

SECOND SUBSTITUTE HOUSE BILL 1354

State of Washington

64th Legislature

2016 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Ryu, Goodman, S. Hunt, Riccelli, Farrell, Cody, Tharinger, Ortiz-Self, Sullivan, Bergquist, Pollet, Dunshee, Fitzgibbon, Moscoso, Appleton, Sells, Robinson, Reykdal, Walkinshaw, Wylie, Gregory, Moeller, Gregerson, Stanford, and Ormsby)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to the employment antiretaliation act; amending
2 RCW 49.46.010, 49.46.100, and 39.12.010; reenacting and amending RCW
3 49.48.082; adding new sections to chapter 49.46 RCW; adding a new
4 section to chapter 49.12 RCW; adding new sections to chapter 49.48
5 RCW; adding new sections to chapter 39.12 RCW; adding new sections to
6 chapter 49.52 RCW; creating a new section; and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that many workers
9 are unable to exercise their wage and hour rights because of fear of
10 adverse action or actual adverse action by unscrupulous employers.
11 Employers should not gain a competitive advantage against law abiding
12 business by retaliating or discriminating against their employees. No
13 employee should have to fear adverse action simply for engaging in
14 rights the state of Washington has deemed so important that they are
15 protected by law. It is in the public interest of the state of
16 Washington that employees be able to report concerns to their
17 employers without fear of retaliation or discrimination. The
18 legislature finds that strong, clear, and effective protections for
19 employees will help address the problems of employer retaliation.

1 **Sec. 2.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to
2 read as follows:

3 As used in this chapter:

4 (1) "Director" means the director of labor and industries or the
5 director's authorized representative;

6 (2) "Employ" includes to permit to work;

7 (3) "Employee" includes any individual employed by an employer
8 but shall not include:

9 (a) Any individual (i) employed as a hand harvest laborer and
10 paid on a piece rate basis in an operation which has been, and is
11 generally and customarily recognized as having been, paid on a piece
12 rate basis in the region of employment; (ii) who commutes daily from
13 his or her permanent residence to the farm on which he or she is
14 employed; and (iii) who has been employed in agriculture less than
15 thirteen weeks during the preceding calendar year;

16 (b) Any individual employed in casual labor in or about a private
17 home, unless performed in the course of the employer's trade,
18 business, or profession;

19 (c) Any individual employed in a bona fide executive,
20 administrative, or professional capacity or in the capacity of
21 outside salesperson as those terms are defined and delimited by rules
22 of the director. However, those terms shall be defined and delimited
23 by the human resources director pursuant to chapter 41.06 RCW for
24 employees employed under the director of personnel's jurisdiction;

25 (d) Any individual engaged in the activities of an educational,
26 charitable, religious, state or local governmental body or agency, or
27 nonprofit organization where the employer-employee relationship does
28 not in fact exist or where the services are rendered to such
29 organizations gratuitously. If the individual receives reimbursement
30 in lieu of compensation for normally incurred out-of-pocket expenses
31 or receives a nominal amount of compensation per unit of voluntary
32 service rendered, an employer-employee relationship is deemed not to
33 exist for the purpose of this section or for purposes of membership
34 or qualification in any state, local government, or publicly
35 supported retirement system other than that provided under chapter
36 41.24 RCW;

37 (e) Any individual employed full time by any state or local
38 governmental body or agency who provides voluntary services but only
39 with regard to the provision of the voluntary services. The voluntary
40 services and any compensation therefor shall not affect or add to

1 qualification, entitlement, or benefit rights under any state, local
2 government, or publicly supported retirement system other than that
3 provided under chapter 41.24 RCW;

4 (f) Any newspaper vendor, carrier, or delivery person selling or
5 distributing newspapers on the street, to offices, to businesses, or
6 from house to house and any freelance news correspondent or
7 "stringer" who, using his or her own equipment, chooses to submit
8 material for publication for free or a fee when such material is
9 published;

10 (g) Any carrier subject to regulation by Part 1 of the Interstate
11 Commerce Act;

12 (h) Any individual engaged in forest protection and fire
13 prevention activities;

14 (i) Any individual employed by any charitable institution charged
15 with child care responsibilities engaged primarily in the development
16 of character or citizenship or promoting health or physical fitness
17 or providing or sponsoring recreational opportunities or facilities
18 for young people or members of the armed forces of the United States;

19 (j) Any individual whose duties require that he or she reside or
20 sleep at the place of his or her employment or who otherwise spends a
21 substantial portion of his or her work time subject to call, and not
22 engaged in the performance of active duties;

23 (k) Any resident, inmate, or patient of a state, county, or
24 municipal correctional, detention, treatment or rehabilitative
25 institution;

26 (l) Any individual who holds a public elective or appointive
27 office of the state, any county, city, town, municipal corporation or
28 quasi municipal corporation, political subdivision, or any
29 instrumentality thereof, or any employee of the state legislature;

30 (m) All vessel operating crews of the Washington state ferries
31 operated by the department of transportation;

32 (n) Any individual employed as a seaman on a vessel other than an
33 American vessel;

34 (o) Any farm intern providing his or her services to a small farm
35 which has a special certificate issued under RCW 49.12.470;

36 (p) An individual who is at least sixteen years old but under
37 twenty-one years old, in his or her capacity as a player for a junior
38 ice hockey team that is a member of a regional, national, or
39 international league and that contracts with an arena owned,

1 operated, or managed by a public facilities district created under
2 chapter 36.100 RCW;

3 (4) "Employer" includes any individual, partnership, association,
4 corporation, business trust, or any person or group of persons acting
5 directly or indirectly in the interest of an employer in relation to
6 an employee;

7 (5) "Occupation" means any occupation, service, trade, business,
8 industry, or branch or group of industries or employment or class of
9 employment in which employees are gainfully employed;

10 (6) "Retail or service establishment" means an establishment
11 seventy-five percent of whose annual dollar volume of sales of goods
12 or services, or both, is not for resale and is recognized as retail
13 sales or services in the particular industry;

14 (7) "Wage" means compensation due to an employee by reason of
15 employment, payable in legal tender of the United States or checks on
16 banks convertible into cash on demand at full face value, subject to
17 such deductions, charges, or allowances as may be permitted by rules
18 of the director;

