
SENATE BILL 6247

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By Senators Saldaña, Keiser, Conway, Nguyen, Randall, Darneille, Das, Hasegawa, Kuderer, Pedersen, Stanford, Wilson, C., Frockt, and Hunt; by request of Attorney General and Governor Inslee

Read first time 01/14/20. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to providing labor protections for domestic
2 workers; amending RCW 49.46.010 and 49.60.040; adding a new chapter
3 to Title 49 RCW; prescribing penalties; and providing effective
4 dates.

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

6 NEW SECTION. **Sec. 1.** Whereas domestic workers were historically
7 excluded from many basic labor protections and whereas these
8 protections have been identified as a priority to the people of the
9 state of Washington, this act declares that health, safety, wage
10 protections, and general welfare are guaranteed for domestic workers.
11 This includes meal and rest breaks, clarity on what constitutes
12 working time, sick time to care for themselves and their families,
13 and the freedom from discrimination and sexual harassment.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires
16 otherwise.

17 (1) "Casual labor" refers to work that is irregular, uncertain,
18 and incidental in nature and duration or is different in nature from
19 the type of paid work in which the worker is customarily engaged in.

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

1 (3) "Director" means the director of labor and industries.

2 (4) "Domestic service" means services related to the care of
3 persons in private homes or the maintenance of private homes or their
4 premises.

5 (5)(a) "Domestic worker" includes hourly and salaried employees
6 and includes any worker who:

7 (i) Works for one or more hiring entity; and

8 (ii) Is an individual who works in residences as a nanny, house
9 cleaner, home care worker, cook, gardener, or household manager, or
10 for any domestic service purpose including but not limited to: Caring
11 for a child; providing support services for a person who is sick,
12 convalescing, elderly, or a person with a disability; providing
13 housekeeping or house cleaning services; cooking; providing food or
14 butler services; parking cars; cleaning laundry; gardening; or
15 working as a household manager.

16 (b) "Domestic worker" does not include:

17 (i) Persons who provide babysitting on a casual labor basis;

18 (ii) Any individual employed in casual labor in or about a
19 private home, unless performed in the course of the hiring entity's
20 trade, business, or profession;

21 (iii) Individual providers, as defined in RCW 74.39A.240;

22 (iv) Persons who perform house sitting, pet sitting, and dog
23 walking duties that do not involve domestic service.

24 (6) "Employ" includes to permit to work.

25 (7) "Family member" shall be liberally construed to include, but
26 not be limited to, a parent, child, sibling, aunt, uncle, cousin,
27 grandparent, grandchild, grandniece, or grandnephew, or such
28 relatives when related by marriage.

29 (8) "Hiring entity" means any employer, as defined in RCW
30 49.46.010(4), and in RCW 49.60.040(11), who employs a domestic
31 worker, as well as any individual, partnership, association,
32 corporation, business trust, or any combination thereof, which pays a
33 wage or pays wages for the services of a domestic worker. It includes
34 any such entity, person, or group of persons that provides
35 compensation directly or indirectly to a domestic worker for the
36 performance of domestic services and any such entity, person, or
37 persons acting directly or indirectly in the interest of the hiring
38 entity in relation to the worker. "Hiring entity" does not include
39 state agencies or in-home services agencies as defined in RCW

1 70.127.010 to the extent that the home care services are funded
2 through RCW 74.39A.310.

3 (9) "Standard rate of pay" means the agreed-upon rate of pay
4 between the hiring entity and domestic worker, as reflected in the
5 written agreement.

6 NEW SECTION. **Sec. 3.** A hiring entity employing a domestic
7 worker must follow these requirements:

8 (1) A hiring entity employing a domestic worker shall pay the
9 domestic worker at least the minimum hourly rate as provided by RCW
10 49.46.020. This constitutes a wage payment requirement as defined in
11 RCW 49.48.082.

12 (2) A hiring entity employing a domestic worker shall pay the
13 domestic worker an overtime wage at a rate of one and one-half times
14 the worker's regular rate for hours worked in excess of forty hours
15 in a workweek as provided by RCW 49.46.130. This constitutes a wage
16 payment requirement as defined in RCW 49.48.082.

17 (3) Domestic workers are entitled to an uninterrupted meal period
18 of at least thirty minutes which commences no less than two hours nor
19 more than five hours from the beginning of the shift. Meal periods
20 shall be on the hiring entity's time when the domestic worker is
21 required by the hiring entity to remain on duty on the premises or at
22 a prescribed worksite in the interest of the hiring entity.

23 (a) No domestic worker shall be required to work more than five
24 consecutive hours without a meal period.

25 (b) Domestic workers working three or more hours longer than a
26 normal workday shall be allowed at least one thirty-minute meal
27 period prior to or during the overtime period.

28 (c) Domestic workers shall be allowed a rest period of not less
29 than ten minutes, on the hiring entity's time, for each four hours of
30 working time. Rest periods shall be scheduled as near as possible to
31 the midpoint of the work period. No domestic worker shall be required
32 to work more than three hours without a rest period.

33 (d) A hiring entity may not discourage meal and rest breaks and
34 cannot request that a domestic worker voluntarily waive meal and rest
35 break requirements.

36 (e) Where the nature of the work allows employees to take
37 intermittent rest periods equivalent to ten minutes for each four
38 hours worked, scheduled rest periods are not required.

1 (f) If the nature of the work does not allow a domestic worker to
2 be relieved of all duties and an uninterrupted meal break or
3 intermittent rest breaks may be impractical or impossible, a hiring
4 entity must compensate the domestic worker for that time at the
5 standard rate of pay for that worker.

6 (4) Subsections (1), (2), and (3) of this section do not apply
7 where a domestic worker voluntarily provides additional homecare in
8 excess of a written agreement between only the domestic worker and a
9 family member to whom the domestic worker is providing services.

