80 s 20 are each amended to read  
30 as follows:

31 All information reported to or otherwise obtained by the director,  
32 or ((his)) the director's authorized representative, in connection with  
33 any inspection or proceeding under the authority of this chapter, which  
34 contains or which might reveal a trade secret shall be considered  
35 confidential, except that such information may be disclosed to other  
36 officers or employees concerned with carrying out this chapter, or when  
37 relevant in any proceeding under this chapter. In any such proceeding  
38 the director, the board of industrial insurance appeals, or the court

1 shall issue such orders as may be appropriate to protect the  
2 confidentiality of trade secrets.

3       **Sec. 21.** RCW 49.17.220 and 1973 c 80 s 22 are each amended to read  
4 as follows:

5       (1) Each employer shall make, keep, and preserve, and make  
6 available to the director such records regarding his or her activities  
7 relating to this chapter as the director may prescribe by regulation as  
8 necessary or appropriate for the enforcement of this chapter or for  
9 developing information regarding the causes and prevention of  
10 occupational accidents and illnesses. In order to carry out the  
11 provisions of this section such regulations may include provisions  
12 requiring employers to conduct periodic inspections. The director  
13 shall also issue regulations requiring that employers, through posting  
14 of notices or other appropriate means, keep their employees informed of  
15 their protections and obligations under this chapter, including the  
16 provisions of applicable safety and health standards.

17       (2) The director shall prescribe regulations requiring employers to  
18 maintain accurate records, and to make periodic reports of work-related  
19 deaths, and of injuries and illnesses other than minor injuries  
20 requiring only first aid treatment and which do not involve medical  
21 treatment, loss of consciousness, restriction of work or motion, or  
22 transfer to another job.

23       (3) The director shall issue regulations requiring employers to  
24 maintain accurate records of employee exposures to potentially toxic  
25 materials or harmful physical agents which are required to be monitored  
26 or measured. Such regulations shall provide employees or their  
27 representatives with an opportunity to observe such monitoring or  
28 measuring, and to have access to the records thereof. Such regulations  
29 shall also make appropriate provisions for each employee or former  
30 employee to have access to such records as will indicate his or her own  
31 exposure to toxic materials or harmful physical agents. Each employer  
32 shall promptly notify any employee who has been or is being exposed to  
33 toxic materials or harmful physical agents in concentrations or at  
34 levels which exceed those prescribed by any applicable safety and  
35 health standard promulgated under this chapter and shall inform any  
36 employee who is being thus exposed of the corrective action being  
37 taken.

1       **Sec. 22.** RCW 49.17.240 and 1973 c 80 s 24 are each amended to read  
2 as follows:

3       (1) The director in the promulgation of rules under the authority  
4 of this chapter shall establish safety and health standards for  
5 conditions of employment of general and/or specific applicability for  
6 all industries, businesses, occupations, crafts, trades, and  
7 employments subject to the provisions of this chapter, or those that  
8 are a national or accepted federal standard. In adopting safety and  
9 health standards for conditions of employment, the director shall  
10 solicit and give due regard to all recommendations by any employer,  
11 employee, or labor representative of employees.

12       (2) Any safety and health standard adopted by rule of the director  
13 shall, where appropriate, prescribe the use of labels or other forms of  
14 warning to insure that employees are apprised of all hazards to which  
15 they may be exposed, relevant symptoms, and appropriate emergency  
16 treatment, and proper conditions and precautions of safe use or  
17 exposure. Where appropriate, such rules shall so prescribe suitable  
18 protective equipment and control or technological procedures to be used  
19 in connection with such hazards and shall provide for monitoring or  
20 measuring employee exposure at such locations and intervals, and in  
21 such manner as may be reasonably necessary for the protection of  
22 employees. In addition, where appropriate, any such rule shall  
23 prescribe the type and frequency of medical examinations or other tests  
24 which shall be made available, by the employer or at his or her cost,  
25 to employees exposed to such hazards in order to most effectively  
26 determine whether the health of such employees is adversely affected by  
27 such exposure. In the event that such medical examinations are in the  
28 nature of research, as determined by the director, such examinations  
29 may be furnished at the expense of the department. The results of such  
30 examinations or tests shall be furnished only to the director, other  
31 appropriate agencies of government, and at the request of the employee  
32 to his or her physician.

33       (3) Whenever the director adopts by rule any safety and health  
34 standard he or she may at the same time provide by rule the effective  
35 date of such standard which shall not be less than thirty days,  
36 excepting emergency rules, but may be made effective at such time in  
37 excess of thirty days from the date of adoption as specified in any  
38 rule adopting a safety and health standard. Any rule not made  
39 effective thirty days after adoption, having a delayed effectiveness in

1 excess of thirty days, may only be made upon a finding made by the  
2 director that such delayed effectiveness of the rule is reasonably  
3 necessary to afford the affected employers a reasonable opportunity to  
4 make changes in methods, means, or practices to meet the requirements  
5 of the adopted rule. Temporary orders granting a variance may be  
6 utilized by the director in lieu of the delayed effectiveness in the  
7 adoption of any rule.

8 **Sec. 23.** RCW 49.17.260 and 1973 c 80 s 26 are each amended to read  
9 as follows:

10 In furtherance of the objects and purposes of this chapter, the  
11 director shall develop and maintain an effective program of collection,  
12 compilation, and analysis of industrial safety and health statistics.  
13 The director, or ((his)) the director's authorized representative,  
14 shall investigate and analyze industrial catastrophes, serious  
15 injuries, and fatalities occurring in any workplace subject to this  
16 chapter, in an effort to ascertain whether such injury or fatality  
17 occurred as the result of a violation of this chapter, or any safety  
18 and health standard, rule, or order promulgated pursuant to this  
19 chapter, or if not, whether a safety and health standard or rule should  
20 be promulgated for application to such circumstances. The director  
21 shall adopt rules relating to the conducting and reporting of such  
22 investigations. Such investigative report shall be deemed confidential  
23 and only available upon order of the superior court after notice to the  
24 director and an opportunity for hearing: PROVIDED, That such  
25 investigative reports shall be made available without the necessity of  
26 obtaining a court order, to employees of governmental agencies in the  
27 performance of their official duties, to the injured ((workman)) worker  
28 or his or her legal representative or his or her labor organization  
29 representative, or to the legal representative or labor organization  
30 representative of a deceased ((workman)) worker who was the subject of  
31 an investigation, or to the employer of the injured or deceased  
32 ((workman)) worker or any other employer or person whose actions or  
33 business operation is the subject of the report of investigation, or  
34 any attorney representing a party in any pending legal action in which  
35 an investigative report constitutes relevant and material evidence in  
36 such legal action.

1       **Sec. 24.** RCW 49.24.040 and 1937 c 131 s 4 are each amended to read  
2 as follows:

3       If an employee is a new employee, an absentee for ten or more  
4 successive days, an employee who has worked in compressed air  
5 continuously for three months or a beginner in compressed air who has  
6 worked but a single ((~~shaft~~[~~shift~~])) shift as required by RCW  
7 49.24.050, the officer required by RCW 49.24.030(1) shall examine him  
8 or her and declare him or her physically fit to work in compressed air  
9 before permitting him or her to enter or reenter the working chamber.  
10 Excessive users of intoxicants shall not be permitted to work in  
11 compressed air.

12       **Sec. 25.** RCW 49.24.150 and 1941 c 194 s 8 are each amended to read  
13 as follows:

14       When locking explosives and detonators into the air chamber, they  
15 shall be kept at opposite ends of the lock. While explosives and  
16 detonators are being taken through, no ((~~men~~)) persons other than the  
17 lock tender and the carriers shall be permitted in the lock.

18       **Sec. 26.** RCW 49.24.180 and 1941 c 194 s 11 are each amended to  
19 read as follows:

20       While work is in progress, the employer shall employ a competent  
21 person who shall make a regular inspection at least once every working  
22 day of all engines, boilers, steam pipes, drills, air pipes, air  
23 gauges, air locks, dynamos, electric wiring, signaling apparatus,  
24 brakes, cages, buckets, hoists, cables, ropes, timbers, supports, and  
25 all other apparatus and appliances; and he or she shall immediately  
26 upon discovery of any defect, report same in writing to the employer,  
27 or ((~~his~~)) the employer's agent in charge.

28       **Sec. 27.** RCW 49.24.190 and 1941 c 194 s 12 are each amended to  
29 read as follows:

30       No employee shall ride on any loaded car, cage or bucket, nor walk  
31 up or down any incline or shaft while any car, cage or bucket is above  
32 him or her.