19 (8) "Adverse action" means discharging, denying a promotion,
20 demoting, failing to rehire after a seasonal interruption of work,
21 threatening, penalizing, retaliating, engaging in unfair immigration-
22 related practices, filing a false report with a government agency,
23 changing an employee's status to a nonemployee, or otherwise
24 discriminating against an employee. "Adverse action" may involve any
25 aspect of employment, including pay, work hours, responsibilities, or
26 other material change in the terms and condition of employment;

27 (9) "Department" means the department of labor and industries;

28 (10) "Front pay" means the compensation the employee would earn
29 if reinstated to his or her former position;

30 (11) "Interested party" includes: A contractor or subcontractor
31 or an employee of a contractor or subcontractor; the director or the
32 director's designee; an organization whose members' wages, benefits,
33 and conditions of employment are affected by this chapter, including
34 a labor union; or any other organization of workers that exists for
35 the purpose, in whole or in part, of interacting with employers;

36 (12)(a) "Pattern or practice" means that, in addition to the
37 current violation, within the previous ten years the employer was:

38 (i) Convicted of a criminal violation of a state or local law
39 concerning retaliation;

1 (ii) Subject to a court order entering final judgment for a
2 violation of section 3, 9, 14, or 19 of this act, and the judgment
3 was not satisfied or current within thirty days of the later of:

4 (A) The expiration of the time for appealing the order; or

5 (B) If a timely appeal was made, the date of the final resolution
6 of the appeal; or

7 (iii) Subject to a final and binding citation and notice of
8 assessment from the department for a violation of section 3, 9, 14,
9 or 19 of this act, and the citation and penalty were not satisfied or
10 current within thirty days of the date the citation became final and
11 binding.

12 (b) For the purposes of this subsection (12), an employer
13 includes a successor employer, as defined in RCW 49.48.082;

14 (13)(a) "Unfair immigration-related practice" includes any of the
15 following practices:

16 (i) Requesting more or different documents than are required
17 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents
18 tendered pursuant to that section that on their face reasonably
19 appear to be genuine;

20 (ii) Using the federal E-Verify system to check the employment
21 authorization status of a person at a time or in a manner not
22 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any
23 memorandum of understanding governing the use of the federal E-Verify
24 system;

25 (iii) Threatening to file or the filing of a false police report;

26 (iv) Threatening to contact or contacting immigration
27 authorities;

28 (v) Withholding or threatening to destroy documents related to a
29 person's immigration status.

30 (b) "Unfair immigration-related practice" does not include
31 conduct undertaken at the express and specific direction or request
32 of the federal government.

33 NEW SECTION. Sec. 3. A new section is added to chapter 49.46
34 RCW to read as follows:

35 (1) An employer, any of its agents, or any person acting on
36 behalf of the employer may not take adverse action against any
37 individual or individuals because:

38 (a) An employee or former employee has informed any other person
39 or made a complaint, or the employer believes an employee has

1 informed any other person or made a complaint, including to the
2 employer, the department, the attorney general, or any other person
3 that the employer engaged in conduct that an employee reasonably
4 believes violates this chapter;

5 (b) An employee or former employee demands from the employee's
6 employer a lawful claim under this chapter;

7 (c) An employee or former employee has caused to be instituted,
8 or is about to cause to be instituted, a proceeding under or related
9 to this chapter;

10 (d) An employee or former employee has testified or is about to
11 testify in a proceeding under or related to this chapter;

12 (e) An employee has refused to participate in an activity that
13 would result in a violation of state or federal wage and hour law;

14 (f) An employee or former employee has sought information about
15 his or her rights under this chapter or informed others about their
16 rights under this chapter;

17 (g) An employee or former employee has, or the employer believes
18 an employee has, otherwise exercised rights protected by this
19 chapter; or

20 (h) An employee or former employee filed a complaint with the
21 department or brought suit in court where the employer was determined
22 to have violated this chapter.

23 (2) If an employer takes adverse action against an employee or
24 former employee within ninety days of an activity described in
25 subsection (1) of this section, the employer is presumed to have
26 acted in retaliation in violation of subsection (1) of this section.
27 However, in the case of seasonal work that ended before the close of
28 the ninety day period, the presumption also applies if the employer
29 fails to rehire a former employee at the next opportunity for work in
30 the same position. The employer may rebut the presumption with clear
31 and convincing evidence that the adverse action was taken for a
32 permissible purpose.

33 (3) A complaint or other communication by an employee triggers
34 the protections of this section regardless of whether the complaint
35 or communication is in writing or makes explicit reference to this
36 chapter.

37 (4) A violation of this section is a gross misdemeanor. The
38 presumption created in subsection (2) of this section does not apply
39 to this subsection.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.46

2 RCW to read as follows:

3 (1) An individual aggrieved or an interested party filing on
4 behalf of an individual aggrieved by section 3 of this act may file a
5 complaint with the director.

6 (2) If an individual aggrieved or an interested party filing on
7 behalf of an individual aggrieved files a complaint with the
8 department, the director may investigate the complaint. If, following
9 an investigation, the director determines that an employer violated
10 section 3 of this act, the director may order the employer to comply
11 with any one or more of the following, unless prohibited by federal
12 law:

13 (a) Pay a civil penalty of not less than one thousand dollars and
14 not more than ten thousand dollars per individual aggrieved. The
15 department must deposit civil penalties under this section in the
16 supplemental pension fund established under RCW 51.44.033.

17 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved
18 individual not less than one thousand dollars and not more than ten
19 thousand dollars.

20 (ii) If an employee or former employee is the aggrieved
21 individual, pay the individual the greater of:

22 (A) The amount of any civil penalty imposed under (a) of this
23 subsection; or

24 (B) Three times the amount of any wages, salary, and employment
25 benefits unlawfully denied or withheld, except benefits under Title
26 50 or 51 RCW.

27 (c) If the aggrieved individual is a former employee of the
28 violating employer, reinstate the aggrieved individual as an employee
29 at not less than the most recent rate of pay received by the
30 employee. The director may award front pay in lieu of reinstatement.

31 (3) An appeal from the director's determination may be taken in
32 accordance with chapter 34.05 RCW, with the prevailing party entitled
33 to recover reasonable costs and attorneys' fees.

