
SENATE BILL 6276

State of Washington

66th Legislature

2020 Regular Session

By Senators Keiser, Hasegawa, and Nguyen

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

1 AN ACT Relating to the payment of wages to freelance workers;
2 amending RCW 49.46.010, 49.46.020, 49.46.040, 49.46.070, 49.46.080,
3 49.46.090, 49.46.100, 49.46.110, 49.48.080, 49.48.083, 49.48.085,
4 49.48.086, and 49.48.125; and reenacting and amending RCW 49.48.060
5 and 49.48.082.

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

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

9 As used in this chapter:

- 10 (1) "Director" means the director of labor and industries;
11 (2) "Employ" includes to permit to work;
12 (3) "Employee" includes any individual employed by an employer
13 but shall not include:

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

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

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

10 (d) Any individual engaged in the activities of an educational,
11 charitable, religious, state or local governmental body or agency, or
12 nonprofit organization where the employer-employee relationship does
13 not in fact exist or where the services are rendered to such
14 organizations gratuitously. If the individual receives reimbursement
15 in lieu of compensation for normally incurred out-of-pocket expenses
16 or receives a nominal amount of compensation per unit of voluntary
17 service rendered, an employer-employee relationship is deemed not to
18 exist for the purpose of this section or for purposes of membership
19 or qualification in any state, local government, or publicly
20 supported retirement system other than that provided under chapter
21 41.24 RCW;

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

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

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

37 (h) Any individual engaged in forest protection and fire
38 prevention activities;

39 (i) Any individual employed by any charitable institution charged
40 with child care responsibilities engaged primarily in the development

1 of character or citizenship or promoting health or physical fitness
2 or providing or sponsoring recreational opportunities or facilities
3 for young people or members of the armed forces of the United States;

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

8 (k) Any resident, inmate, or patient of a state, county, or
9 municipal correctional, detention, treatment or rehabilitative
10 institution;

11 (l) Any individual who holds a public elective or appointive
12 office of the state, any county, city, town, municipal corporation or
13 quasi municipal corporation, political subdivision, or any
14 instrumentality thereof, or any employee of the state legislature;

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

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

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

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

29 (5) "Occupation" means any occupation, service, trade, business,
30 industry, or branch or group of industries or employment or class of
31 employment in which employees are gainfully employed or freelancers
32 are hired or retained;

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

37 (7) "Wage" means compensation due to an employee or freelancer by
38 reason of employment, payable in legal tender of the United States or
39 checks on banks convertible into cash on demand at full face value,

1 subject to such deductions, charges, or allowances as may be
2 permitted by rules of the director;

3 (8) "Freelancer" means any natural person or any organization
4 composed of no more than one natural person, whether or not
5 incorporated or employing a trade name, that is hired or retained by
6 an employer as an independent contractor to provide services in
7 exchange for compensation. "Freelancer" does not include an
8 individual excluded under subsection (3)(a) through (o) of this
9 section.

10 **Sec. 2.** RCW 49.46.020 and 2019 c 236 s 2 are each amended to
11 read as follows:

12 (1)(a) Beginning January 1, 2017, and until January 1, 2018,
13 every employer shall pay to each of his or her employees who has
14 reached the age of eighteen years wages at a rate of not less than
15 eleven dollars per hour.

16 (b) Beginning January 1, 2018, and until January 1, 2019, every
17 employer shall pay to each of his or her employees who has reached
18 the age of eighteen years wages at a rate of not less than eleven
19 dollars and fifty cents per hour.

20 (c) Beginning January 1, 2019, and until January 1, 2020, every
21 employer shall pay to each of his or her employees who has reached
22 the age of eighteen years wages at a rate of not less than twelve
23 dollars per hour.

24 (d) Beginning January 1, 2020, and until January 1, 2021, every
25 employer shall pay to each of his or her employees and freelancers
26 who (~~has~~) have reached the age of eighteen years wages at a rate of
27 not less than thirteen dollars and fifty cents per hour.