33       **Sec. 28.** RCW 49.24.220 and 1941 c 194 s 15 are each amended to  
34 read as follows:

- 1 (1) No greater quantity of explosives than that which is required  
2 for immediate use shall be taken into the working chamber.
- 3 (2) Explosives shall be conveyed in a suitable covered wooden box.
- 4 (3) Detonators shall be conveyed in a separate covered wooden box.
- 5 (4) Explosives and detonators shall be taken separately into the  
6 caissons.
- 7 (5) After blasting is completed, all explosives and detonators  
8 shall be returned at once to the magazine.
- 9 (6) No naked light shall be used in the vicinity of open chests or  
10 magazines containing explosives, nor near where a charge is being  
11 primed.
- 12 (7) No tools or other articles shall be carried with the explosives  
13 or with the detonators.
- 14 (8) All power lines and electric light wires shall be disconnected  
15 at a point outside the blasting switch before the loading of holes. No  
16 current by grounding of power or bonded rails shall be allowed beyond  
17 blasting switch after explosives are taken in preparatory to blasting,  
18 and under no circumstances shall grounded current be used for exploding  
19 blasts.
- 20 (9) Before drilling is commenced on any shift, all remaining holes  
21 shall be examined with a wooden stick for unexploded charges or  
22 cartridges, and if any are found, same shall be refired before work  
23 proceeds.
- 24 (10) No person shall be allowed to deepen holes that have  
25 previously contained explosives.
- 26 (11) All wires in broken rock shall be carefully traced and search  
27 made for unexploded cartridges.
- 28 (12) Whenever blasting is being done in a tunnel, at points liable  
29 to break through to where other (~~men~~) persons are at work, the  
30 foreman or person in charge shall, before any holes are loaded, give  
31 warning of danger to all persons that may be working where the blasts  
32 may break through, and he or she shall not allow any holes to be  
33 charged until warning is acknowledged and (~~men~~) workers are removed.
- 34 (13) Blasters when testing circuit through charged holes shall use  
35 sufficient leading wires to be at a safe distance and shall use only  
36 approved types of galvanometers. No tests of circuits in charged holes  
37 shall be made until (~~men~~) persons are removed to safe distance.
- 38 (14) No blasts shall be fired with fuse, except electrically  
39 ignited fuse, in vertical or steep shafts.



1 (15) In shaft sinking where the electric current is used for  
2 firing, a separate switch not controlling any electric lights must be  
3 used for blasting and proper safeguard similar to those in tunnels must  
4 be followed in order to insure against premature firing.

5 **Sec. 29.** RCW 49.24.230 and 1941 c 194 s 16 are each amended to  
6 read as follows:

7 When firing by electricity from power or lighting wires, a proper  
8 switch shall be furnished with lever down when "off".

9 The switch shall be fixed in a locked box to which no person shall  
10 have access except the blaster. There shall be provided flexible leads  
11 or connecting wires not less than five feet in length with one end  
12 attached to the incoming lines and the other end provided with plugs  
13 that can be connected to an effective ground. After blasting, the  
14 switch lever shall be pulled out, the wires disconnected and the box  
15 locked before any person shall be allowed to return, and shall remain  
16 so locked until again ready to blast.

17 In the working chamber all electric light wires shall be provided  
18 with a disconnecting switch, which must be thrown to disconnect all  
19 current from the wires in the working chamber before electric light  
20 wires are removed or the charge exploded.

21 Before blasting the blaster shall cause a sufficient warning to be  
22 sounded and shall compel all persons to retreat to a safe shelter,  
23 before he or she sets off the blast, and shall permit no one to return  
24 until conditions are safe.

25 **Sec. 30.** RCW 49.24.260 and 1941 c 194 s 19 are each amended to  
26 read as follows:

27 All shafting used in pneumatic caissons shall be provided with  
28 ladders, which are to be kept clear and in good condition at all times.  
29 The distance between the centers of the rungs of a ladder shall not  
30 exceed fourteen inches and shall not vary more than one inch in any one  
31 piece of shafting. The length of the ladder rungs shall not be less  
32 than nine inches. The rungs of the ladder shall in no case be less  
33 than three inches from the wall or other obstruction in the shafting or  
34 opening in which the ladder shall be used. Under no circumstances  
35 shall a ladder inclining backward from the vertical be installed. A  
36 suitable ladder shall be provided from the top of all locks to the  
37 surface.

1 All man shafts shall be lighted at a distance of every ten feet  
2 with a guarded incandescent lamp.

3 All outside caisson air locks shall be provided with a platform not  
4 less than forty-two inches wide, and provided with a guard rail forty-  
5 two inches high.

6 All caissons in which fifteen or more (~~men~~) persons are employed  
7 shall have two locks, one of which shall be used as a man lock. Man  
8 locks and man shafts shall be in charge of a (~~man~~) person whose duty  
9 it shall be to operate (~~said~~) the lock and shaft. All caissons more  
10 than ten feet in diameter shall be provided with a separate man shaft,  
11 which shall be kept clear and in operating order at all times.

12 Locks shall be so located that the distance between the bottom door  
13 and water level shall be not less than three feet.

14 **Sec. 31.** RCW 49.24.290 and 1941 c 194 s 22 are each amended to  
15 read as follows:

16 In all shafts where (~~men~~) persons are hoisted or lowered, an  
17 iron-bonneted cage shall be used for the conveyance of (~~men~~) persons,  
18 but this provision shall not apply to shafts in the process of sinking  
19 or during the dismantling of the shaft after work in the tunnel is  
20 substantially completed.

21 Cages shall be provided with bonnets consisting of two steel plates  
22 not less than three-sixteenths of an inch in thickness, sloping toward  
23 each side and so arranged that they may be readily pushed upward to  
24 afford egress to persons therein, and such bonnet shall cover the top  
25 of the cage in such manner as to protect persons in the cage from  
26 falling objects.

27 Cages shall be entirely enclosed on two sides with solid partition  
28 or wire mesh not less than No. 8 U.S. Standard gauge, no opening in  
29 which shall exceed two inches.

30 Cages shall be provided with hanging chains or other similar  
31 devices for hand holds.

32 Every cage shall be provided with an approved safety catch of  
33 sufficient strength to hold the cage with its maximum load at any point  
34 in the shaft.

35 All parts of the hoisting apparatus, cables, brakes, guides and  
36 fastenings shall be of the most substantial design and shall be  
37 arranged for convenient inspection. The efficiency of all safety  
38 devices shall be established by satisfactory tests before the cages are

1 put into service and at least once every three months thereafter and a  
2 record thereof kept.

3 The test of the safety catch shall consist of releasing the cage  
4 suddenly in such manner that the safety catches shall have opportunity  
5 to grip the guides.

6 **Sec. 32.** RCW 49.24.310 and 1941 c 194 s 24 are each amended to  
7 read as follows:

8 Where tunnels are driven from shafts more than two hundred and  
9 fifty feet deep, a telephone system shall be established and  
10 maintained, communicating with the surface at each such shaft, and with  
11 a station or stations readily and quickly accessible to the ~~((men))~~  
12 persons at the working level.

13 **Sec. 33.** RCW 49.24.370 and 1941 c 194 s 32 are each amended to  
14 read as follows:

15 The director of labor and industries shall establish such rules and  
16 regulations as he or she deems primarily necessary for the safety of  
17 the employees employed in tunnels, quarries, caissons and subways and  
18 shall be guided by the most modern published studies and researches  
19 made by persons or institutions into the correction of the evils  
20 chargeable to improper safeguards and inspection of the tools,  
21 machinery, equipment and places of work obtaining in the industries  
22 covered by RCW 49.24.080 through 49.24.380.

23 **Sec. 34.** RCW 49.26.010 and 1973 c 30 s 1 are each amended to read  
24 as follows:

25 Air-borne asbestos dust and particles, such as those from sprayed  
26 asbestos slurry, asbestos-coated ventilating ducts, and certain other  
27 applications of asbestos are known to produce irreversible lung damage  
28 and bronchogenic carcinoma. One American of every four dying in urban  
29 areas of the United States has asbestos particles or dust in his or her  
30 lungs. The nature of this problem is such as to constitute a hazard to  
31 the public health and safety, and should be brought under appropriate  
32 regulation.

33 **Sec. 35.** RCW 49.28.100 and 1953 c 271 s 1 are each amended to read  
34 as follows:

1       It shall be unlawful for any employer to permit any of his or her  
2 employees to operate on docks, in warehouses and/or in or on other  
3 waterfront properties any power driven mechanical equipment for the  
4 purpose of loading cargo on, or unloading cargo from, ships, barges, or  
5 other watercraft, or of assisting in such loading or unloading  
6 operations, for a period in excess of twelve and one-half hours at any  
7 one time without giving such person an interval of eight hours' rest:  
8 PROVIDED, HOWEVER, The provisions of this section and RCW 49.28.110  
9 shall not be applicable in cases of emergency, including fire, violent  
10 storms, leaking or sinking ships or services required by the armed  
11 forces of the United States.