34 (4) The director may not investigate any alleged violation under
35 this section that occurred more than three years before the date that
36 the employee filed the complaint. This period is tolled during any
37 period of time that an employer, any of its agents, or any person
38 acting on behalf of the employer deters an individual from filing a
39 complaint.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.46
2 RCW to read as follows:

3 (1) An individual aggrieved by a violation of section 3 of this
4 act may bring suit on behalf of himself or herself or on behalf of
5 any other individuals similarly situated.

6 (2) If a court determines that an employer violated section 3 of
7 this act, the court, unless prohibited by federal law:

8 (a)(i) Shall award statutory damages for each individual
9 aggrieved by the violation. Subject to (a)(ii) of this subsection,
10 statutory damages must not be less than one thousand dollars and not
11 more than ten thousand dollars per individual, unless the employer
12 engaged in a pattern or practice of violations, in which case the
13 statutory damages must be not less than ten thousand dollars and not
14 more than twenty-five thousand dollars per individual;

15 (ii) If an employee or former employee is the individual subject
16 to adverse action, the court shall award the greater of:

17 (A) The amounts specified in (a)(i) of this subsection; or

18 (B) Three times the amount of any wages, salary, and employment
19 benefits unlawfully denied or withheld, except benefits under Title
20 50 or 51 RCW;

21 (b) May award actual damages sustained by the individual;

22 (c) May order injunctive or other equitable relief if the
23 aggrieved individual is an employee or former employee of the
24 violating employer. The relief may include:

25 (i) Reinstatement of the former employee as an employee to his or
26 her former position at not less than the most recent rate of
27 compensation received by the employee, including the value of any
28 benefits; or

29 (ii) Front pay in lieu of reinstatement;

30 (d)(i) For a first violation, may order the appropriate
31 government agencies to suspend all licenses that are held by the
32 violating party for a period of up to fourteen days. The licenses
33 that are subject to suspension are all licenses, certifications, or
34 registrations held by the violating party specific to the business
35 location or locations where the adverse action occurred;

36 (ii) For a second violation, the court may order the appropriate
37 government agencies to suspend all licenses that are held by the
38 violating party for a period of up to thirty days. The licenses that
39 are subject to suspension are all licenses held by the violating

1 party specific to the business location or locations where the
2 adverse action occurred;

3 (iii) For a third violation, the court may order the appropriate
4 government agencies to suspend all licenses that are held by the
5 violating party for a period of up to ninety days. The licenses that
6 are subject to suspension are all licenses held by the violating
7 party specific to the business location or locations where the
8 adverse action occurred.

9 (e) Shall award attorneys' fees and costs.

10 (3) A civil action under this section must be brought no later
11 than three years after the violation occurred. This period is tolled
12 during any period of time that an employer, any of its agents, or any
13 person acting on behalf of the employer deters an individual from
14 bringing an action under this section.

15 **Sec. 6.** RCW 49.46.100 and 2010 c 8 s 12044 are each amended to
16 read as follows:

17 ~~((1))~~ Any employer who hinders or delays the director or his or
18 her 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 or her authorized representatives to any place of
21 employment, or fails to make, keep, and preserve any records as
22 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 or her authorized representatives upon demand, or refuses to
25 furnish a sworn statement of such record or any other information
26 required for the proper enforcement of this chapter to the director
27 or his or her authorized representatives upon demand, or pays or
28 agrees to pay wages at a rate less than the rate applicable under
29 this chapter, or otherwise violates any provision of this chapter or
30 of any regulation issued under this chapter shall be deemed in
31 violation of this chapter and shall, upon conviction therefor, be
32 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 or her
36 authorized representatives that he or she has not been paid wages in
37 accordance with the provisions of this chapter, or that the employer
38 has violated any provision of this chapter, or because such employee
39 has caused to be instituted or is about to cause to be instituted any~~

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

5 **INDUSTRIAL WELFARE ACT**

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 49.12
7 RCW to read as follows:

8 (1) An employer, any of its agents, or any person acting on
9 behalf of the employer may not take adverse action against any
10 individual or individuals because an employee has updated or
11 attempted to update his or her personal information, unless the
12 change is directly related to the skill set or knowledge required for
13 the job.

14 (2) If an employer takes adverse action against an employee or
15 former employee within ninety days of an activity described in
16 subsection (1) of this section, the employer is presumed to have
17 acted in retaliation in violation of subsection (1) of this section.
18 However, in the case of seasonal work that ended before the close of
19 the ninety day period, the presumption also applies if the employer
20 fails to rehire a former employee at the next opportunity for work in
21 the same position. The employer may rebut the presumption with clear
22 and convincing evidence that the adverse action was taken for a
23 permissible purpose.

24 (3) For the purposes of this section, "adverse action" has the
25 same meaning as in RCW 49.46.010.

26 (4) An interested party or individual aggrieved by this section
27 may file a complaint under section 4 of this act.

28 (5) An individual aggrieved by a violation of this section may
29 also bring suit on behalf of himself or herself or on behalf of any
30 other individuals similarly situated under section 5 of this act.

31 (6) A violation of this section is a gross misdemeanor. The
32 presumption created in subsection (2) of this section does not apply
33 to this subsection.

34 **WAGE PAYMENT ACT**

35 **Sec. 8.** RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and
36 amended to read as follows:

1 The definitions in this section apply throughout this section and
2 RCW 49.48.083 through 49.48.086:

3 (1) "Citation" means a written determination by the department
4 that a wage payment requirement has been violated.

5 (2) "Department" means the department of labor and industries.

6 (3) "Determination of compliance" means a written determination
7 by the department that wage payment requirements have not been
8 violated.

9 (4) "Director" means the director of the department of labor and
10 industries, or the director's authorized representative.

11 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for
12 purposes of a wage payment requirement set forth in RCW 49.46.020 or
13 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment
14 requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

15 (6) "Employer" has the meaning provided in RCW 49.46.010 for
16 purposes of a wage payment requirement set forth in RCW 49.46.020,
17 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

18 (7) "Notice of assessment" means a written notice by the
19 department that, based on a citation, the employer shall pay the
20 amounts assessed under RCW 49.48.083.