10 (5) For domestic workers living in the home of their hiring
11 entities, the hiring entity must permit the domestic worker to cook
12 and consume the worker's own food, subject to reasonable restrictions
13 based on the religious or health needs of the home's residents.

14 (6) The domestic worker must have the right to retain personal
15 effects, including any legal documents, including forms of
16 identification, passports, or other immigration documents.

17 (7) All terms and expectations of employment must be in a written
18 agreement as specified in RCW 49.46.010. This includes but is not
19 limited to: Location where the work will be done; rate of pay,
20 including overtime expectations and compensation for additional
21 duties, if any; the work schedule at the time of hire including meal
22 and rest breaks; if applicable, deduction agreements, information
23 about days of rest, sick days, vacation days, personal days, and
24 holidays; transportation, severance, and health insurance costs; and
25 any fees or other costs for the domestic worker associated with
26 expectations of employment.

27 (a) All written agreements under this subsection (7) shall be:

28 (i) Provided in a language or languages understood by both the
29 worker and hiring entity; and

30 (ii) Signed and dated by both the hiring entity and the domestic
31 worker, after any time requested for review by either party has
32 passed.

33 (b) No provisions in the written agreement may waive a domestic
34 worker's rights under federal, state, or local law.

35 (c) The agreements may not contain mandatory predispute
36 arbitration clauses for employee claims of their legal rights,
37 noncompete agreements, nondisclosure agreements, or nondisparagement
38 agreements that inhibit a domestic worker's claims of their legal
39 rights under this chapter, or noncompete agreements that limit the

1 ability of domestic workers to seek any other form of domestic work
2 postemployment.

3 (8) Any time a hiring entity initiates a written agreement of
4 employment, a disclosure of rights specified in section 16 of this
5 act must accompany that agreement.

6 (9) The hiring entity shall provide a minimum two-week
7 notification period before termination of the employment. For live-in
8 domestic workers, a minimum four-week notification period before
9 termination of the employment relationship shall be provided.

10 (a) No notification period is required if:

11 (i) It is in connection with termination of work performed on a
12 casual labor basis for a hiring entity;

13 (ii) It occurs during an agreed-upon probationary period.

14 (b) Notice of termination requirements do not apply if:

15 (i) The hiring entity terminates employment based on a good faith
16 belief that the domestic worker has engaged in misconduct as defined
17 in RCW 50.04.294 or if circumstances outside of the hiring entity or
18 the hiring entity's control apply. This includes death, or if both
19 the hiring entity and domestic worker agree that the care needs have
20 significantly changed and cannot be addressed by the current
21 employment relationship. If an investigation into termination
22 commences, the hiring entity must be able to articulate and support
23 the allegations of misconduct or change of circumstances;

24 (ii) If the domestic worker becomes unable to meet the stated
25 requirements for compensation as outlined in the written agreement.

26 (c) Failure to provide notification as required under this
27 subsection shall entitle the domestic worker to severance pay in the
28 amount of the worker's standard rate of pay multiplied by the regular
29 number of hours worked over the period of time during which the
30 required notification was not provided.

31 (10) A hiring entity shall create and maintain records
32 documenting hours worked, pay rate, the existence of a written
33 contract, and, where applicable, the leave time earned and used. If a
34 complaint is filed and an investigation commences, the hiring entity
35 must make these records accessible.

36 (11) The enforcement entity shall maintain the confidentiality of
37 all records it obtains in connection with enforcement activities to
38 the full extent permitted by law.

1 NEW SECTION. **Sec. 4.** A hiring entity that employs a domestic
2 worker may not:

3 (1) Request that the domestic worker allow the hiring entity, on
4 either a mandatory or voluntary basis, to have possession of any
5 personal effects, including any legal documents, including forms of
6 identification, passports, or other immigration documents;

7 (2) Engage in any form of discrimination and harassment as
8 defined by chapter 49.60 RCW. A domestic worker who files a complaint
9 or brings suit alleging discrimination in violation of RCW 49.60.180
10 shall be entitled to all the procedural and substantive rights
11 available under chapter 49.60 RCW;

12 (3) Subject a domestic worker to conduct with the purpose or
13 effect of unreasonable interfering with the domestic worker's work
14 performance by creating an intimidating, hostile, or offensive work
15 environment;

16 (4) Monitor or record, through any means, the activities of the
17 domestic worker using a bathroom or similar facility, in the domestic
18 worker's private living quarters, or while the domestic worker is
19 engaged in personal activities associated with dressing or changing
20 clothes;

21 (5) Monitor, record, or interfere with the private communications
22 of a domestic worker;

23 (6) Communicate to a person exercising rights protected under
24 this chapter, directly or indirectly, the willingness or intent to
25 inform a government employee or contracted organization suspected
26 citizenship or immigration status of a domestic worker or a family
27 member to a federal, state, or local agency because the domestic
28 worker has exercised any right under this chapter;

29 (7) Take any adverse action against a domestic worker because the
30 domestic worker has exercised their rights provided under this
31 chapter. Such rights include, but are not limited to: Filing an
32 action, organizing or communicating amongst themselves, participating
33 in political speech, disclosing their immigration status, or
34 instituting or causing to be instituted any proceeding under or
35 related to this chapter.

36 NEW SECTION. **Sec. 5.** Where more than one hiring entity has an
37 employment relationship with a domestic worker in connection with the
38 same work or where more than one hiring entity has an overlapping
39 employment relationship with a domestic worker, the hiring entities

1 are subject to liability as well as concurrent fines and penalties
2 for violations of this chapter. Any state agency that does not
3 contract with or employ domestic workers in the ordinary course of
4 business shall not be subject to liability unless that state agency
5 directly interferes with the rights established for domestic workers
6 under this act.

7 NEW SECTION. **Sec. 6.** (1) If a domestic worker files a complaint
8 with the department alleging a violation of the domestic worker's
9 rights under section 3 of this act, the department may investigate
10 the complaint under this section.