28 (2)(a) Beginning on January 1, 2021, and each following January
29 1st as set forth under (b) of this subsection, every employer shall
30 pay to each of his or her employees and freelancers who (~~has~~) have
31 reached the age of eighteen years wages at a rate of not less than
32 the amount established under (b) of this subsection.

33 (b) On September 30, 2020, and on each following September 30th,
34 the department of labor and industries shall calculate an adjusted
35 minimum wage rate to maintain employee and freelancer purchasing
36 power by increasing the current year's minimum wage rate by the rate
37 of inflation. The adjusted minimum wage rate shall be calculated to
38 the nearest cent using the consumer price index for urban wage
39 earners and clerical workers, CPI-W, or a successor index, for the

1 twelve months prior to each September 1st as calculated by the United
2 States department of labor. Each adjusted minimum wage rate
3 calculated under this subsection (2)(b) takes effect on the following
4 January 1st.

5 (3) An employer must pay to its employees and freelancers: (a)
6 All tips and gratuities; and (b) all service charges as defined under
7 RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are
8 itemized as not being payable to the employee or employees or
9 freelancers servicing the customer. Tips and service charges paid to
10 an employee or freelancer are in addition to, and may not count
11 towards, the ((employee's)) employee or freelancer's hourly minimum
12 wage.

13 (4) Beginning January 1, 2018, except as provided in RCW
14 49.46.180, every employer must provide to each of its employees paid
15 sick leave as provided in RCW 49.46.200 and 49.46.210.

16 (5) The director shall by regulation establish the minimum wage
17 for employees under the age of eighteen years.

18 **Sec. 3.** RCW 49.46.040 and 2010 c 8 s 12041 are each amended to
19 read as follows:

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

29 (2) With the consent and cooperation of federal agencies charged
30 with the administration of federal labor laws, the director may, for
31 the purpose of carrying out his or her functions and duties under
32 this chapter, utilize the services of federal agencies and their
33 employees and, notwithstanding any other provision of law, may
34 reimburse such federal agencies and their employees for services
35 rendered for such purposes.

36 (3) Every employer subject to any provision of this chapter or of
37 any order issued under this chapter shall make, keep, and preserve
38 such records of the persons employed by him or her and of the wages,
39 hours, and other conditions and practices of employment maintained by

1 him or her, and shall preserve such records for such periods of time,
2 and shall make reports therefrom to the director as he or she shall
3 prescribe by regulation as necessary or appropriate for the
4 enforcement of the provisions of this chapter or the regulations
5 thereunder.

6 (4) The director is authorized to make such regulations
7 regulating, restricting, or prohibiting industrial homework as are
8 necessary or appropriate to prevent the circumvention or evasion of
9 and to safeguard the minimum wage rate prescribed in this chapter,
10 and all existing regulations of the director relating to industrial
11 homework are hereby continued in full force and effect.

12 **Sec. 4.** RCW 49.46.070 and 2010 c 8 s 12042 are each amended to
13 read as follows:

14 (1) Every employer subject to any provision of this chapter or of
15 any regulation issued under this chapter shall make, and keep in or
16 about the premises wherein any employee is employed or freelancer is
17 hired or retained, a record of the name, address, and occupation of
18 each of his or her employees and freelancers, the rate of pay, and
19 the amount paid each pay period to each such employee or freelancer,
20 the hours worked each day and each workweek by such employee or
21 freelancer, and such other information as the director shall
22 prescribe by regulation as necessary or appropriate for the
23 enforcement of the provisions of this chapter or of the regulations
24 thereunder. Such records shall be open for inspection or
25 transcription by the director or his or her authorized representative
26 at any reasonable time. Every such employer shall furnish to the
27 director or to his or her authorized representative on demand a sworn
28 statement of such records and information upon forms prescribed or
29 approved by the director.

30 (2) Every employer that hires or retains a freelancer must
31 furnish to each freelancer at the time wages are paid an itemized
32 statement showing the pay basis in hours or days worked, the rate or
33 rates of pay, the gross pay, and all deductions from the pay for the
34 respective pay period.