21 (8) "Repeat willful violator" means any employer that has been
22 the subject of a final and binding citation and notice of assessment
23 for a willful violation of a wage payment requirement within three
24 years of the date of issue of the most recent citation and notice of
25 assessment for a willful violation of a wage payment requirement.

26 (9) "Successor" means any person to whom an employer quitting,
27 selling out, exchanging, or disposing of a business sells or
28 otherwise conveys in bulk and not in the ordinary course of the
29 employer's business, more than fifty percent of the property, whether
30 real or personal, tangible or intangible, of the employer's business.

31 (10) "Wage" has the meaning provided in RCW 49.46.010.

32 (11) "Wage complaint" means a complaint from an employee to the
33 department that asserts that an employer has violated one or more
34 wage payment requirements and that is reduced to writing.

35 (12) "Wage payment requirement" means a wage payment requirement
36 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or
37 49.52.060, and any related rules adopted by the department.

38 (13) "Willful" means a knowing and intentional action that is
39 neither accidental nor the result of a bona fide dispute, as

1 evaluated under the standards applicable to wage payment violations
2 under RCW 49.52.050(2).

3 (14) "Adverse action" means discharging, denying a promotion,
4 demoting, failing to rehire after a seasonal interruption of work,
5 threatening, penalizing, retaliating, engaging in unfair immigration-
6 related practices, filing a false report with a government agency,
7 changing an employee's status to a nonemployee, or otherwise
8 discriminating against an employee. "Adverse action" may involve any
9 aspect of employment, including pay, work hours, responsibilities, or
10 other material change in the terms and condition of employment.

11 (15) "Front pay" means the compensation the employee would earn
12 if reinstated to his or her former position.

13 (16) "Interested party" includes: A contractor or subcontractor
14 or an employee of a contractor or subcontractor; the director or the
15 director's designee; an organization whose members' wages, benefits,
16 and conditions of employment are affected by this chapter, including
17 a labor union; or any other organization of workers that exists for
18 the purpose, in whole or in part, of interacting with employers.

19 (17)(a) "Pattern or practice" means that, in addition to the
20 current violation, within the previous ten years the employer was:

21 (i) Convicted of a criminal violation of a state or local law
22 concerning retaliation;

23 (ii) Subject to a court order entering final judgment for a
24 violation of section 3, 9, 14, or 19 of this act, and the judgment
25 was not satisfied or current within thirty days of the later of:

26 (A) The expiration of the time for appealing the order; or

27 (B) If a timely appeal was made, the date of the final resolution
28 of the appeal; or

29 (iii) Subject to a final and binding citation and notice of
30 assessment from the department for a violation of section 3, 14, or
31 19 of this act, and the citation and penalty were not satisfied or
32 current within thirty days of the date the citation became final and
33 binding.

34 (b) For the purposes of this subsection (17), an employer
35 includes a successor employer, as defined in this section.

36 (18)(a) "Unfair immigration-related practice" includes any of the
37 following practices:

38 (i) Requesting more or different documents than are required
39 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents

1 tendered pursuant to that section that on their face reasonably
2 appear to be genuine;

3 (ii) Using the federal E-Verify system to check the employment
4 authorization status of a person at a time or in a manner not
5 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any
6 memorandum of understanding governing the use of the federal E-Verify
7 system;

8 (iii) Threatening to file or the filing of a false police report;

9 (iv) Threatening to contact or contacting immigration
10 authorities;

11 (v) Withholding or threatening to destroy documents related to a
12 person's immigration status.

13 (b) "Unfair immigration-related practice" does not include
14 conduct undertaken at the express and specific direction or request
15 of the federal government.

16 NEW SECTION. Sec. 9. (1) An employer, any of its agents, or any
17 person acting on behalf of the employer may not take adverse action
18 against any individual or individuals because:

19 (a) An employee or former employee has informed any other person
20 or made a complaint, or the employer believes an employee has
21 informed any other person or made a complaint, including to the
22 employer, the department, the attorney general, or any other person
23 that the employer engaged in conduct that an employee reasonably
24 believes violates this chapter;

25 (b) An employee or former employee demands from the employee's
26 employer a lawful claim under this chapter;

27 (c) An employee or former employee has caused to be instituted,
28 or is about to cause to be instituted, a proceeding under or related
29 to this chapter;

30 (d) An employee or former employee has testified or is about to
31 testify in a proceeding under or related to this chapter;

32 (e) An employee has refused to participate in an activity that
33 would result in a violation of state or federal wage and hour law;

34 (f) An employee or former employee has sought information about
35 his or her rights under this chapter or informed others about their
36 rights under this chapter;

37 (g) An employee or former employee has, or the employer believes
38 an employee has, otherwise exercised rights protected by this
39 chapter; or

1 (h) An employee or former employee filed a complaint with the
2 department or brought suit in court where the employer was determined
3 to have violated this chapter.

4 (2) If an employer takes adverse action against an employee or
5 former employee within ninety days of an activity described in
6 subsection (1) of this section, the employer is presumed to have
7 acted in retaliation in violation of subsection (1) of this section.
8 However, in the case of seasonal work that ended before the close of
9 the ninety day period, the presumption also applies if the employer
10 fails to rehire a former employee at the next opportunity for work in
11 the same position. The employer may rebut the presumption with clear
12 and convincing evidence that the adverse action was taken for a
13 permissible purpose.

14 (3) A complaint or other communication by an employee triggers
15 the protections of this section regardless of whether the complaint
16 or communication is in writing or makes explicit reference to this
17 chapter.

18 (4) A violation of this section is a gross misdemeanor. The
19 presumption created in subsection (2) of this section does not apply
20 to this subsection.

21 NEW SECTION. **Sec. 10.** (1) An individual aggrieved or an
22 interested party filing on behalf of an individual aggrieved by
23 section 9 of this act may file a complaint with the director.

24 (2) If an individual aggrieved or an interested party filing on
25 behalf of an individual aggrieved files a complaint with the
26 department, the director may investigate the complaint. If, following
27 an investigation, the director determines that an employer violated
28 section 9 of this act, the director may order the employer to comply
29 with any one or more of the following, unless prohibited by federal
30 law:

31 (a) Pay a civil penalty of not less than one thousand dollars and
32 not more than ten thousand dollars per individual aggrieved. The
33 department must deposit civil penalties under this section in the
34 supplemental pension fund established under RCW 51.44.033.