11 (a) The department may not investigate any such alleged violation
12 of rights that occurred more than three years before the date that
13 the domestic worker filed the complaint.

14 (b) If a domestic worker files a timely complaint with the
15 department, the department may investigate the complaint and issue
16 either a citation assessing a civil penalty or a closure letter
17 within sixty days after the date on which the department received the
18 complaint, unless the complaint is otherwise resolved. The department
19 may extend the period by providing advance written notice to the
20 domestic worker and the hiring entity setting forth good cause for an
21 extension of the period and specifying the duration of the extension.

22 (c) If the department investigates a violation under this
23 section, the department may send notice of a citation assessing a
24 civil penalty or the closure letter to both the hiring entity and the
25 domestic worker by service of process or using a method by which the
26 mailing can be tracked or the delivery can be confirmed to their last
27 known addresses.

28 (2) Unless otherwise resolved, if the department's investigation
29 finds that the domestic worker's allegation cannot be substantiated,
30 the department will issue a closure letter to the domestic worker and
31 the hiring entity detailing such finding.

32 (3) If the department determines that the violation of rights
33 under this chapter was a willful violation, the department may order
34 the hiring entity to pay the department a civil penalty as specified
35 in (a) of this subsection.

36 (a) A citation assessing a civil penalty for a willful violation
37 of such rights will be one thousand dollars for each willful
38 violation. For a repeat willful violator, the citation assessing a
39 civil penalty will not be less than two thousand dollars for each

1 repeat willful violation, but no greater than twenty thousand dollars
2 for each repeat willful violation.

3 (b) The department may not issue a citation assessing a civil
4 penalty if the hiring entity reasonably relied on:

5 (i) A written order, ruling, approval, opinion, advice,
6 determination, or interpretation of the director; or

7 (ii) An interpretive or administrative policy issued by the
8 department and filed with the office of the code reviser. In
9 accordance with the department's retention schedule obligations under
10 chapter 40.14 RCW, the department will maintain a complete and
11 accurate record of all written orders, rulings, approvals, opinions,
12 advice, determinations, and interpretations for purposes of
13 determining whether a hiring entity is immune from civil penalties
14 under this subsection (3)(b).

15 (c) The department may, at any time, waive or reduce a civil
16 penalty assessed under this section.

17 (d) The department will deposit civil penalties paid under this
18 section into a domestic workers rights grant program for the purpose
19 of enforcing rights for domestic workers under this act, educating
20 domestic workers of their rights under this act, educating domestic
21 worker hiring entities of their responsibilities under this act, and
22 assisting domestic workers in pursuing their workplace rights under
23 this act. The department will administer the grant program for
24 community organizations that further this purpose.

25 (4) For purposes of this section, the following definitions
26 apply:

27 (a) "Repeat willful violator" means any hiring entity that has
28 been the subject of a final and binding citation for a willful
29 violation of one or more rights under this chapter, and all
30 applicable rules, within three years of the date of issuance of the
31 most recent citation for a willful violation of one or more such
32 rights.

33 (b) "Willful" means a knowing and intentional action that is
34 neither accidental nor the result of a bona fide dispute.

35 NEW SECTION. **Sec. 7.** (1) A person, firm, or corporation
36 aggrieved by a citation assessing a civil penalty issued by the
37 department under section 6 of this act may appeal the citation to the
38 director by filing a notice of appeal with the director within thirty
39 days of the department's issuance of the citation. A citation not

1 appealed within thirty days is final and binding, and not subject to
2 further appeal.

3 (2) A notice of appeal filed with the director under this section
4 will stay the effectiveness of the citation pending final review of
5 the appeal by the director as provided for in chapter 34.05 RCW.

6 (3) Upon receipt of a notice of appeal, the director will assign
7 the hearing to an administrative law judge of the office of
8 administrative hearings to conduct the hearing and issue an initial
9 order. The hearing and review procedures will be conducted in
10 accordance with chapter 34.05 RCW, and the standard of review by the
11 administrative law judge of an appealed citation will be de novo. Any
12 party who seeks to challenge an initial order shall file a petition
13 for administrative review with the director within thirty days after
14 service of the initial order. The director will conduct the
15 administrative review in accordance with chapter 34.05 RCW.

16 (4) The director will issue all final orders after appeal of the
17 initial order. The final order of the director is subject to judicial
18 review in accordance with chapter 34.05 RCW.

19 (5) Orders that are not appealed within the period specified in
20 this section and chapter 34.05 RCW are final and binding, and not
21 subject to further appeal.

22 (6) A hiring entity who fails to allow adequate inspection of
23 records in an investigation by the department within a reasonable
24 time period may not use such records in any appeal under this section
25 to challenge the correctness of any determination by the department
26 of penalties assessed.

27 NEW SECTION. **Sec. 8.** Collections of unpaid citations
28 administered under sections 10 and 11 of this act will be handled
29 pursuant to the procedures outlined in RCW 49.48.086.

30 NEW SECTION. **Sec. 9.** (1) It is unlawful for a hiring entity to
31 interfere with, restrain, or deny the exercise of any right provided
32 under or in connection with this chapter. This means a hiring entity
33 may not use a domestic worker's exercise of any of the rights
34 provided in this chapter as a negative factor in any employment
35 action such as evaluation, promotion, or termination, or otherwise
36 subject a domestic worker to discipline for the exercise of any
37 rights provided under this chapter.

1 (2) No hiring entity or any other person shall communicate to a
2 person exercising rights protected under this chapter, directly or
3 indirectly, the willingness or intent to inform a government employee
4 or contracted organization suspected citizenship or immigration
5 status of a domestic worker or a family member to a federal, state,
6 or local agency because the domestic worker has exercised a right
7 under this chapter.

8 (3) It is unlawful for a hiring entity to take any adverse action
9 against a domestic worker because the domestic worker has exercised
10 their rights provided under this chapter. Such rights include, but
11 are not limited to: Disclosing their immigration status or
12 instituting or causing to be instituted any proceeding under or
13 related to this chapter.

