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SENATE BILL 5555

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State of Washington

65th Legislature

2017 Regular Session

By Senators Wellman, Kuderer, Saldaña, Cleveland, Hasegawa, Carlyle, McCoy, Nelson, Keiser, Rolfes, Darneille, Chase, and Conway

Read first time 01/27/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to wage and salary information; adding a new  
2 section to chapter 49.12 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12  
5 RCW to read as follows:

6 (1) An employer may not seek the wage or salary history of an  
7 applicant from the applicant or a current or former employer or  
8 require that an applicant's prior wage or salary history meet certain  
9 criteria, except as provided in subsection (2) of this section.

10 (2) A prospective employer may confirm an applicant's wage or  
11 salary history:

12 (a) If the applicant has voluntarily disclosed the applicant's  
13 wage or salary history; or

14 (b) After an offer of employment with compensation has been  
15 negotiated and made to the applicant.

16 (3) An employer, upon request, must provide the wage scale or  
17 salary range for a position to an applicant for employment. An  
18 employer must also provide to each employee the wage scale or salary  
19 range for the employee's job title and for comparable jobs upon hire,  
20 and annually and upon request after hire.

1 (4)(a) Upon complaint by an employee, the director must  
2 investigate to determine if there has been compliance with this  
3 section and the rules adopted under this section. The director may  
4 also initiate an investigation on behalf of one or more employees for  
5 a violation of this section and the rules adopted under this section.  
6 The director may require the testimony of witnesses and production of  
7 documents as part of an investigation.

8 (b) If the director determines that a violation occurred, the  
9 director may order the employer to pay to the complainant actual  
10 damages; statutory damages equal to the actual damages or five  
11 thousand dollars, whichever is greater; and interest of one percent  
12 per month on all compensation owed. The director may also order  
13 payment to the department of a civil penalty of not more than two  
14 hundred dollars for a first violation and not more than one thousand  
15 dollars for a repeat violation, payment to the department of the  
16 costs of investigation and enforcement, and any other appropriate  
17 relief. For purposes of a civil penalty for violation of this  
18 section, the violation as to each affected employee constitutes a  
19 separate violation.

20 (c) An appeal from the director's determination may be taken in  
21 accordance with chapter 34.05 RCW. An employee who prevails is  
22 entitled to costs and reasonable attorneys' fees.

23 (d) The department must deposit civil penalties paid under this  
24 subsection in the supplemental pension fund established under RCW  
25 51.44.033.

26 (e) Any wages and interest owed must be calculated from the first  
27 date wages were owed to the employee.

28 (5) An employee may bring a civil action against an employer for  
29 violation of this section for actual damages; statutory damages equal  
30 to the actual damages or five thousand dollars, whichever is greater;  
31 interest of one percent per month on all compensation owed; and costs  
32 and reasonable attorneys' fees. The court may also order  
33 reinstatement and injunctive relief. Any wages and interest owed must  
34 be calculated from the first date wages were owed to the employee.

35 (6) The definitions in this subsection apply throughout this  
36 section unless the context clearly requires otherwise.

37 (a) "Employee" means a worker who is employed in the business of  
38 an employer. "Employee," for the purposes of this section, also  
39 includes workers performing in an executive, administrative,  
40 professional, or outside sales capacity.

1           (b) "Employer" means any person, firm, corporation, partnership,  
2 business trust, legal representative, or other business entity that  
3 engages in any business, industry, profession, or activity in this  
4 state and employs one or more employees. Employer also includes the  
5 state, any state institution, any state agency, political  
6 subdivisions of the state, and any municipal corporation or quasi-  
7 municipal corporation.

8           (7) The department may adopt rules to implement this section.

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