35 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved
36 individual not less than one thousand dollars and not more than ten
37 thousand dollars.

38 (ii) If an employee or former employee is the aggrieved
39 individual, pay the individual the greater of:

1 (A) The amount of any civil penalty imposed under (a) of this
2 subsection; or

3 (B) Three times the amount of any wages, salary, and employment
4 benefits unlawfully denied or withheld, except benefits under Title
5 50 or 51 RCW.

6 (c) If the aggrieved individual is a former employee of the
7 violating employer, reinstate the aggrieved individual as an employee
8 at not less than the most recent rate of pay received by the
9 employee. The director may award front pay in lieu of reinstatement.

10 (3) An appeal from the director's determination may be taken in
11 accordance with chapter 34.05 RCW, with the prevailing party entitled
12 to recover reasonable costs and attorneys' fees.

13 (4) The director may not investigate any alleged violation under
14 this section that occurred more than three years before the date that
15 the employee filed the complaint. This period is tolled during any
16 period of time that an employer, any of its agents, or any person
17 acting on behalf of the employer deters an individual from filing a
18 complaint.

19 NEW SECTION. **Sec. 11.** (1) An individual aggrieved by a
20 violation of section 9 of this act may bring suit on behalf of
21 himself or herself or on behalf of any other individuals similarly
22 situated.

23 (2) If a court determines that an employer violated section 9 of
24 this act, the court, unless prohibited by federal law:

25 (a)(i) Shall award statutory damages for each individual
26 aggrieved by the violation. Subject to (a)(ii) of this subsection,
27 statutory damages must not be less than one thousand dollars and not
28 more ten thousand dollars per individual, unless the employer engaged
29 in a pattern or practice of violations, in which case the statutory
30 damages must be not less than ten thousand dollars and not more than
31 twenty-five thousand dollars per individual;

32 (ii) If an employee or former employee is the individual subject
33 to adverse action, the court shall award the greater of:

34 (A) The amounts specified in (a)(i) of this subsection; or

35 (B) Three times the amount of any wages, salary, and employment
36 benefits unlawfully denied or withheld, except benefits under Title
37 50 or 51 RCW;

38 (b) May award actual damages sustained by the individual;

1 (c) May order injunctive or other equitable relief if the
2 aggrieved individual is an employee or former employee of the
3 violating employer. The relief may include:

4 (i) Reinstatement of the former employee as an employee to his or
5 her former position at not less than the most recent rate of
6 compensation received by the employee, including the value of any
7 benefits; or

8 (ii) Front pay in lieu of reinstatement;

9 (d)(i) For a first violation, may order the appropriate
10 government agencies to suspend all licenses that are held by the
11 violating party for a period of up to fourteen days. The licenses
12 that are subject to suspension are all licenses, certifications, or
13 registrations held by the violating party specific to the business
14 location or locations where the adverse action occurred;

15 (ii) For a second violation, the court may order the appropriate
16 government agencies to suspend all licenses that are held by the
17 violating party for a period of up to thirty days. The licenses that
18 are subject to suspension are all licenses held by the violating
19 party specific to the business location or locations where the
20 adverse action occurred;

21 (iii) For a third violation, the court may order the appropriate
22 government agencies to suspend all licenses that are held by the
23 violating party for a period of up to ninety days. The licenses that
24 are subject to suspension are all licenses held by the violating
25 party specific to the business location or locations where the
26 adverse action occurred.

27 (e) Shall award attorneys' fees and costs.

28 (3) A civil action under this section must be brought no later
29 than three years after the violation occurred. This period is tolled
30 during any period of time that an employer, any of its agents, or any
31 person acting on behalf of the employer deters an individual from
32 bringing an action under this section.

33 NEW SECTION. **Sec. 12.** Sections 9 through 11 of this act are
34 each added to chapter 49.48 RCW.

35 **PREVAILING WAGE**

36 **Sec. 13.** RCW 39.12.010 and 1989 c 12 s 6 are each amended to
37 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) The "prevailing rate of wage," (~~(, for the intents and~~
4 ~~purposes of this chapter, shall be)~~) means the rate of hourly wage,
5 usual benefits, and overtime paid in the locality, as (~~(hereinafter)~~)
6 defined in this section, to the majority of workers, laborers, or
7 mechanics, in the same trade or occupation. In the event that there
8 is not a majority in the same trade or occupation paid at the same
9 rate, then the average rate of hourly wage and overtime paid to such
10 laborers, workers, or mechanics in the same trade or occupation shall
11 be the prevailing rate. If the wage paid by any contractor or
12 subcontractor to laborers, workers, or mechanics on any public work
13 is based on some period of time other than an hour, the hourly wage
14 for the purposes of this chapter shall be mathematically determined
15 by the number of hours worked in such period of time.

16 (2) The "locality" (~~(for the purposes of this chapter shall be)~~)
17 means the largest city in the county wherein the physical work is
18 being performed.

19 (3) The "usual benefits" (~~(for the purposes of this chapter~~
20 ~~shall)~~) includes the amount of:

21 (a) The rate of contribution irrevocably made by a contractor or
22 subcontractor to a trustee or to a third person pursuant to a fund,
23 plan, or program; and

24 (b) The rate of costs to the contractor or subcontractor which
25 may be reasonably anticipated in providing benefits to workers,
26 laborers, and mechanics pursuant to an enforceable commitment to
27 carry out a financially responsible plan or program which was
28 communicated in writing to the workers, laborers, and mechanics
29 affected, for medical or hospital care, pensions on retirement or
30 death, compensation for injuries or illness resulting from
31 occupational activity, or insurance to provide any of the foregoing,
32 for unemployment benefits, life insurance, disability and sickness
33 insurance, or accident insurance, for vacation and holiday pay, for
34 defraying costs of apprenticeship or other similar programs, or for
35 other bona fide fringe benefits, but only where the contractor or
36 subcontractor is not required by other federal, state, or local law
37 to provide any of such benefits.