14 (4) Adverse action means any action taken or threatened by a
15 hiring entity against a domestic worker for their exercise of rights
16 under this chapter, which may include, but is not limited to:

- 17 (a) Denying the use of any rights provided under this chapter;
- 18 (b) Denying or delaying payment due under this chapter;
- 19 (c) Terminating, suspending, demoting, or denying a promotion;
- 20 (d) Reducing the number of work hours for which the domestic
21 worker is scheduled;
- 22 (e) Altering the domestic worker's preexisting work schedule;
- 23 (f) Reducing the domestic worker's rate of pay; and
- 24 (g) Threatening to take, or taking action, based upon the
25 immigration status of a domestic worker or a domestic worker's family
26 member.

27 (5) It shall be considered a rebuttable presumption of
28 retaliation if the hiring entity or any other person takes an adverse
29 action against a domestic worker within ninety calendar days of the
30 domestic worker's exercise of rights protected under this chapter.
31 However, in the case of seasonal employment that ended before the
32 close of the ninety calendar day period, the presumption also applies
33 if the hiring entity fails to rehire a former domestic worker at the
34 next opportunity for work in the same position. The hiring entity may
35 rebut the presumption with clear and convincing evidence that the
36 adverse action was taken for a permissible purpose.

37 NEW SECTION. **Sec. 10.** (1) A domestic worker who believes that
38 they were subject to retaliation by their hiring entity, as defined
39 in this chapter, except for section 4 of this act, for the exercise

1 of any domestic worker right under this chapter, may file a complaint
2 with the department within one hundred eighty days of the alleged
3 retaliatory action. The department may, at its discretion, extend the
4 one hundred eighty day period on recognized equitable principles or
5 because extenuating circumstances exist. For example, the department
6 may extend the one hundred eighty day period when there is evidence
7 that the hiring entity has concealed or misled the domestic worker
8 regarding the alleged retaliatory action.

9 (2) If a domestic worker files a timely complaint with the
10 department alleging retaliation, the department may investigate the
11 complaint and issue either a citation and notice of assessment or a
12 determination of compliance within ninety days after the date on
13 which the department received the complaint, unless the complaint is
14 otherwise resolved. The department may extend the period by providing
15 advance written notice to the domestic worker and the hiring entity
16 setting forth good cause for an extension of the period and
17 specifying the duration of the extension.

18 (3) The department may consider a complaint to be otherwise
19 resolved when the domestic worker and the hiring entity reach a
20 mutual agreement to remedy any retaliatory action, or the domestic
21 worker voluntarily and on the domestic worker's own initiative
22 withdraws the complaint. Mutual agreements include, but are not
23 limited to, rehiring, reinstatement, back pay, and reestablishment of
24 benefits.

25 (4) If the department's investigation finds that the domestic
26 worker's allegation of retaliation cannot be substantiated, the
27 department may issue a determination of compliance to the domestic
28 worker and the hiring entity detailing such finding.

29 (5) If the department's investigation finds that the hiring
30 entity retaliated against the domestic worker, and the complaint is
31 not otherwise resolved, the department may, at its discretion, notify
32 the hiring entity that the department intends to issue a citation and
33 notice of assessment, and may provide up to thirty days after the
34 date of such notification for the hiring entity to take corrective
35 action to remedy the retaliatory action. If the complaint is not
36 otherwise resolved, then the department may issue a citation and
37 notice of assessment. The department's citation and notice of
38 assessment may:

39 (a) Order the hiring entity to make payable to the domestic
40 worker earnings that the domestic worker did not receive due to the

1 hiring entity's retaliatory action, including interest of one percent
2 per month on all earnings owed. The earnings and interest owed will
3 be calculated from the first date earnings were owed to the domestic
4 worker;

5 (b) Order the hiring entity to restore the domestic worker to the
6 position of employment held by the domestic worker when the
7 retaliation occurred, or restore the domestic worker to an equivalent
8 position with equivalent employment hours, work schedule, benefits,
9 pay, and other terms and conditions of employment;

10 (c) For the first violation, order the hiring entity to pay the
11 department a civil penalty as specified in this chapter; and

12 (d) For a repeat violation, order the hiring entity to pay the
13 department up to double the civil penalty as specified in this
14 chapter.

15 (6) If the department issues a citation and notice of assessment
16 or determination of compliance, the department will send the citation
17 and notice of assessment or determination of compliance to both the
18 hiring entity and domestic worker by service of process or using a
19 method by which the mailing can be tracked or the delivery can be
20 confirmed to their last known addresses.

21 (7) During an investigation of the domestic worker's retaliation
22 complaint, if the department discovers information suggesting alleged
23 violations by the hiring entity of the domestic worker's other rights
24 under this chapter, and all applicable rules, the department may
25 investigate and take appropriate enforcement action without requiring
26 the domestic worker to file a new or separate complaint. If the
27 department determines that the hiring entity violated additional
28 rights of the domestic worker under this chapter, and all applicable
29 rules, the hiring entity may be subject to additional enforcement
30 actions for the violation of such rights. If the department discovers
31 information alleging the hiring entity retaliated against or
32 otherwise violated rights of other domestic workers under this
33 chapter, and all applicable rules, the department may launch further
34 investigation under this chapter, and all applicable rules, without
35 requiring additional complaints to be filed.

36 (8) The department may prioritize retaliation investigations as
37 needed to allow for timely resolution of complaints.

38 (9) Nothing in this chapter limits the department's ability to
39 investigate under any other authority.

1 (10) Nothing in this chapter limits a domestic worker's right to
2 pursue private legal action.