12       **Sec. 36.** RCW 49.32.020 and 1933 ex.s. c 7 s 2 are each amended to  
13 read as follows:

14       In the interpretation of this chapter and in determining the  
15 jurisdiction and authority of the courts of the state of Washington, as  
16 such jurisdiction and authority are herein defined and limited, the  
17 public policy of the state of Washington is hereby declared as follows:

18       WHEREAS, Under prevailing economic conditions, developed with the  
19 aid of governmental authority for owners of property to organize in the  
20 corporate and other forms of ownership association, the individual  
21 unorganized worker is commonly helpless to exercise actual liberty of  
22 contract and to protect his or her freedom of labor, and thereby to  
23 obtain acceptable terms and conditions of employment, wherefore, though  
24 he or she should be free to decline to associate with his or her  
25 fellows, it is necessary that he or she have full freedom of  
26 association, self-organization, and designation of representatives of  
27 his or her own choosing, to negotiate the terms and conditions of his  
28 or her employment, and that he or she shall be free from interference,  
29 restraint, or coercion of employers of labor, or their agents, in the  
30 designation of such representatives or in self-organization or in other  
31 concerted activities for the purpose of collective bargaining or other  
32 mutual aid or protections; therefore, the following definitions of, and  
33 limitations upon, the jurisdiction and authority of the courts of the  
34 state of Washington are hereby enacted.

35       **Sec. 37.** RCW 49.32.030 and 1933 ex.s. c 7 s 3 are each amended to  
36 read as follows:

1 Any undertaking or promise, such as is described in this section,  
2 or any other undertaking or promise in conflict with the public policy  
3 declared in RCW 49.32.020, is hereby declared to be contrary to the  
4 public policy of the state of Washington, shall not be enforceable in  
5 any court of the state of Washington, and shall not afford any basis  
6 for the granting of legal or equitable relief by any such court,  
7 including specifically the following:

8 Every undertaking or promise hereafter made, whether written or  
9 oral, express or implied, constituting or contained in any contract or  
10 agreement of hiring or employment between any individual, firm,  
11 company, association, or corporation and any employee or prospective  
12 employee of the same, whereby((—)):

13 (1) Either party to such contract or agreement undertakes or  
14 promises not to join, become, or remain a member of any labor  
15 organization or of any employer organization; or

16 (2) Either party to such contract or agreement undertakes or  
17 promises that he or she will withdraw from an employment relation in  
18 the event that he or she joins, becomes, or remains a member of any  
19 labor organization or of any employer organization.

20 **Sec. 38.** RCW 49.32.072 and 1933 ex.s. c 7 s 7 are each amended to  
21 read as follows:

22 No court of the state of Washington or any judge or judges thereof  
23 shall have jurisdiction to issue a temporary or permanent injunction in  
24 any case involving or growing out of a labor dispute, as herein  
25 defined, except after hearing the testimony of witnesses in open court  
26 (with opportunity for cross-examination) in support of the allegations  
27 of a complaint made under oath, and testimony in opposition thereto, if  
28 offered, and except after findings of fact by the court, to the  
29 effect((—)):

30 (1) That unlawful acts have been threatened and will be committed  
31 unless restrained or have been committed and will be continued unless  
32 restrained, but no injunction or temporary restraining order shall be  
33 issued on account of any threat or unlawful act excepting against the  
34 person or persons, association, or organization making the threat or  
35 committing the unlawful act or actually authorizing or ratifying the  
36 same after actual knowledge thereof;

37 (2) That substantial and irreparable injury to complainant's  
38 property will follow;

1 (3) That as to each item of relief granted greater injury will be  
2 inflicted upon complainant by the denial of relief than will be  
3 inflicted upon defendants by the granting of relief;

4 (4) That complainant has no adequate remedy at law; and

5 (5) That the public officers charged with the duty to protect  
6 complainant's property are unable or unwilling to furnish adequate  
7 protection.

8 Such hearing shall be held after due and personal notice thereof  
9 has been given, in such manner as the court shall direct, to all  
10 persons against whom relief is sought, and also to the chief of those  
11 public officials of the county and city within which the unlawful acts  
12 have been threatened or committed charged with the duty to protect  
13 complainant's property: PROVIDED, HOWEVER, That if a complainant shall  
14 also allege that, unless a temporary restraining order shall be issued  
15 without notice, a substantial and irreparable injury to complainant's  
16 property will be unavoidable, such a temporary restraining order may be  
17 issued upon testimony under oath, sufficient, if sustained, to justify  
18 the court in issuing a temporary injunction upon a hearing after  
19 notice. Such a temporary restraining order shall be effective for no  
20 longer than five days and shall become void at the expiration of  
21 ((said)) five days. No temporary restraining order or temporary  
22 injunction shall be issued except on condition that complainant shall  
23 first file an undertaking with adequate security in an amount to be  
24 fixed by the court sufficient to recompense those enjoined for any  
25 loss, expense, or damage caused by the improvident or erroneous  
26 issuance of such order or injunction, including all reasonable costs  
27 (together with a reasonable attorney's fee) and expense of defense  
28 against the order or against the granting of any injunctive relief  
29 sought in the same proceeding and subsequently denied by the court.

30 The undertaking herein mentioned shall be understood to signify an  
31 agreement entered into by the complainant and the surety upon which a  
32 decree may be rendered in the same suit or proceeding against ((said))  
33 the complainant and surety, upon a hearing to assess damages of which  
34 hearing complainant and surety shall have reasonable notice, the  
35 ((said)) complainant and surety submitting themselves to the  
36 jurisdiction of the court for that purpose. But nothing herein  
37 contained shall deprive any party having a claim or cause of action  
38 under or upon such undertaking from electing to pursue his or her  
39 ordinary remedy by suit at law or in equity.

1       **Sec. 39.** RCW 49.32.110 and 1933 ex.s. c 7 s 13 are each amended to  
2 read as follows:

3       (~~When used in this chapter, and for the purpose of this~~  
4 ~~chapter~~) The definitions in this section apply throughout this  
5 chapter unless the context clearly requires otherwise.

6       (1) A case shall be held to involve or to grow out of a labor  
7 dispute when the case involves persons who are engaged in the same  
8 industry, trade, or occupation; or have direct or indirect interests  
9 therein; or who are employees of the same employer; or who are members  
10 of the same or an affiliated organization of employers or employees;  
11 whether such dispute is: (a) Between one or more employers or  
12 associations of employers and one or more employees or associations of  
13 employees; (b) between one or more employers or associations of  
14 employers and one or more employers or association of employers; or (c)  
15 between one or more employees or association of employees and one or  
16 more employees or association of employees; or when the case involves  
17 any conflicting or competing interests in a "labor dispute" (~~as~~  
18 hereinafter defined)) of "persons participating or interested" therein  
19 (~~as hereinafter defined~~)).

20       (2) A person or association shall be held to be a person  
21 participating or interested in a labor dispute if relief is sought  
22 against him or (~~it~~) her, and if he or (~~it~~) she is engaged in the  
23 same industry, trade, craft, or occupation in which dispute occurs, or  
24 has a direct or indirect interest therein or is a member, officer, or  
25 agent of any association composed in whole or in part of employers or  
26 employees engaged in such industry, trade, craft, or occupation.

27       (3) The term "labor dispute" includes any controversy concerning  
28 terms or conditions of employment, or concerning the association or  
29 representation of persons in negotiating, fixing, maintaining,  
30 changing, or seeking to arrange terms or conditions of employment,  
31 regardless of whether or not the disputants stand in the proximate  
32 relation of employer and employee.

33       **Sec. 40.** RCW 49.32.080 and 1971 c 81 s 116 are each amended to  
34 read as follows:

35       Whenever any court of the state of Washington shall issue or deny  
36 any temporary injunction in a case involving or growing out of a labor  
37 dispute, the court shall, upon the request of any party to the  
38 proceedings, and on his or her filing the usual bond for costs,

1 forthwith certify the entire record of the case, including a transcript  
2 of the evidence taken, to the supreme court or the court of appeals for  
3 its review. Upon the filing of such record in the supreme court or the  
4 court of appeals, the appeal shall be heard and the temporary  
5 injunctive order affirmed, modified, or set aside with the greatest  
6 possible expedition, giving the proceedings precedence over all other  
7 matters except older matters of the same character.