38 (4) (~~An "interested party" for the purposes of this chapter~~
39 ~~shall include a contractor, subcontractor, an employee of a~~
40 ~~contractor or subcontractor, an organization whose members' wages,~~

1 ~~benefits, and conditions of employment are affected by this chapter,~~
2 ~~and the director of labor and industries or the director's~~
3 ~~designee.)~~ "Adverse action" means discharging, denying a promotion,
4 demoting, failing to rehire after a seasonal interruption of work,
5 threatening, penalizing, retaliating, engaging in unfair immigration-
6 related practices, filing a false report with a government agency,
7 changing an employee's status to a nonemployee, or otherwise
8 discriminating against an employee. "Adverse action" may involve any
9 aspect of employment, including pay, work hours, responsibilities, or
10 other material change in the terms and condition of employment.

11 (5) "Department" means the department of labor and industries.

12 (6) "Front pay" means the compensation the employee would earn if
13 reinstated to his or her former position.

14 (7) "Interested party" includes: A contractor or subcontractor or
15 an employee of a contractor or subcontractor; the director or the
16 director's designee; an organization whose members' wages, benefits,
17 and conditions of employment are affected by this chapter, including
18 a labor union; or any other organization of workers that exists for
19 the purpose, in whole or in part, of interacting with employers.

20 (8)(a) "Pattern or practice" means that, in addition to the
21 current violation, within the previous ten years the employer was:

22 (i) Convicted of a criminal violation of a state or local law
23 concerning retaliation;

24 (ii) Subject to a court order entering final judgment for a
25 violation of section 3, 9, 14, or 19 of this act, and the judgment
26 was not satisfied or current within thirty days of the later of:

27 (A) The expiration of the time for appealing the order; or

28 (B) If a timely appeal was made, the date of the final resolution
29 of the appeal; or

30 (iii) Subject to a final and binding citation and notice of
31 assessment from the department for a violation of section 3, 9, or 19
32 of this act, and the citation and penalty were not satisfied or
33 current within thirty days of the date the citation became final and
34 binding.

35 (b) For the purposes of this subsection (8), an employer includes
36 a successor employer, as defined in RCW 49.48.082.

37 (9)(a) "Unfair immigration-related practice" includes any of the
38 following practices:

39 (i) Requesting more or different documents than are required
40 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents

1 tendered pursuant to that section that on their face reasonably
2 appear to be genuine;

3 (ii) Using the federal E-Verify system to check the employment
4 authorization status of a person at a time or in a manner not
5 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any
6 memorandum of understanding governing the use of the federal E-Verify
7 system;

8 (iii) Threatening to file or the filing of a false police report;

9 (iv) Threatening to contact or contacting immigration
10 authorities;

11 (v) Withholding or threatening to destroy documents related to a
12 person's immigration status.

13 (b) "Unfair immigration-related practice" does not include
14 conduct undertaken at the express and specific direction or request
15 of the federal government.

16 NEW SECTION. Sec. 14. (1) An employer, any of its agents, or
17 any person acting on behalf of the employer may not take adverse
18 action against any individual or individuals because:

19 (a) An employee or former employee has informed any other person
20 or made a complaint, or the employer believes an employee has
21 informed any other person or made a complaint, including to the
22 employer, the department, the attorney general, or any other person
23 that the employer engaged in conduct that an employee reasonably
24 believes violates this chapter;

25 (b) An employee or former employee demands from the employee's
26 employer a lawful claim under this chapter;

27 (c) An employee or former employee has caused to be instituted,
28 or is about to cause to be instituted, a proceeding under or related
29 to this chapter;

30 (d) An employee or former employee has testified or is about to
31 testify in a proceeding under or related to this chapter;

32 (e) An employee has refused to participate in an activity that
33 would result in a violation of state or federal wage and hour law;

34 (f) An employee or former employee has sought information about
35 his or her rights under this chapter or informed others about their
36 rights under this chapter;

37 (g) An employee or former employee has, or the employer believes
38 an employee has, otherwise exercised rights protected by this
39 chapter; or

1 (h) An employee or former employee filed a complaint with the
2 department or brought suit in court where the employer was determined
3 to have violated this chapter.

4 (2) If an employer takes adverse action against an employee or
5 former employee within ninety days of an activity described in
6 subsection (1) of this section, the employer is presumed to have
7 acted in retaliation in violation of subsection (1) of this section.
8 However, in the case of seasonal work that ended before the close of
9 the ninety day period, the presumption also applies if the employer
10 fails to rehire a former employee at the next opportunity for work in
11 the same position. The employer may rebut the presumption with clear
12 and convincing evidence that the adverse action was taken for a
13 permissible purpose.

14 (3) A complaint or other communication by an employee triggers
15 the protections of this section regardless of whether the complaint
16 or communication is in writing or makes explicit reference to this
17 chapter.

18 (4) A violation of this section is a gross misdemeanor. The
19 presumption created in subsection (2) of this section does not apply
20 to this subsection.

21 NEW SECTION. **Sec. 15.** (1) An individual aggrieved or an
22 interested party filing on behalf of an individual aggrieved by
23 section 14 of this act may file a complaint with the director.

24 (2) If an individual aggrieved or an interested party filing on
25 behalf of an individual aggrieved files a complaint with the
26 department, the director may investigate the complaint. If, following
27 an investigation, the director determines that an employer violated
28 section 14 of this act, the director may order the employer to comply
29 with any one or more of the following, unless prohibited by federal
30 law:

31 (a) Pay a civil penalty of not less than one thousand dollars and
32 not more than ten thousand dollars per individual aggrieved. The
33 department must deposit civil penalties under this section in the
34 supplemental pension fund established under RCW 51.44.033.

35 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved
36 individual not less than one thousand dollars and not more than ten
37 thousand dollars.

38 (ii) If an employee or former employee is the aggrieved
39 individual, pay the individual the greater of:

1 (A) The amount of any civil penalty imposed under (a) of this
2 subsection; or

3 (B) Three times the amount of any wages, salary, and employment
4 benefits unlawfully denied or withheld, except benefits under Title
5 50 or 51 RCW.

6 (c) If the aggrieved individual is a former employee of the
7 violating employer, reinstate the aggrieved individual as an employee
8 at not less than the most recent rate of pay received by the
9 employee. The director may award front pay in lieu of reinstatement.