3 NEW SECTION. **Sec. 11.** (1) If the department's investigation
4 finds that a hiring entity retaliated against a domestic worker,
5 pursuant to the procedures outlined in sections 9 and 10 of this act,
6 the department may order the hiring entity to pay the department a
7 civil penalty. A civil penalty for a hiring entity's retaliatory
8 action will not be less than one thousand dollars or an amount equal
9 to ten percent of the total amount of unpaid earnings attributable to
10 the retaliatory action, whichever is greater. The maximum civil
11 penalty for a hiring entity's retaliatory action shall be twenty
12 thousand dollars for the first violation, and forty thousand dollars
13 for each repeat violation.

14 (2) The department may, at any time, waive or reduce any civil
15 penalty assessed against a hiring entity under this section if the
16 department determines that the hiring entity has taken corrective
17 action to remedy the retaliatory action.

18 (3) The department will deposit civil penalties paid under this
19 section in a fund dedicated to enforcement of this chapter.

20 (4) Collections of amounts owed for unpaid citations and notices
21 of assessment in this section will be handled pursuant to the
22 procedures outlined in RCW 49.48.086.

23 NEW SECTION. **Sec. 12.** (1) A person, firm, or corporation
24 aggrieved by a citation and notice of assessment or a determination
25 of compliance may, within thirty days after the date of such
26 decision, submit a request for reconsideration to the department
27 setting forth the grounds for seeking such reconsideration, or submit
28 an appeal to the director pursuant to the procedures outlined in
29 subsection (4) of this section. If the department receives a timely
30 request for reconsideration, the department will either accept the
31 request or treat the request as a notice of appeal.

32 (2) If a request for reconsideration is accepted, the department
33 will send notice of the request for reconsideration to the hiring
34 entity and the domestic worker. The department will determine if
35 there are any valid reasons to reverse or modify the department's
36 original decision to issue a citation and notice of assessment or
37 determination of compliance within thirty days of receipt of such
38 request. The department may extend this period by providing advance

1 written notice to the domestic worker and hiring entity setting forth
2 good cause for an extension of the period and specifying the duration
3 of the extension. After reviewing the reconsideration, the department
4 will either:

5 (a) Notify the domestic worker and the hiring entity that the
6 citation and notice of assessment or determination of compliance is
7 affirmed; or

8 (b) Notify the domestic worker and the hiring entity that the
9 citation and notice of assessment or determination of compliance has
10 been reversed or modified.

11 (3) A request for reconsideration submitted to the department
12 shall stay the effectiveness of the citation and notice of assessment
13 or the determination of compliance pending the reconsideration
14 decision by the department.

15 (4) Within thirty days after the date the department issues a
16 citation and notice of assessment or a determination of compliance,
17 or within thirty days after the date the department issues its
18 decision on the request for reconsideration, a person, firm, or
19 corporation aggrieved by a citation and notice of assessment or a
20 determination of compliance may file with the director a notice of
21 appeal.

22 (5) A notice of appeal filed with the director under this section
23 shall stay the effectiveness of the citation and notice of assessment
24 or the determination of compliance pending final review of the appeal
25 by the director as provided for in chapter 34.05 RCW.

26 (6) Upon receipt of a notice of appeal, the director shall assign
27 the hearing to an administrative law judge of the office of
28 administrative hearings to conduct the hearing and issue an initial
29 order. The hearing and review procedures shall be conducted in
30 accordance with chapter 34.05 RCW, and the standard of review by the
31 administrative law judge of an appealed citation and notice of
32 assessment or determination of compliance shall be de novo. Any party
33 who seeks to challenge an initial order shall file a petition for
34 administrative review with the director within thirty days after
35 service of the initial order. The director shall conduct
36 administrative review in accordance with chapter 34.05 RCW.

37 (7) If a request for reconsideration is not submitted to the
38 department within thirty days after the date of the original citation
39 and notice of assessment or determination of compliance, and a
40 person, firm, or corporation aggrieved by a citation and notice of

1 assessment or determination of compliance did not submit an appeal to
2 the director, then the citation and notice of assessment or
3 determination of compliance is final and binding, and not subject to
4 further appeal.

5 (8) The director shall issue all final orders after appeal of the
6 initial order. The final order of the director is subject to judicial
7 review in accordance with chapter 34.05 RCW.

8 (9) Director's orders that are not appealed within the time
9 period specified in this section and chapter 34.05 RCW are final and
10 binding, and not subject to further appeal.

11 (10) A hiring entity who fails to allow adequate inspection of
12 records in an investigation by the department within a reasonable
13 time period may not use such records in any appeal to challenge the
14 correctness of any determination by the department.

15 NEW SECTION. **Sec. 13.** The department may adopt rules to
16 implement this chapter.

17 NEW SECTION. **Sec. 14.** This chapter establishes minimum
18 standards for wages and working conditions of domestic workers in
19 this state, unless exempted herefrom, and is in addition to and
20 supplementary to any other federal, state, or local law or ordinance,
21 or any rule or regulation issued thereunder. Any standards or rights
22 established by any applicable federal, state, or local law or
23 ordinance, or any rule or regulation issued thereunder, which are
24 more favorable to domestic workers than the minimum standards and
25 rights established by this chapter, or any rule or regulation issued
26 hereunder, shall not be affected by this chapter and such other laws,
27 or rules or regulations, shall be in full force and effect and may be
28 enforced as provided by law. The remedies provided by this chapter
29 are not exclusive and are concurrent with any other remedy provided
30 by law.

31 NEW SECTION. **Sec. 15.** The attorney general's office shall
32 develop and make available a model disclosure statement which
33 describes a hiring entity's obligations and domestic worker's rights
34 under this chapter, in at least eight of the most commonly spoken
35 languages in Washington state. The disclosure statement must include
36 notice about any state law, rule, or regulation governing maternity
37 disability leave and indicate that federal or local ordinances, laws,

1 rules, or regulations may also apply. The model disclosure must also
2 include a telephone number and an address of the department to enable
3 domestic workers to obtain more rights, obligations, and enforcement.