8       **Sec. 41.** RCW 49.36.015 and 1919 c 185 s 2 are each amended to read  
9 as follows:

10       No restraining order or injunction shall be granted by any court of  
11 this state, or any judge or judges thereof in any case between an  
12 employer and employee or between employer and employees or between  
13 employees or between persons employed and persons seeking employment  
14 involving or growing out of a dispute concerning terms or conditions of  
15 employment, unless necessary to prevent irreparable damage to property  
16 or to a personal right or to a property right of the party making the  
17 application, for which injury there is no adequate remedy at law, and  
18 such petition must be in writing describing such damage or injury  
19 feared by the applicant, and sworn to by the applicant or ((his)) the  
20 applicant's agent or attorney. No such restraining order or injunction  
21 shall prohibit any such person or persons, whether singly or in  
22 concert, from terminating any relation of employment or from ceasing to  
23 perform any work or labor; or from paying or giving to, or withholding  
24 from any person engaged in such dispute, any strike benefits or other  
25 moneys or things of value; or from doing any act or thing which might  
26 lawfully be done in the absence of such dispute by any party thereto;  
27 nor shall any of the acts specified in this section be considered or  
28 held to be illegal or unlawful in any court of the state.

29       **Sec. 42.** RCW 49.40.040 and 1919 c 191 s 4 are each amended to read  
30 as follows:

31       Upon the written petition of either the employer or the employee  
32 setting forth in ordinary and concise language the facts and questions  
33 in dispute, the director of labor and industries shall, in person or by  
34 his or her duly authorized deputy, and is hereby authorized to hear and  
35 determine all disputes concerning wages earned at seasonal labor, and  
36 allow or reject deductions made from such wages for moneys advanced or  
37 supplies furnished before the wages are earned for money paid or



1 supplies furnished during the season or for money paid to third persons  
2 upon the written order of the employee.

3 **Sec. 43.** RCW 49.40.050 and 1919 c 191 s 5 are each amended to read  
4 as follows:

5 Upon the filing of any such petition, the director of labor and  
6 industries shall notify the other party to the dispute of the time and  
7 place when and where such petition will be heard, and may set ~~((said))~~  
8 the petition for a hearing before a regularly appointed deputy at such  
9 place in the state as he or she shall determine is most convenient for  
10 the parties, and the director or ~~((his))~~ the director's deputy shall  
11 have power and authority to issue subpoenas to compel the attendance of  
12 witnesses and the production of books, papers and records at such  
13 hearing, and to administer oaths. Obedience to such subpoenas shall be  
14 enforced by the courts of the county where such hearing is held.

15 **Sec. 44.** RCW 49.40.060 and 1919 c 191 s 6 are each amended to read  
16 as follows:

17 The director of labor and industries, or his or her deputy holding  
18 the hearing shall, after such hearing, determine the amount due from  
19 the employer to the employee, and shall make findings of fact and an  
20 award in accordance therewith, which findings and award shall be filed  
21 in the office of the director and a copy thereof served upon the  
22 employer and upon the employee by registered mail directed to their  
23 last known post office address.

24 **Sec. 45.** RCW 49.44.020 and 1909 c 249 s 424 are each amended to  
25 read as follows:

26 Every person who shall give, offer or promise, directly or  
27 indirectly, any compensation, gratuity or reward to any duly  
28 constituted representative of a labor organization, with intent to  
29 influence him or her in respect to any of his or her acts, decisions or  
30 other duties as such representative, or to induce him or her to prevent  
31 or cause a strike by the employees of any person or corporation, shall  
32 be guilty of a gross misdemeanor.

33 **Sec. 46.** RCW 49.44.030 and 1909 c 249 s 425 are each amended to  
34 read as follows:

1 Every person who, being the duly constituted representative of a  
2 labor organization, shall ask or receive, directly or indirectly, any  
3 compensation, gratuity or reward, or any promise thereof, upon any  
4 agreement or understanding that any of his or her acts, decisions or  
5 other duties as such representative, or any act to prevent or cause a  
6 strike of the employees of any person or corporation shall be  
7 influenced thereby, shall be guilty of a gross misdemeanor.

8 **Sec. 47.** RCW 49.44.060 and 1909 c 249 s 426 are each amended to  
9 read as follows:

10 Every person who shall give, offer or promise, directly or  
11 indirectly, any compensation, gratuity or reward to any agent, employee  
12 or servant of any person or corporation, with intent to influence his  
13 or her action in relation to his or her principal's, employer's or  
14 master's business, shall be guilty of a gross misdemeanor.

15 **Sec. 48.** RCW 49.44.080 and 1909 c 249 s 281 are each amended to  
16 read as follows:

17 Every person who shall willfully and maliciously, either alone or  
18 in combination with others, break a contract of service or employment,  
19 knowing or having reasonable cause to believe that the consequence of  
20 his or her so doing will be to endanger human life or to cause grievous  
21 bodily injury, or to expose valuable property to destruction or serious  
22 injury, shall be guilty of a misdemeanor.

23 **Sec. 49.** RCW 49.46.040 and 1959 c 294 s 4 are each amended to read  
24 as follows:

25 (1) The director or (~~his~~) the director's designated  
26 representatives may investigate and gather data regarding the wages,  
27 hours, and other conditions and practices of employment in any industry  
28 subject to this chapter, and may enter and inspect such places and such  
29 records (and make such transcriptions thereof), question such  
30 employees, and investigate such facts, conditions, practices, or  
31 matters as he or she may deem necessary or appropriate to determine  
32 whether any person has violated any provision of this chapter, or which  
33 may aid in the enforcement of the provisions of this chapter.

34 (2) With the consent and cooperation of federal agencies charged  
35 with the administration of federal labor laws, the director may, for  
36 the purpose of carrying out (~~his~~) the director's functions and duties

1 under this chapter, utilize the services of federal agencies and their  
2 employees and, notwithstanding any other provision of law, may  
3 reimburse such federal agencies and their employees for services  
4 rendered for such purposes.

5 (3) Every employer subject to any provision of this chapter or of  
6 any order issued under this chapter shall make, keep, and preserve such  
7 records of the persons employed by him or her and of the wages, hours,  
8 and other conditions and practices of employment maintained by him or  
9 her, and shall preserve such records for such periods of time, and  
10 shall make reports therefrom to the director as he or she shall  
11 prescribe by regulation as necessary or appropriate for the enforcement  
12 of the provisions of this chapter or the regulations thereunder.

13 (4) The director is authorized to make such regulations regulating,  
14 restricting, or prohibiting industrial homework as are necessary or  
15 appropriate to prevent the circumvention or evasion of and to safeguard  
16 the minimum wage rate prescribed in this chapter, and all existing  
17 regulations of the director relating to industrial homework are hereby  
18 continued in full force and effect.

19 **Sec. 50.** RCW 49.46.070 and 1959 c 294 s 7 are each amended to read  
20 as follows:

21 Every employer subject to any provision of this chapter or of any  
22 regulation issued under this chapter shall make, and keep in or about  
23 the premises wherein any employee is employed, a record of the name,  
24 address, and occupation of each of his or her employees, the rate of  
25 pay, and the amount paid each pay period to each such employee, the  
26 hours worked each day and each work week by such employee, and such  
27 other information as the director shall prescribe by regulation as  
28 necessary or appropriate for the enforcement of the provisions of this  
29 chapter or of the regulations thereunder. Such records shall be open  
30 for inspection or transcription by the director or ((his)) the  
31 director's authorized representative at any reasonable time. Every  
32 such employer shall furnish to the director or to ((his)) the  
33 director's authorized representative on demand a sworn statement of  
34 such records and information upon forms prescribed or approved by the  
35 director.

36 **Sec. 51.** RCW 49.46.090 and 1959 c 294 s 9 are each amended to read  
37 as follows:

1 (1) Any employer who pays any employee less than wages to which  
2 such employee is entitled under or by virtue of this chapter, shall be  
3 liable to such employee affected for the full amount of such wage rate,  
4 less any amount actually paid to such employee by the employer, and for  
5 costs and such reasonable attorney's fees as may be allowed by the  
6 court. Any agreement between such employee and the employer to work  
7 for less than such wage rate shall be no defense to such action.

8 (2) At the written request of any employee paid less than the wages  
9 to which he or she is entitled under or by virtue of this chapter, the  
10 director may take an assignment under this chapter or as provided in  
11 RCW 49.48.040 of such wage claim in trust for the assigning employee  
12 and may bring any legal action necessary to collect such claim, and the  
13 employer shall be required to pay the costs and such reasonable  
14 attorney's fees as may be allowed by the court.

15 **Sec. 52.** RCW 49.46.100 and 1959 c 294 s 10 are each amended to  
16 read as follows:

17 (1) Any employer who hinders or delays the director or ~~((his))~~ the  
18 director's authorized representatives in the performance of his or her  
19 duties in the enforcement of this chapter, or refuses to admit the  
20 director or ~~((his))~~ the director's authorized representatives to any  
21 place of employment, or fails to make, keep, and preserve any records  
22 as required under the provisions of this chapter, or falsifies any such  
23 record, or refuses to make any record accessible to the director or  
24 ~~((his))~~ the director's authorized representatives upon demand, or  
25 refuses to furnish a sworn statement of such record or any other  
26 information required for the proper enforcement of this chapter to the  
27 director or ~~((his))~~ the director's authorized representatives upon  
28 demand, or pays or agrees to pay wages at a rate less than the rate  
29 applicable under this chapter, or otherwise violates any provision of  
30 this chapter or of any regulation issued under this chapter shall be  
31 deemed in violation of this chapter and shall, upon conviction  
32 therefor, be guilty of a gross misdemeanor.