10 (3) An appeal from the director's determination may be taken in
11 accordance with chapter 34.05 RCW, with the prevailing party entitled
12 to recover reasonable costs and attorneys' fees.

13 (4) The director may not investigate any alleged violation under
14 this section that occurred more than three years before the date that
15 the employee filed the complaint. This period is tolled during any
16 period of time that an employer, any of its agents, or any person
17 acting on behalf of the employer deters an individual from filing a
18 complaint.

19 NEW SECTION. **Sec. 16.** (1) An individual aggrieved by a
20 violation of section 14 of this act may bring suit on behalf of
21 himself or herself or on behalf of any other individuals similarly
22 situated.

23 (2) If a court determines that an employer violated section 14 of
24 this act, the court, unless prohibited by federal law:

25 (a)(i) Shall award statutory damages for each individual
26 aggrieved by the violation. Subject to (a)(ii) of this subsection,
27 statutory damages must not be less than one thousand dollars and not
28 more ten thousand dollars per individual, unless the employer engaged
29 in a pattern or practice of violations, in which case the statutory
30 damages must be not less than ten thousand dollars and not more than
31 twenty-five thousand dollars per individual;

32 (ii) If an employee or former employee is the individual subject
33 to adverse action, the court shall award the greater of:

34 (A) The amounts specified in (a)(i) of this subsection; or

35 (B) Three times the amount of any wages, salary, and employment
36 benefits unlawfully denied or withheld, except benefits under Title
37 50 or 51 RCW;

38 (b) May award actual damages sustained by the individual;

1 (c) May order injunctive or other equitable relief if the
2 aggrieved individual is an employee or former employee of the
3 violating employer. The relief may include:

4 (i) Reinstatement of the former employee as an employee to his or
5 her former position at not less than the most recent rate of
6 compensation received by the employee, including the value of any
7 benefits; or

8 (ii) Front pay in lieu of reinstatement;

9 (d)(i) For a first violation, may order the appropriate
10 government agencies to suspend all licenses that are held by the
11 violating party for a period of up to fourteen days. The licenses
12 that are subject to suspension are all licenses, certifications, or
13 registrations held by the violating party specific to the business
14 location or locations where the adverse action occurred;

15 (ii) For a second violation, the court may order the appropriate
16 government agencies to suspend all licenses that are held by the
17 violating party for a period of up to thirty days. The licenses that
18 are subject to suspension are all licenses held by the violating
19 party specific to the business location or locations where the
20 adverse action occurred;

21 (iii) For a third violation, the court may order the appropriate
22 government agencies to suspend all licenses that are held by the
23 violating party for a period of up to ninety days. The licenses that
24 are subject to suspension are all licenses held by the violating
25 party specific to the business location or locations where the
26 adverse action occurred.

27 (e) Shall award attorneys' fees and costs.

28 (3) A civil action under this section must be brought no later
29 than three years after the violation occurred. This period is tolled
30 during any period of time that an employer, any of its agents, or any
31 person acting on behalf of the employer deters an individual from
32 bringing an action under this section.

33 NEW SECTION. **Sec. 17.** Sections 14 through 16 of this act are
34 each added as new sections to chapter 39.12 RCW.

35 **WAGE DEDUCTIONS**

1 NEW SECTION. **Sec. 18.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Adverse action" means discharging, denying a promotion,
5 demoting, failing to rehire after a seasonal interruption of work,
6 threatening, penalizing, retaliating, engaging in unfair immigration-
7 related practices, filing a false report with a government agency,
8 changing an employee's status to a nonemployee, or otherwise
9 discriminating against an employee. "Adverse action" may involve any
10 aspect of employment, including pay, work hours, responsibilities, or
11 other material change in the terms and condition of employment.

12 (2) "Department" means the department of labor and industries.

13 (3) "Director" means the director of the department of labor and
14 industries.

15 (4) "Front pay" means the compensation the employee would earn if
16 reinstated to his or her former position.

17 (5) "Interested party" includes: A contractor or subcontractor or
18 an employee of a contractor or subcontractor; the director or the
19 director's designee; an organization whose members' wages, benefits,
20 and conditions of employment are affected by this chapter, including
21 a labor union; or any other organization of workers that exists for
22 the purpose, in whole or in part, of interacting with employers.

23 (6)(a) "Pattern or practice" means that, in addition to the
24 current violation, within the previous ten years the employer was:

25 (i) Convicted of a criminal violation of a state or local law
26 concerning retaliation;

27 (ii) Subject to a court order entering final judgment for a
28 violation of section 3, 9, 14, or 19 of this act, and the judgment
29 was not satisfied or current within thirty days of the later of:

30 (A) The expiration of the time for appealing the order; or

31 (B) If a timely appeal was made, the date of the final resolution
32 of the appeal; or

33 (iii) Subject to a final and binding citation and notice of
34 assessment from the department for a violation of section 3, 9, or 15
35 of this act, and the citation and penalty were not satisfied or
36 current within thirty days of the date the citation became final and
37 binding.

38 (b) For the purposes of this subsection (6), an employer includes
39 a successor employer, as defined in RCW 49.48.082.

1 (7)(a) "Unfair immigration-related practice" means any of the
2 following practices:

3 (i) Requesting more or different documents than are required
4 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents
5 tendered pursuant to that section that on their face reasonably
6 appear to be genuine;

7 (ii) Using the federal E-Verify system to check the employment
8 authorization status of a person at a time or in a manner not
9 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any
10 memorandum of understanding governing the use of the federal E-Verify
11 system;

12 (iii) Threatening to file or the filing of a false police report;

13 (iv) Threatening to contact or contacting immigration
14 authorities;

15 (v) Withholding or threatening to destroy documents related to a
16 person's immigration status.

17 (b) "Unfair immigration-related practice" does not include
18 conduct undertaken at the express and specific direction or request
19 of the federal government.