4 NEW SECTION. **Sec. 16.** The attorney general's office shall
5 develop and make available a model written agreement, which describes
6 a hiring entity's obligations and domestic worker's rights under this
7 act in at least eight of the most commonly spoken languages.

8 NEW SECTION. **Sec. 17.** (1) A domestic worker who deems
9 themselves injured by a violation of this act has the right to bring
10 forward any civil action, in a court of competent jurisdiction, for
11 any violation of rights pursuant to this act. This means any legal
12 action necessary to collect such claim, and the hiring entity shall
13 be required to pay the costs and such reasonable attorneys' fees as
14 may be allowed by the court.

15 (2) Any agreement between such domestic worker and the hiring
16 entity allowing the domestic worker to receive less than what is due
17 under this chapter shall be no defense to such action.

18 NEW SECTION. **Sec. 18.** (1) The department may:

19 (a) Upon obtaining information indicating a hiring entity may be
20 committing a violation under this chapter, except for section 4 of
21 this act, conduct investigations to ensure compliance with this
22 chapter;

23 (b) Order the payment of all wages owed the domestic worker and
24 institute actions necessary for the collection of the sums determined
25 owed; and

26 (c) Take assignments of wage claims and prosecute actions for the
27 collection of wages of persons who are financially unable to employ
28 counsel when in the judgment of the director of the department the
29 claims are valid and enforceable in the courts.

30 (2) The director of the department or any authorized
31 representative may, for the purpose of carrying out this chapter:

32 (a) Issue subpoenas to compel the attendance of witnesses or
33 parties and the production of books, papers, or records;

34 (b) Administer oaths and examine witnesses under oath;

35 (c) Take the verification of proof of instruments of writing; and

1 (d) Take depositions and affidavits. If assignments for wage
2 claims are taken, court costs shall not be payable by the department
3 for prosecuting such suits.

4 (3) The director shall have a seal inscribed "Department of Labor
5 and Industries—State of Washington" and all courts shall take
6 judicial notice of such seal. Obedience to subpoenas issued by the
7 director or authorized representative shall be enforced by the courts
8 in any county.

9 NEW SECTION. **Sec. 19.** (1) A work group on domestic workers
10 administered by the attorney general's office is formed to establish:

11 (a) A structure for an ongoing domestic worker standards board,
12 including determining the authority and scope of the board. Such
13 authority and scope shall include, but are not limited to, training
14 on relevant labor laws, benefits, and protections; discrimination and
15 sexual harassment; workplace safety standards; requirements on tax
16 obligations; job skills and accreditation; fair scheduling practices;
17 scope of rights and benefits that may apply to independent
18 contractors; outreach, education, and enforcement practices to ensure
19 compliance with applicable labor standards and to provide effective
20 and updated information to both hiring entities and domestic workers;

21 (b) An infrastructure and outreach plan regarding paid sick
22 leave, paid family and medical leave provisions of the minimum wage
23 act for domestic workers, and accessing to other applicable benefits
24 including, but not limited to, paid time off and health care
25 benefits;

26 (c) Methods to make the Washington state industrial insurance
27 state fund available for hiring entities to provide industrial
28 insurance coverage for domestic workers.

29 (2) The work group shall also make recommendations to the
30 department on legislative, regulatory, or other changes that should
31 be made to the way hiring entities or domestic workers engage with
32 the department system and explore the possible role of intermediary
33 nonprofit organizations that assist or refer directly impacted
34 domestic workers.

35 (3) The work group shall include at least one representative from
36 each of the following groups that reflects a balance in membership
37 and interests:

38 (a) Directly impacted domestic workers employed in private homes;

1 (b) Unions, work centers, or intermediary nonprofit organizations
2 that assist or refer such directly impacted workers;

3 (c) Hiring entities who directly employ single domestic workers
4 in private homes;

5 (d) An organization that educates and organizes household hiring
6 entities;

7 (e) Legislators from both caucuses of each chamber of the
8 legislature, appointed by their respective caucus;

9 (f) At least two members of the department in an ex officio
10 capacity with dedicated expertise of industrial insurance and wage
11 and hour laws and rules; and

12 (g) One representative from the department of social and health
13 services.

14 (4) Representatives shall be appointed by the governor by June 1,
15 2020.

16 (5) The work group shall report its findings to the appropriate
17 committees of the legislature and the department by April 1, 2021.

18 **Sec. 20.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to
19 read as follows:

20 As used in this chapter:

21 (1) "Director" means the director of labor and industries;

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

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

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

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

35 (c) Any individual employed in a bona fide executive,
36 administrative, or professional capacity or in the capacity of
37 outside salesperson as those terms are defined and delimited by rules
38 of the director. However, those terms shall be defined and delimited

1 by the human resources director pursuant to chapter 41.06 RCW for
2 employees employed under the director of personnel's jurisdiction;

3 (d) Any individual engaged in the activities of an educational,
4 charitable, religious, state or local governmental body or agency, or
5 nonprofit organization where the employer-employee relationship does
6 not in fact exist or where the services are rendered to such
7 organizations gratuitously. If the individual receives reimbursement
8 in lieu of compensation for normally incurred out-of-pocket expenses
9 or receives a nominal amount of compensation per unit of voluntary
10 service rendered, an employer-employee relationship is deemed not to
11 exist for the purpose of this section or for purposes of membership
12 or qualification in any state, local government, or publicly
13 supported retirement system other than that provided under chapter
14 41.24 RCW;

15 (e) Any individual employed full time by any state or local
16 governmental body or agency who provides voluntary services but only
17 with regard to the provision of the voluntary services. The voluntary
18 services and any compensation therefor shall not affect or add to
19 qualification, entitlement, or benefit rights under any state, local
20 government, or publicly supported retirement system other than that
21 provided under chapter 41.24 RCW;

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

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

30 (h) Any individual engaged in forest protection and fire
31 prevention activities;

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

37 (j) Any individual whose duties require that he or she reside or
38 sleep at the place of his or her employment or who otherwise spends a
39 substantial portion of his or her work time subject to call, and not