33 (2) Any employer who discharges or in any other manner  
34 discriminates against any employee because such employee has made any  
35 complaint to his or her employer, to the director, or ~~((his))~~ the  
36 director's authorized representatives that he or she has not been paid  
37 wages in accordance with the provisions of this chapter, or that the  
38 employer has violated any provision of this chapter, or because such

1 employee has caused to be instituted or is about to cause to be  
2 instituted any proceeding under or related to this chapter, or because  
3 such employee has testified or is about to testify in any such  
4 proceeding shall be deemed in violation of this chapter and shall, upon  
5 conviction therefor, be guilty of a gross misdemeanor.

6 **Sec. 53.** RCW 49.46.130 and 1998 c 239 s 2 are each amended to read  
7 as follows:

8 (1) Except as otherwise provided in this section, no employer shall  
9 employ any of his or her employees for a work week longer than forty  
10 hours unless such employee receives compensation for his or her  
11 employment in excess of the hours above specified at a rate not less  
12 than one and one-half times the regular rate at which he or she is  
13 employed.

14 (2) This section does not apply to:

15 (a) Any person exempted pursuant to RCW 49.46.010(5). The payment  
16 of compensation or provision of compensatory time off in addition to a  
17 salary shall not be a factor in determining whether a person is  
18 exempted under RCW 49.46.010(5)(c);

19 (b) Employees who request compensating time off in lieu of overtime  
20 pay;

21 (c) Any individual employed as a seaman whether or not the seaman  
22 is employed on a vessel other than an American vessel;

23 (d) Seasonal employees who are employed at concessions and  
24 recreational establishments at agricultural fairs, including those  
25 seasonal employees employed by agricultural fairs, within the state  
26 provided that the period of employment for any seasonal employee at any  
27 or all agricultural fairs does not exceed fourteen working days a year;

28 (e) Any individual employed as a motion picture projectionist if  
29 that employee is covered by a contract or collective bargaining  
30 agreement which regulates hours of work and overtime pay;

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

37 (g) Any individual employed: (i) On a farm, in the employ of any  
38 person, in connection with the cultivation of the soil, or in

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

15 (h) Any industry in which federal law provides for an overtime  
16 payment based on a work week other than forty hours. However, the  
17 provisions of the federal law regarding overtime payment based on a  
18 work week other than forty hours shall nevertheless apply to employees  
19 covered by this section without regard to the existence of actual  
20 federal jurisdiction over the industrial activity of the particular  
21 employer within this state. For the purposes of this subsection,  
22 "industry" means a trade, business, industry, or other activity, or  
23 branch, or group thereof, in which individuals are gainfully employed  
24 (section 3(h) of the Fair Labor Standards Act of 1938, as amended  
25 (Public Law 93-259));

26 (i) Any hours worked by an employee of a carrier by air subject to  
27 the provisions of subchapter II of the Railway Labor Act (45 U.S.C.  
28 Sec. 181 et seq.), when such hours are voluntarily worked by the  
29 employee pursuant to a shift-trading practice under which the employee  
30 has the opportunity in the same or in other work weeks to reduce hours  
31 worked by voluntarily offering a shift for trade or reassignment.

32 (3) No employer shall be deemed to have violated subsection (1) of  
33 this section by employing any employee of a retail or service  
34 establishment for a work week in excess of the applicable work week  
35 specified in subsection (1) of this section if:

36 (a) The regular rate of pay of the employee is in excess of one and  
37 one-half times the minimum hourly rate required under RCW 49.46.020;  
38 and

1 (b) More than half of the employee's compensation for a  
2 representative period, of not less than one month, represents  
3 commissions on goods or services.

4 In determining the proportion of compensation representing  
5 commissions, all earnings resulting from the application of a bona fide  
6 commission rate is to be deemed commissions on goods or services  
7 without regard to whether the computed commissions exceed the draw or  
8 guarantee.

9 (4) No employer of commissioned salespeople primarily engaged in  
10 the business of selling automobiles, trucks, recreational vessels,  
11 recreational vessel trailers, recreational vehicle trailers,  
12 recreational campers, manufactured housing, or farm implements to  
13 ultimate purchasers shall violate subsection (1) of this section with  
14 respect to such commissioned salespeople if the commissioned  
15 salespeople are paid the greater of:

16 (a) Compensation at the hourly rate, which may not be less than the  
17 rate required under RCW 49.46.020, for each hour worked up to forty  
18 hours per week, and compensation of one and one-half times that hourly  
19 rate for all hours worked over forty hours in one week; or

20 (b) A straight commission, a salary plus commission, or a salary  
21 plus bonus applied to gross salary.

22 (5) No public agency shall be deemed to have violated subsection  
23 (1) of this section with respect to the employment of any employee in  
24 fire protection activities or any employee in law enforcement  
25 activities (including security personnel in correctional institutions)  
26 if: (a) In a work period of twenty-eight consecutive days the employee  
27 receives for tours of duty which in the aggregate exceed two hundred  
28 forty hours; or (b) in the case of such an employee to whom a work  
29 period of at least seven but less than twenty-eight days applies, in  
30 his or her work period the employee receives for tours of duty which in  
31 the aggregate exceed a number of hours which bears the same ratio to  
32 the number of consecutive days in his or her work period as two hundred  
33 forty hours bears to twenty-eight days; compensation at a rate not less  
34 than one and one-half times the regular rate at which he or she is  
35 employed.

36 **Sec. 54.** RCW 49.48.010 and 1971 ex.s. c 55 s 1 are each amended to  
37 read as follows:

1       (1) When any employee shall cease to work for an employer, whether  
2 by discharge or by voluntary withdrawal, the wages due him or her on  
3 account of his or her employment shall be paid to him or her at the end  
4 of the established pay period: PROVIDED, HOWEVER, That this paragraph  
5 shall not apply when workers are engaged in an employment that normally  
6 involves working for several employers in the same industry  
7 interchangeably, and the several employers or some of them cooperate to  
8 establish a plan for the weekly payment of wages at a central place or  
9 places and in accordance with a unified schedule of paydays providing  
10 for at least one payday each week; but this subsection shall not apply  
11 to any such plan until ten days after notice of their intention to set  
12 up such a plan shall have been given to the director of labor and  
13 industries by the employers who cooperate to establish the plan; and  
14 having once been established, no such plan can be abandoned except  
15 after notice of their intention to abandon such plan has been given to  
16 the director of labor and industries by the employers intending to  
17 abandon the plan: PROVIDED FURTHER, That the duty to pay an employee  
18 forthwith shall not apply if the labor-management agreement under which  
19 the employee has been employed provides otherwise.

20       (2) It shall be unlawful for any employer to withhold or divert any  
21 portion of an employee's wages unless the deduction is:

22       (~~(1)~~) (a) Required by state or federal law; or

23       (~~(2)~~) (b) Specifically agreed upon orally or in writing by the  
24 employee and employer; or

25       (~~(3)~~) (c) For medical, surgical or hospital care or service,  
26 pursuant to any rule or regulation: PROVIDED, HOWEVER, That the  
27 deduction is openly, clearly and in due course recorded in the  
28 employer's books and records.

29       (~~Paragraph three~~) (3) Subsection (2) of this section shall not be  
30 construed to affect the right of any employer or former employer to sue  
31 upon or collect any debt owed to (~~said~~) the employer or former  
32 employer by his or her employees or former employees.

33       **Sec. 55.** RCW 49.48.030 and 1971 ex.s. c 55 s 3 are each amended to  
34 read as follows:

35       In any action in which any person is successful in recovering  
36 judgment for wages or salary owed to him or her, reasonable attorney's  
37 fees, in an amount to be determined by the court, shall be assessed  
38 against (~~said~~) the employer or former employer: PROVIDED, HOWEVER,



1 That this section shall not apply if the amount of recovery is less  
2 than or equal to the amount admitted by the employer to be owing for  
3 (~~said~~) wages or salary.

4 **Sec. 56.** RCW 49.48.050 and 1935 c 96 s 2 are each amended to read  
5 as follows:

6 Nothing herein contained shall be construed to limit the authority  
7 of the prosecuting attorney of any county to prosecute actions, both  
8 civil and criminal, for such violations of RCW 49.48.040 through  
9 49.48.080 as may come to his or her knowledge, or to enforce the  
10 provisions hereof independently and without specific direction of the  
11 director of labor and industries.