20 NEW SECTION. **Sec. 19.** (1) An employer, any of its agents, or
21 any person acting on behalf of the employer may not take adverse
22 action against any individual or individuals because:

23 (a) An employee or former employee has informed any other person
24 or made a complaint, or the employer believes an employee has
25 informed any other person or made a complaint, including to the
26 employer, the department, the attorney general, or any other person
27 that the employer engaged in conduct that an employee reasonably
28 believes violates this chapter;

29 (b) An employee or former employee demands from the employee's
30 employer a lawful claim under this chapter;

31 (c) An employee or former employee has caused to be instituted,
32 or is about to cause to be instituted, a proceeding under or related
33 to this chapter;

34 (d) An employee or former employee has testified or is about to
35 testify in a proceeding under or related to this chapter;

36 (e) An employee has refused to participate in an activity that
37 would result in a violation of state or federal wage and hour law;

1 (f) An employee or former employee has sought information about
2 his or her rights under this chapter or informed others about their
3 rights under this chapter;

4 (g) An employee or former employee has, or the employer believes
5 an employee has, otherwise exercised rights protected by this
6 chapter; or

7 (h) An employee or former employee filed a complaint with the
8 department or brought suit in court where the employer was determined
9 to have violated this chapter.

10 (2) If an employer takes adverse action against an employee or
11 former employee within ninety days of an activity described in
12 subsection (1) of this section, the employer is presumed to have
13 acted in retaliation in violation of subsection (1) of this section.
14 However, in the case of seasonal work that ended before the close of
15 the ninety day period, the presumption also applies if the employer
16 fails to rehire a former employee at the next opportunity for work in
17 the same position. The employer may rebut the presumption with clear
18 and convincing evidence that the adverse action was taken for a
19 permissible purpose.

20 (3) A complaint or other communication by an employee triggers
21 the protections of this section regardless of whether the complaint
22 or communication is in writing or makes explicit reference to this
23 chapter.

24 (4) A violation of this section is a gross misdemeanor. The
25 presumption created in subsection (2) of this section does not apply
26 to this subsection.

27 NEW SECTION. **Sec. 20.** (1) An individual aggrieved or an
28 interested party filing on behalf of an individual aggrieved by
29 section 19 of this act may file a complaint with the director.

30 (2) If an individual aggrieved or an interested party filing on
31 behalf of an individual aggrieved files a complaint with the
32 department, the director may investigate the complaint. If, following
33 an investigation, the director determines that an employer violated
34 section 19 of this act, the director may order the employer to comply
35 with any one or more of the following, unless prohibited by federal
36 law:

37 (a) Pay a civil penalty of not less than one thousand dollars and
38 not more than ten thousand dollars per individual aggrieved. The

1 department must deposit civil penalties under this section in the
2 supplemental pension fund established under RCW 51.44.033.

3 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved
4 individual not less than one thousand dollars and not more than ten
5 thousand dollars.

6 (ii) If an employee or former employee is the aggrieved
7 individual, pay the individual the greater of:

8 (A) The amount of any civil penalty imposed under (a) of this
9 subsection; or

10 (B) Three times the amount of any wages, salary, and employment
11 benefits unlawfully denied or withheld, except benefits under Title
12 50 or 51 RCW.

13 (c) If the aggrieved individual is a former employee of the
14 violating employer, reinstate the aggrieved individual as an employee
15 at not less than the most recent rate of pay received by the
16 employee. The director may award front pay in lieu of reinstatement.

17 (3) An appeal from the director's determination may be taken in
18 accordance with chapter 34.05 RCW, with the prevailing party entitled
19 to recover reasonable costs and attorneys' fees.

20 (4) The director may not investigate any alleged violation under
21 this section that occurred more than three years before the date that
22 the employee filed the complaint. This period is tolled during any
23 period of time that an employer, any of its agents, or any person
24 acting on behalf of the employer deters an individual from filing a
25 complaint.

26 NEW SECTION. **Sec. 21.** (1) An individual aggrieved by a
27 violation of section 19 of this act may bring suit on behalf of
28 himself or herself or on behalf of any other individuals similarly
29 situated.

30 (2) If a court determines that an employer violated section 19 of
31 this act, the court, unless prohibited by federal law:

32 (a)(i) Shall award statutory damages for each individual
33 aggrieved by the violation. Subject to (a)(ii) of this subsection,
34 statutory damages must not be less than one thousand dollars and not
35 more than ten thousand dollars per individual, unless the employer
36 engaged in a pattern or practice of violations, in which case the
37 statutory damages must be not less than ten thousand dollars and not
38 more than twenty-five thousand dollars per individual;

1 (ii) If an employee or former employee is the individual subject
2 to adverse action, the court shall award the greater of:

3 (A) The amounts specified in (a)(i) of this subsection; or

4 (B) Three times the amount of any wages, salary, and employment
5 benefits unlawfully denied or withheld, except benefits under Title
6 50 or 51 RCW;

7 (b) May award actual damages sustained by the individual;

8 (c) May order injunctive or other equitable relief if the
9 aggrieved individual is an employee or former employee of the
10 violating employer. The relief may include:

11 (i) Reinstatement of the former employee as an employee to his or
12 her former position at not less than the most recent rate of
13 compensation received by the employee, including the value of any
14 benefits; or

15 (ii) Front pay in lieu of reinstatement;

16 (d)(i) For a first violation, may order the appropriate
17 government agencies to suspend all licenses that are held by the
18 violating party for a period of up to fourteen days. The licenses
19 that are subject to suspension are all licenses, certifications, or
20 registrations held by the violating party specific to the business
21 location or locations where the adverse action occurred;

22 (ii) For a second violation, the court may order the appropriate
23 government agencies to suspend all licenses that are held by the
24 violating party for a period of up to thirty days. The licenses that
25 are subject to suspension are all licenses held by the violating
26 party specific to the business location or locations where the
27 adverse action occurred;

28 (iii) For a third violation, the court may order the appropriate
29 government agencies to suspend all licenses that are held by the
30 violating party for a period of up to ninety days. The licenses that
31 are subject to suspension are all licenses held by the violating
32 party specific to the business location or locations where the
33 adverse action occurred.

34 (e) Shall award attorneys' fees and costs.

35 (3) A civil action under this section must be brought no later
36 than three years after the violation occurred. This period is tolled
37 during any period of time that an employer, any of its agents, or any
38 person acting on behalf of the employer deters an individual from
39 bringing an action under this section.

1 NEW SECTION. **Sec. 22.** Sections 18 through 21 of this act are
2 each added as new sections to chapter 49.52 RCW.

3 NEW SECTION. **Sec. 23.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

--- END ---