1 engaged in the performance of active duties, except for domestic
2 workers as defined in section 2 of this act;

3 (k) Any resident, inmate, or patient of a state, county, or
4 municipal correctional, detention, treatment or rehabilitative
5 institution;

6 (l) Any individual who holds a public elective or appointive
7 office of the state, any county, city, town, municipal corporation or
8 quasi municipal corporation, political subdivision, or any
9 instrumentality thereof, or any employee of the state legislature;

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

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

14 (o) An individual who is at least sixteen years old but under
15 twenty-one years old, in his or her capacity as a player for a junior
16 ice hockey team that is a member of a regional, national, or
17 international league and that contracts with an arena owned,
18 operated, or managed by a public facilities district created under
19 chapter 36.100 RCW;

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

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

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

31 (7) "Wage" means compensation due to an employee by reason of
32 employment, payable in legal tender of the United States or checks on
33 banks convertible into cash on demand at full face value, subject to
34 such deductions, charges, or allowances as may be permitted by rules
35 of the director.

36 **Sec. 21.** RCW 49.60.040 and 2018 c 176 s 2 are each amended to
37 read as follows:

38 The definitions in this section apply throughout this chapter
39 unless the context clearly requires otherwise.

1 (1) "Aggrieved person" means any person who: (a) Claims to have
2 been injured by an unfair practice in a real estate transaction; or
3 (b) believes that he or she will be injured by an unfair practice in
4 a real estate transaction that is about to occur.

5 (2) "Any place of public resort, accommodation, assemblage, or
6 amusement" includes, but is not limited to, any place, licensed or
7 unlicensed, kept for gain, hire, or reward, or where charges are made
8 for admission, service, occupancy, or use of any property or
9 facilities, whether conducted for the entertainment, housing, or
10 lodging of transient guests, or for the benefit, use, or
11 accommodation of those seeking health, recreation, or rest, or for
12 the burial or other disposition of human remains, or for the sale of
13 goods, merchandise, services, or personal property, or for the
14 rendering of personal services, or for public conveyance or
15 transportation on land, water, or in the air, including the stations
16 and terminals thereof and the garaging of vehicles, or where food or
17 beverages of any kind are sold for consumption on the premises, or
18 where public amusement, entertainment, sports, or recreation of any
19 kind is offered with or without charge, or where medical service or
20 care is made available, or where the public gathers, congregates, or
21 assembles for amusement, recreation, or public purposes, or public
22 halls, public elevators, and public washrooms of buildings and
23 structures occupied by two or more tenants, or by the owner and one
24 or more tenants, or any public library or educational institution, or
25 schools of special instruction, or nursery schools, or day care
26 centers or children's camps: PROVIDED, That nothing contained in this
27 definition shall be construed to include or apply to any institute,
28 bona fide club, or place of accommodation, which is by its nature
29 distinctly private, including fraternal organizations, though where
30 public use is permitted that use shall be covered by this chapter;
31 nor shall anything contained in this definition apply to any
32 educational facility, columbarium, crematory, mausoleum, or cemetery
33 operated or maintained by a bona fide religious or sectarian
34 institution.

35 (3) "Commission" means the Washington state human rights
36 commission.

37 (4) "Complainant" means the person who files a complaint in a
38 real estate transaction.

39 (5) "Covered multifamily dwelling" means: (a) Buildings
40 consisting of four or more dwelling units if such buildings have one

1 or more elevators; and (b) ground floor dwelling units in other
2 buildings consisting of four or more dwelling units.

3 (6) "Credit transaction" includes any open or closed end credit
4 transaction, whether in the nature of a loan, retail installment
5 transaction, credit card issue or charge, or otherwise, and whether
6 for personal or for business purposes, in which a service, finance,
7 or interest charge is imposed, or which provides for repayment in
8 scheduled payments, when such credit is extended in the regular
9 course of any trade or commerce, including but not limited to
10 transactions by banks, savings and loan associations or other
11 financial lending institutions of whatever nature, stock brokers, or
12 by a merchant or mercantile establishment which as part of its
13 ordinary business permits or provides that payment for purchases of
14 property or service therefrom may be deferred.

15 (7)(a) "Disability" means the presence of a sensory, mental, or
16 physical impairment that:

17 (i) Is medically cognizable or diagnosable; or

18 (ii) Exists as a record or history; or

19 (iii) Is perceived to exist whether or not it exists in fact.

20 (b) A disability exists whether it is temporary or permanent,
21 common or uncommon, mitigated or unmitigated, or whether or not it
22 limits the ability to work generally or work at a particular job or
23 whether or not it limits any other activity within the scope of this
24 chapter.

25 (c) For purposes of this definition, "impairment" includes, but
26 is not limited to:

27 (i) Any physiological disorder, or condition, cosmetic
28 disfigurement, or anatomical loss affecting one or more of the
29 following body systems: Neurological, musculoskeletal, special sense
30 organs, respiratory, including speech organs, cardiovascular,
31 reproductive, digestive, genitor-urinary, hemic and lymphatic, skin,
32 and endocrine; or

33 (ii) Any mental, developmental, traumatic, or psychological
34 disorder, including but not limited to cognitive limitation, organic
35 brain syndrome, emotional or mental illness, and specific learning
36 disabilities.

37 (d) Only for the purposes of qualifying for reasonable
38 accommodation in employment, an impairment must be known or shown
39 through an interactive process to exist in fact and:

1 (i) The impairment must have a substantially limiting effect upon
2 the individual's ability to perform his or her job, the individual's
3 ability to apply or be considered for a job, or the individual's
4 access to equal benefits, privileges, or terms or conditions of
5 employment; or

6 (ii) The employee must have put the employer on notice of the
7 existence of an impairment, and medical documentation must establish
8 a reasonable likelihood that engaging in job functions without an
9 accommodation would aggravate the impairment to the extent that it
10 would create a substantially limiting effect.