12 **Sec. 57.** RCW 49.48.060 and 1971 ex.s. c 55 s 4 are each amended to  
13 read as follows:

14 (1) If upon investigation by the director, after taking assignments  
15 of any wage claim under RCW 49.48.040, it appears to the director that  
16 the employer is representing to his or her employees that he or she is  
17 able to pay wages for their services and that the employees are not  
18 being paid for their services, the director may require the employer to  
19 give a bond in such sum as the director deems reasonable and adequate  
20 in the circumstances, with sufficient surety, conditioned that the  
21 employer will for a definite future period not exceeding six months  
22 conduct his or her business and pay his or her employees in accordance  
23 with the laws of the state of Washington.

24 (2) If within ten days after demand for such bond the employer  
25 fails to provide the same, the director may commence a suit against the  
26 employer in the superior court of appropriate jurisdiction to compel  
27 him or her to furnish such bond or cease doing business until he or she  
28 has done so. The employer shall have the burden of proving the amount  
29 thereof to be excessive.

30 (3) If the court finds that there is just cause for requiring such  
31 bond and that the same is reasonable, necessary or appropriate to  
32 secure the prompt payment of the wages of the employees of such  
33 employer and his or her compliance with RCW 49.48.010 through  
34 49.48.080, the court shall enjoin such employer from doing business in  
35 this state until the requirement is met, or shall make other, and may  
36 make further, orders appropriate to compel compliance with the  
37 requirement.

1        Upon being informed of a wage claim against an employer or former  
2 employer, the director shall, if such claim appears to be just,  
3 immediately notify the employer or former employer, of such claim by  
4 mail. If the employer or former employer fails to pay the claim or  
5 make satisfactory explanation to the director of his or her failure to  
6 do so, within thirty days thereafter, the employer or former employer  
7 shall be liable to a penalty of ten percent of that portion of the  
8 claim found to be justly due. The director shall have a cause of  
9 action against the employer or former employer for the recovery of such  
10 penalty, and the same may be included in any subsequent action by the  
11 director on (~~said~~) the wage claim, or may be exercised separately  
12 after adjustment of such wage claim without court action.

13        **Sec. 58.** RCW 49.48.090 and 1909 c 32 s 1 are each amended to read  
14 as follows:

15        No assignment of, or order for, wages to be earned in the future to  
16 secure a loan of less than three hundred dollars, shall be valid  
17 against an employer of the person making (~~said~~) the assignment or  
18 order unless (~~said~~) the assignment or order is accepted in writing by  
19 the employer, and (~~said~~) the assignment or order, and the acceptance  
20 of the same, have been filed and recorded with the county auditor of  
21 the county where the party making (~~said~~) the assignment or order  
22 resides, if a resident of the state, or in which he or she is employed,  
23 if not a resident of the state.

24        **Sec. 59.** RCW 49.48.120 and 1981 c 333 s 2 are each amended to read  
25 as follows:

26        If at the time of the death of any person, his or her employer is  
27 indebted to him or her for work, labor, and services performed, and no  
28 executor or administrator of his or her estate has been appointed, such  
29 employer shall upon the request of the surviving spouse forthwith pay  
30 (~~said~~) the indebtedness, in such an amount as may be due not  
31 exceeding the sum of two thousand five hundred dollars, to the (~~said~~)  
32 surviving spouse or if the decedent leaves no surviving spouse, then to  
33 the child or children, or if no children, then to the father or mother  
34 of (~~said~~) the decedent: PROVIDED, HOWEVER, That if by virtue of a  
35 community property agreement between the decedent and the surviving  
36 spouse, which meets the requirements of RCW 26.16.120, the right to  
37 such indebtedness became the sole property of the surviving spouse upon

1 the death of the decedent, the employer shall pay to the surviving  
2 spouse the total of such indebtedness or that portion which is governed  
3 by the community property agreement upon presentation of (~~said~~) the  
4 agreement accompanied by affidavit of the surviving spouse stating that  
5 such agreement was executed in good faith between the parties thereto  
6 and had not been rescinded by the parties prior to the death of the  
7 decedent: PROVIDED FURTHER, That in all cases the employer shall  
8 require proof of claimant's relationship to decedent by affidavit, and  
9 shall require claimant to acknowledge receipt of such payment in  
10 writing. Any payments made by an employer pursuant to the provisions  
11 of RCW 49.48.115 and 49.48.120 shall operate as a full and complete  
12 discharge of the employer's indebtedness to the extent of (~~said~~) the  
13 payment, and no employer shall thereafter be liable therefor to the  
14 decedent's estate, or the decedent's executor or administrator  
15 thereafter appointed. The employer may also pay the indebtedness upon  
16 presentation of an affidavit as provided in RCW 11.62.010.

17 **Sec. 60.** RCW 49.48.150 and 1992 c 177 s 1 are each amended to read  
18 as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout RCW 49.48.160 through 49.48.190.

21 (1) "Commission" means compensation paid a sales representative by  
22 a principal in an amount based on a percentage of the dollar amount of  
23 certain orders for or sales of the principal's product.

24 (2) "Principal" means a person, whether or not the person has a  
25 permanent or fixed place of business in this state, who:

26 (a) Manufactures, produces, imports, or distributes a product for  
27 sale to customers who purchase the product for resale;

28 (b) Uses a sales representative to solicit orders for the product;  
29 and

30 (c) Compensates the sales representative in whole or in part by  
31 commission.

32 (3) "Sales representative" means a person who solicits, on behalf  
33 of a principal, orders for the purchase at wholesale of the principal's  
34 product, but does not include a person who places orders for his or her  
35 own account for resale, or purchases for his or her own account for  
36 resale, or sells or takes orders for the direct sale of products to the  
37 ultimate consumer.

1       **Sec. 61.** RCW 49.52.010 and 1975 c 34 s 1 are each amended to read  
2 as follows:

3       All moneys collected by any employer from his or ~~((its))~~ her  
4 employees and all money to be paid by any employer as his or her  
5 contribution for furnishing, either directly, or through contract, or  
6 arrangement with a hospital association, corporation, firm or  
7 individual, of medicine, medical or surgical treatment, nursing,  
8 hospital service, ambulance service, dental service, burial service, or  
9 any or all of the above enumerated services, or any other necessary  
10 service, contingent upon sickness, accident or death, are hereby  
11 declared to be a trust fund for the purposes for which the same are  
12 collected. The trustees (or their administrator, representative, or  
13 agent under direction of the trustees) of such fund are authorized to  
14 take such action as is deemed necessary to ensure that the employer  
15 contributions are made including, but not limited to filing actions at  
16 law, and filing liens against moneys due to the employer from the  
17 performance of labor or furnishing of materials to which the employees  
18 contributed their services. ~~((Such trust fund is subject to the  
19 provisions of chapter 48.52 RCW.))~~

20       **Sec. 62.** RCW 49.52.020 and 1975 c 34 s 2 are each amended to read  
21 as follows:

22       In case any employer collecting moneys from his or her employees or  
23 making contributions to any type of benefit plan for any or all of the  
24 purposes specified in RCW 49.52.010, shall enter into a contract or  
25 arrangement with any hospital association, corporation, firm or  
26 individual, to furnish any such service to its employees, the  
27 association, corporation, firm or individual contracting to furnish  
28 such services, shall have a lien upon such trust fund prior to all  
29 other liens except taxes. The lien hereby created shall attach from  
30 the date of the arrangement or contract to furnish such services and  
31 may be foreclosed in the manner provided by law for the foreclosure of  
32 other liens on personal property.

33       **Sec. 63.** RCW 49.52.050 and 1941 c 72 s 1 are each amended to read  
34 as follows:

35       Any employer or officer, vice principal or agent of any employer,  
36 whether ~~((said))~~ the employer be in private business or an elected  
37 public official, who:

1 (1) Shall collect or receive from any employee a rebate of any part  
2 of wages theretofore paid by such employer to such employee; or

3 (2) Willfully and with intent to deprive the employee of any part  
4 of his or her wages, shall pay any employee a lower wage than the wage  
5 such employer is obligated to pay such employee by any statute,  
6 ordinance, or contract; or

7 (3) Shall willfully make or cause another to make any false entry  
8 in any employer's books or records purporting to show the payment of  
9 more wages to an employee than such employee received; or

10 (4) Being an employer or a person charged with the duty of keeping  
11 any employer's books or records shall willfully fail or cause another  
12 to fail to show openly and clearly in due course in such employer's  
13 books and records any rebate of or deduction from any employee's wages;  
14 or

15 (5) Shall willfully receive or accept from any employee any false  
16 receipt for wages;

17 Shall be guilty of a misdemeanor.

18 **Sec. 64.** RCW 49.52.070 and 1939 c 195 s 3 are each amended to read  
19 as follows:

20 Any employer and any officer, vice principal or agent of any  
21 employer who shall violate any of the provisions of subdivisions (1)  
22 and (2) of RCW 49.52.050 shall be liable in a civil action by the  
23 aggrieved employee or his or her assignee to judgment for twice the  
24 amount of the wages unlawfully rebated or withheld by way of exemplary  
25 damages, together with costs of suit and a reasonable sum for  
26 attorney's fees: PROVIDED, HOWEVER, That the benefits of this section  
27 shall not be available to any employee who has knowingly submitted to  
28 such violations.

29 **Sec. 65.** RCW 49.52.090 and 1935 c 29 s 1 are each amended to read  
30 as follows:

31 Every person, whether as a representative of an awarding or public  
32 body or officer, or as a contractor or subcontractor doing public work,  
33 or agent or officer thereof, who takes or receives, or conspires with  
34 another to take or receive, for his or her own use or the use of any  
35 other person acting with him or her any part or portion of the wages  
36 paid to any laborer, (~~workman~~) worker or mechanic, including a piece  
37 worker and working subcontractor, in connection with services rendered

1 upon any public work within this state, whether such work is done  
2 directly for the state, or public body or officer thereof, or county,  
3 city and county, city, town, township, district or other political  
4 subdivision of the ((said)) state or for any contractor or  
5 subcontractor engaged in such public work for such an awarding or  
6 public body or officer, shall be guilty of a gross misdemeanor.

7       **Sec. 66.** RCW 49.56.010 and Code 1881 s 1972 are each amended to  
8 read as follows:

9       In all assignments of property made by any person to trustees or  
10 assignees on account of the inability of the person at the time of the  
11 assignment to pay his or her debts, or in proceedings in insolvency,  
12 the wages of the miners, mechanics, ((salesmen)) salespeople, servants,  
13 clerks or laborers employed by such persons to the amount of one  
14 hundred dollars, each, and for services rendered within sixty days  
15 previously, are preferred claims, and must be paid by such trustees or  
16 assignees before any other creditor or creditors of the assignor.

17       **Sec. 67.** RCW 49.56.030 and Code 1881 s 1974 are each amended to  
18 read as follows:

19       In cases of executions, attachments and writs of similar nature  
20 issued against any person, except for claims for labor done, any  
21 miners, mechanics, salesmen, servants, clerks and laborers who have  
22 claims against the defendant for labor done, may give notice of their  
23 claims and the amount thereof, sworn to by the person making the claim  
24 to the creditor and the officer executing either of such writs at any  
25 time before the actual sale of property levied on, and unless such  
26 claim is disputed by the debtor or a creditor, such officer must pay to  
27 such person out of the proceeds of the sale, the amount each is  
28 entitled to receive for services rendered within sixty days next  
29 preceding the levy of the writ, not exceeding one hundred dollars. If  
30 any or all the claims so presented and claiming preference under this  
31 chapter, are disputed by either the debtor or a creditor, the person  
32 presenting the same must commence an action within ten days from the  
33 recovery thereof, and must prosecute his or her action with due  
34 diligence, or be forever barred from any claim of priority of payment  
35 thereof; and the officer shall retain possession of so much of the  
36 proceeds of the sale as may be necessary to satisfy such claim, until  
37 the determination of such action; and in case judgment be had for the

1 claim or any part thereof, carrying costs, the costs taxable therein  
2 shall likewise be a preferred claim with the same rank as the original  
3 claim.

4 **Sec. 68.** RCW 49.64.030 and 1953 c 45 s 1 are each amended to read  
5 as follows:

6 Notwithstanding the provisions of RCW 26.16.030, whenever payment  
7 or refund is made to an employee, former employee, or his or her  
8 beneficiary or estate pursuant to and in full compliance with a written  
9 retirement, death or other employee benefit plan or savings plan, such  
10 payment or refund shall fully discharge the employer and any trustee or  
11 insurance company making such payment or refund from all adverse claims  
12 thereto unless, before such payment or refund is made, the employer or  
13 former employer, where the payment is made by the employer or former  
14 employer, has received at its principal place of business within this  
15 state, written notice by or on behalf of some other person that such  
16 other person claims to be entitled to such payment or refund or some  
17 part thereof, or where a trustee or insurance company is making the  
18 payment, such notice has been received by the trustee or insurance  
19 company at its home office or its principal place of business within  
20 this state, and if none, such notice may be made on the secretary of  
21 state: PROVIDED, HOWEVER, That nothing contained in this section shall  
22 affect any claim or right to any such payment or refund or part thereof  
23 as between all persons other than employer and the trustee or insurance  
24 company making such payment or refund.

25 **Sec. 69.** RCW 49.66.020 and 1973 2nd ex.s. c 3 s 2 are each amended  
26 to read as follows:

27 As used in this chapter:

28 (1) "Health care activity" includes any hospital, nursing home,  
29 institution, agency or establishment, exclusive of those operated by  
30 the state, its municipalities, or political subdivisions, having for  
31 one of its principal purposes the preservation of health or the care of  
32 sick, aged or infirm persons.

33 (2) "Bargaining unit" includes any group of employees of a health  
34 care activity having substantially common interests with respect to  
35 working conditions. The composition of a bargaining unit may be  
36 determined by common consent between an employer and its employees, or,  
37 in the event either party shall apply to the director of labor and

1 industries for a determination of the composition of a bargaining unit,  
2 it shall be determined by the director of labor and industries or his  
3 or her delegated representative. No bargaining unit shall be found  
4 appropriate if it includes guards together with other employees.

5 (3) "Employee" includes any registered nurse or licensed practical  
6 nurse or service personnel performing services for wages for a health  
7 care activity. The term shall not apply to a member of a religious  
8 order assigned to a health care activity by the order as a part of his  
9 or her obligations to it; nor shall it apply to persons performing  
10 services in connection with healing by prayer or spiritual means alone  
11 in accordance with the tenets and practices of recognized church or  
12 religious denominations by adherents thereof; nor shall it apply to  
13 supervisors.

14 (4) "Employer" includes any person, agency, corporation, company or  
15 other organization engaged in the operation of a health care activity,  
16 whether for profitable or charitable purposes.

17 (5) "Supervisor" means any individual having authority, in the  
18 interest of the employer, to hire, transfer, suspend, lay off, recall,  
19 promote, discharge, assign, reward, or discipline other employees, or  
20 responsibly to direct them, or to adjust their grievances, or  
21 effectively to recommend such action, if in connection with the  
22 foregoing the exercise of such authority is not of a merely routine or  
23 clerical nature, but requires the use of independent judgment.  
24 Supervisor includes registered nurses only if administrative  
25 supervision is his or her primary duty and activity.

26 (6) "Guard" means any individual employed as a guard to enforce  
27 against employees and other persons rules to protect property of the  
28 employer or to protect the safety of persons on the employer's  
29 premises.

30 (7) "Director" means the director of the department of labor and  
31 industries.

32 (8) "Department" means the department of labor and industries.

33 **Sec. 70.** RCW 49.66.030 and 1973 2nd ex.s. c 3 s 3 are each amended  
34 to read as follows:

35 An employee association shall be deemed the properly designated  
36 representative of a bargaining unit when it can show evidence that  
37 bargaining rights have been assigned to it by a majority of the  
38 employees in the bargaining unit. Should questions arise concerning



1 the representative status of any employee organization claiming to  
2 represent a bargaining unit of employees, upon petition by such an  
3 organization, it shall be the duty of the director, acting by himself  
4 or herself or through a designee to investigate and determine the  
5 composition of the organization. Any organization found authorized by  
6 not less than thirty percent of the employees of a bargaining unit  
7 shall be eligible to apply for an election to determine its rights to  
8 represent the unit. If more than one organization shall claim to  
9 represent any unit, the director, or ~~((his))~~ the director's designee,  
10 may conduct an election by secret ballot to determine which  
11 organization shall be authorized to represent the unit. In order to be  
12 certified as a bargaining representative, an employee organization must  
13 receive, in a secret ballot election, votes from a majority of the  
14 employees who vote in the election, except that nothing in this section  
15 shall prohibit the voluntary recognition of a labor organization as a  
16 bargaining representative by an employer upon a showing of reasonable  
17 proof of majority. In any election held pursuant to this section,  
18 there shall be a choice on the ballot for employees to designate that  
19 they do not wish to be represented by any bargaining representative.  
20 No representation election shall be directed in any bargaining unit or  
21 any subdivision thereof within which, in the preceding twelve-month  
22 period, a valid election has been held. Thirty percent of the  
23 employees of an employer may file a petition for a secret ballot  
24 election to ascertain whether the employee organization which has been  
25 certified or is currently recognized by their employer as their  
26 bargaining representative is no longer their bargaining representative.