11 (e) For purposes of (d) of this subsection, a limitation is not
12 substantial if it has only a trivial effect.

13 (8) "Dog guide" means a dog that is trained for the purpose of
14 guiding blind persons or a dog that is trained for the purpose of
15 assisting hearing impaired persons.

16 (9) "Dwelling" means any building, structure, or portion thereof
17 that is occupied as, or designed or intended for occupancy as, a
18 residence by one or more families, and any vacant land that is
19 offered for sale or lease for the construction or location thereon of
20 any such building, structure, or portion thereof.

21 (10) "Employee" does not include any individual employed by his
22 or her parents, spouse, or child(~~(, or in the domestic service of any~~
23 ~~person))~~).

24 (11) "Employer" includes any person acting in the interest of an
25 employer or hiring entity, directly or indirectly, who employs eight
26 or more persons, unless hiring for domestic services, and does not
27 include any religious or sectarian organization not organized for
28 private profit.

29 (12) "Employment agency" includes any person undertaking with or
30 without compensation to recruit, procure, refer, or place employees
31 (~~for an employer~~).

32 (13) "Families with children status" means one or more
33 individuals who have not attained the age of eighteen years being
34 domiciled with a parent or another person having legal custody of
35 such individual or individuals, or with the designee of such parent
36 or other person having such legal custody, with the written
37 permission of such parent or other person. Families with children
38 status also applies to any person who is pregnant or is in the
39 process of securing legal custody of any individual who has not
40 attained the age of eighteen years.

1 (14) "Full enjoyment of" includes the right to purchase any
2 service, commodity, or article of personal property offered or sold
3 on, or by, any establishment to the public, and the admission of any
4 person to accommodations, advantages, facilities, or privileges of
5 any place of public resort, accommodation, assemblage, or amusement,
6 without acts directly or indirectly causing persons of any particular
7 race, creed, color, sex, sexual orientation, national origin, or with
8 any sensory, mental, or physical disability, or the use of a trained
9 dog guide or service animal by a person with a disability, to be
10 treated as not welcome, accepted, desired, or solicited.

11 (15) "Honorably discharged veteran or military status" means a
12 person who is:

13 (a) A veteran, as defined in RCW 41.04.007; or

14 (b) An active or reserve member in any branch of the armed forces
15 of the United States, including the national guard, coast guard, and
16 armed forces reserves.

17 (16) "Labor organization" includes any organization which exists
18 for the purpose, in whole or in part, of dealing with employers
19 concerning grievances or terms or conditions of employment, or for
20 other mutual aid or protection in connection with employment.

21 (17) "Marital status" means the legal status of being married,
22 single, separated, divorced, or widowed.

23 (18) "National origin" includes "ancestry."

24 (19) "Person" includes one or more individuals, partnerships,
25 associations, organizations, corporations, cooperatives, legal
26 representatives, trustees and receivers, or any group of persons; it
27 includes any owner, lessee, proprietor, manager, agent, or employee,
28 whether one or more natural persons; and further includes any
29 political or civil subdivisions of the state and any agency or
30 instrumentality of the state or of any political or civil subdivision
31 thereof.

32 (20) "Premises" means the interior or exterior spaces, parts,
33 components, or elements of a building, including individual dwelling
34 units and the public and common use areas of a building.

35 (21) "Real estate transaction" includes the sale, appraisal,
36 brokering, exchange, purchase, rental, or lease of real property,
37 transacting or applying for a real estate loan, or the provision of
38 brokerage services.

39 (22) "Real property" includes buildings, structures, dwellings,
40 real estate, lands, tenements, leaseholds, interests in real estate

1 cooperatives, condominiums, and hereditaments, corporeal and
2 incorporeal, or any interest therein.

3 (23) "Respondent" means any person accused in a complaint or
4 amended complaint of an unfair practice in a real estate transaction.

5 (24) "Service animal" means any dog or miniature horse, as
6 discussed in RCW 49.60.214, that is individually trained to do work
7 or perform tasks for the benefit of an individual with a disability,
8 including a physical, sensory, psychiatric, intellectual, or other
9 mental disability. The work or tasks performed by the service animal
10 must be directly related to the individual's disability. Examples of
11 work or tasks include, but are not limited to, assisting individuals
12 who are blind or have low vision with navigation and other tasks,
13 alerting individuals who are deaf or hard of hearing to the presence
14 of people or sounds, providing nonviolent protection or rescue work,
15 pulling a wheelchair, assisting an individual during a seizure,
16 alerting individuals to the presence of allergens, retrieving items
17 such as medicine or the telephone, providing physical support and
18 assistance with balance and stability to individuals with mobility
19 disabilities, and helping persons with psychiatric and neurological
20 disabilities by preventing or interrupting impulsive or destructive
21 behaviors. The crime deterrent effects of an animal's presence and
22 the provision of emotional support, well-being, comfort, or
23 companionship do not constitute work or tasks. This subsection does
24 not apply to RCW 49.60.222 through 49.60.227 with respect to housing
25 accommodations or real estate transactions.

26 (25) "Sex" means gender.

27 (26) "Sexual orientation" means heterosexuality, homosexuality,
28 bisexuality, and gender expression or identity. As used in this
29 definition, "gender expression or identity" means having or being
30 perceived as having a gender identity, self-image, appearance,
31 behavior, or expression, whether or not that gender identity, self-
32 image, appearance, behavior, or expression is different from that
33 traditionally associated with the sex assigned to that person at
34 birth.

35 NEW SECTION. **Sec. 22.** Sections 1 through 19 of this act
36 constitute a new chapter in Title 49 RCW.

37 NEW SECTION. **Sec. 23.** Sections 1 through 18, 20, and 21 of this
38 act take effect July 1, 2021.

1 NEW SECTION. **Sec. 24.** Section 19 of this act takes effect July
2 1, 2020.

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