27 No employee organization shall be certified as the representative  
28 of employees in a bargaining unit of guards, if such organization  
29 admits to membership, or is affiliated directly or indirectly with an  
30 organization which admits to membership, employees other than guards.  
31 The determination shall be based upon a plurality of votes cast in such  
32 election, and shall remain in effect for a period of not less than one  
33 year. In determining appropriate bargaining units, the director shall  
34 limit such units to groups consisting of registered nurses, licensed  
35 practical nurses or service personnel: PROVIDED, HOWEVER, That if a  
36 majority of each such classification desires inclusion within a single  
37 bargaining unit, they may combine into a single unit.

1       **Sec. 71.** RCW 49.66.050 and 1973 2nd ex.s. c 3 s 4 are each amended  
2 to read as follows:

3       It shall be an unfair labor practice and unlawful, for any employee  
4 organization or its agent to:

5       (1) Restrain or coerce: (a) Employees in the exercise of their  
6 right to refrain from self-organization, or (b) an employer in the  
7 selection of its representatives for purposes of collective bargaining  
8 or the adjustment of grievances;

9       (2) Cause or attempt to cause an employer to discriminate against  
10 an employee in violation of subsection (3) of RCW 49.66.040 or to  
11 discriminate against an employee with respect to whom membership in  
12 such organization has been denied or terminated on some ground other  
13 than his or her failure to tender the periodic dues and initiation fees  
14 uniformly required as a condition of acquiring or retaining membership;

15       (3) Refuse to meet and bargain in good faith with an employer,  
16 provided it is the duly designated representative of the employer's  
17 employees for purposes of collective bargaining;

18       (4) Require of employees covered by a union security agreement the  
19 payment, as a condition precedent to becoming a member of such  
20 organization, of a fee in an amount which the director finds excessive  
21 or discriminatory under all the circumstances. In making such a  
22 finding, the director shall consider, among other relevant factors, the  
23 practices and customs of labor organizations in the particular  
24 industry, and the wages currently paid to the employees affected;

25       (5) Cause or attempt to cause an employer to pay or deliver or  
26 agree to pay or deliver any money or other thing of value, in the  
27 nature of an exaction, for services which are not performed or not to  
28 be performed;

29       (6) Enter into any contract or agreement, express or implied,  
30 whereby an employer or other person ceases or refrains, or agrees to  
31 cease or refrain, from handling, using, selling, transporting or  
32 otherwise dealing in any of the products or services of any other  
33 employer or person, or to cease doing business with any other employer  
34 or person, and any such contract or agreement shall be unenforceable  
35 and void; or

36       (7) Engage in, or induce or encourage any individual employed by  
37 any employer or to engage in, an activity prohibited by RCW 49.66.060.

1       **Sec. 72.** RCW 49.66.060 and 1972 ex.s. c 156 s 6 are each amended  
2 to read as follows:

3       No employee organization, bargaining representative, person or  
4 employee shall authorize, sanction, engage in, or participate in a  
5 strike (including but not limited to a concerted work stoppage of any  
6 kind, concerted slowdown or concerted refusal or failure to report for  
7 work or perform work) or picketing against an employer under any  
8 circumstances, whether arising out of a recognition dispute, bargaining  
9 impasse or otherwise: PROVIDED, That nothing in this section shall  
10 prohibit picketing or other publicity for the sole purpose of  
11 truthfully advising the public of the existence of a dispute with the  
12 employer, unless an effect of such picketing or other publicity is:  
13 (a) To induce any employee of the employer or any other individual, in  
14 the course of his or her employment, not to pick up, deliver or  
15 transfer goods, not to enter the employer's premises, or not to perform  
16 services; or (b) to induce such an employee or individual to engage in  
17 a strike.

18       **Sec. 73.** RCW 49.66.080 and 1973 2nd ex.s. c 3 s 6 are each amended  
19 to read as follows:

20       The director shall have the power to make such rules and  
21 regulations not inconsistent with this chapter, including the  
22 establishment of procedures for the hearing and determination of  
23 charges alleging unfair labor practices, and for a determination on  
24 application by either party when an impasse has arisen, and as ((he))  
25 the director shall determine are necessary to effectuate its purpose  
26 and to enable him or her to carry out its provisions.

27       **Sec. 74.** RCW 49.66.090 and 1973 2nd ex.s. c 3 s 7 are each amended  
28 to read as follows:

29       In the event that a health care activity and an employees'  
30 bargaining unit shall reach an impasse, the matters in dispute shall be  
31 submitted to a board of arbitration composed of three arbitrators for  
32 final and binding resolution. The board shall be selected in the  
33 following manner: Within ten days, the employer shall appoint one  
34 arbitrator and the employees shall appoint one arbitrator. The two  
35 arbitrators so selected and named shall within ten days agree upon and  
36 select the name of a third arbitrator who shall act as ((~~chairman~~))  
37 chair. If, upon the expiration of the period allowed therefor the

1 arbitrators are unable to agree on the selection of a third arbitrator,  
2 such arbitrator shall be appointed at the request of either party in  
3 accordance with the provisions of RCW 7.04.050 and he or she shall act  
4 as ((~~chairman~~)) chair of the arbitration board.

5       **Sec. 75.** RCW 49.70.170 and 1999 c 309 s 917 are each amended to  
6 read as follows:

7       (1) The worker and community right to know fund is hereby  
8 established in the custody of the state treasurer. The department  
9 shall deposit all moneys received under this chapter in the fund.  
10 Moneys in the fund may be spent only for the purposes of this chapter  
11 following legislative appropriation. Disbursements from the fund shall  
12 be on authorization of the director or the director's designee. During  
13 the 1999-2001 fiscal biennium, moneys in the fund may also be used by  
14 the military department for the purpose of assisting the state  
15 emergency response commission and coordinating local emergency planning  
16 activities. The fund is subject to the allotment procedure provided  
17 under chapter 43.88 RCW.

18       (2) The department shall assess each employer who reported ten  
19 thousand four hundred or more worker hours in the prior calendar year  
20 an annual fee to provide for the implementation of this chapter. The  
21 department shall promulgate rules establishing a fee schedule for all  
22 employers who reported ten thousand four hundred or more worker hours  
23 in the prior calendar year and are engaged in business operations  
24 having a standard industrial classification, as designated in the  
25 standard industrial classification manual prepared by the federal  
26 office of management and budget, within major group numbers 01 through  
27 08 (agriculture and forestry industries), numbers 10 through 14 (mining  
28 industries), numbers 15 through 17 (construction industries), numbers  
29 20 through 39 (manufacturing industries), numbers 41, 42, and 44  
30 through 49 (transportation, communications, electric, gas, and sanitary  
31 services), number 75 (automotive repair, services, and garages), number  
32 76 (miscellaneous repair services), number 80 (health services), and  
33 number 82 (educational services). The department shall establish the  
34 annual fee for each employer who reported ten thousand four hundred or  
35 more worker hours in the prior calendar year in industries identified  
36 by this section, provided that fees assessed shall not be more than two  
37 dollars and fifty cents per full time equivalent employee. The annual  
38 fee shall not exceed fifty thousand dollars. The fees shall be

1 collected solely from employers whose industries have been identified  
2 by rule under this chapter. The department shall promulgate rules  
3 allowing employers who do not have hazardous substances at their  
4 workplace to request an exemption from the assessment and shall  
5 establish penalties for fraudulent exemption requests. All fees  
6 collected by the department pursuant to this section shall be collected  
7 in a cost-efficient manner and shall be deposited in the fund.

8 (3) Records required by this chapter shall at all times be open to  
9 the inspection of the director, or (~~his~~) the director's designee  
10 including, the traveling auditors, agents or assistants of the  
11 department provided for in RCW 51.16.070 and 51.48.040. The  
12 information obtained from employer records under the provisions of this  
13 section shall be subject to the same confidentiality requirements as  
14 set forth in RCW 51.16.070.

15 (4) An employer may appeal the assessment of the fee or penalties  
16 pursuant to the procedures set forth in Title 51 RCW and accompanying  
17 rules except that the employer shall not have the right of appeal to  
18 superior court as provided in Title 51 RCW. The employer from whom the  
19 fee or penalty is demanded or enforced, may however, within thirty days  
20 of the board of industrial insurance appeal's final order, pay the fee  
21 or penalty under written protest setting forth all the grounds upon  
22 which such fee or penalty is claimed to be unlawful, excessive or  
23 otherwise improper and thereafter bring an action in superior court  
24 against the department to recover such fee or penalty or any portion of  
25 the fee or penalty which was paid under protest.

26 (5) Repayment shall be made to the general fund of any moneys  
27 appropriated by law in order to implement this chapter.

--- END ---