35 (3) This section does not apply to employers that hire or retain
36 freelance performers that are covered by a collective bargaining
37 agreement that establishes a pay scale for the freelance performers.

1 **Sec. 5.** RCW 49.46.080 and 1983 c 3 s 157 are each amended to
2 read as follows:

3 (1) As new regulations or changes or modification of previously
4 established regulations are proposed, the director shall call a
5 public hearing for the purpose of the consideration and establishment
6 of such regulations following the procedures used in the promulgation
7 of standards of safety under chapter 49.17 RCW.

8 (2) Any interested party may obtain a review of the director's
9 findings and order in the superior court of county of petitioners'
10 residence by filing in such court within sixty days after the date of
11 publication of such regulation a written petition praying that the
12 regulation be modified or set aside. A copy of such petition shall be
13 served upon the director. The finding of facts, if supported by
14 evidence, shall be conclusive upon the court. The court shall
15 determine whether the regulation is in accordance with law. If the
16 court determines that such regulation is not in accordance with law,
17 it shall remand the case to the director with directions to modify or
18 revoke such regulation. If application is made to the court for leave
19 to adduce additional evidence by any aggrieved party, such party
20 shall show to the satisfaction of the court that such additional
21 evidence is material, and that there were reasonable grounds for the
22 failure to adduce such evidence before the director. If the court
23 finds that such evidence is material and that reasonable grounds
24 exist for failure of the aggrieved party to adduce such evidence in
25 prior proceedings, the court may remand the case to the director with
26 directions that such additional evidence be taken before the
27 director. The director may modify the findings and conclusions, in
28 whole or in part, by reason of such additional evidence.

29 (3) The judgment and decree of the court shall be final except
30 that it shall be subject to review by the supreme court or the court
31 of appeals as in other civil cases.

32 (4) The proceedings under this section shall not, unless
33 specifically ordered by the court, operate as a stay of an
34 administrative regulation issued under the provisions of this
35 chapter. The court shall not grant any stay of an administrative
36 regulation unless the person complaining of such regulation shall
37 file in the court an undertaking with a surety or sureties
38 satisfactory to the court for the payment to the employees or
39 freelancers affected by the regulation, in the event such regulation
40 is affirmed, of the amount by which the compensation such employees

1 or freelancers are entitled to receive under the regulation exceeds
2 the compensation they actually receive while such stay is in effect.

3 **Sec. 6.** RCW 49.46.090 and 2017 c 2 s 7 are each amended to read
4 as follows:

5 (1) Any employer who pays any employee or freelancer less than
6 the amounts to which such employee or freelancer is entitled under or
7 by virtue of this chapter, shall be liable to such employee or
8 freelancer affected for the full amount due to such employee or
9 freelancer under this chapter, less any amount actually paid to such
10 employee or freelancer by the employer, and for costs and such
11 reasonable attorney's fees as may be allowed by the court. Any
12 agreement between such employee or freelancer and the employer
13 allowing the employee or freelancer to receive less than what is due
14 under this chapter shall be no defense to such action.

15 (2) At the written request of any employee or freelancer paid
16 less than the amounts to which he or she is entitled under or by
17 virtue of this chapter, the director may take an assignment under
18 this chapter or as provided in RCW 49.48.040 of such claim in trust
19 for the assigning employee or freelancer and may bring any legal
20 action necessary to collect such claim, and the employer shall be
21 required to pay the costs and such reasonable attorney's fees as may
22 be allowed by the court.

23 **Sec. 7.** RCW 49.46.100 and 2017 c 2 s 8 are each amended to read
24 as follows:

25 (1) Any employer who hinders or delays the director or his or her
26 authorized representatives in the performance of his or her duties in
27 the enforcement of this chapter, or refuses to admit the director or
28 his or her authorized representatives to any place of employment, or
29 fails to make, keep, and preserve any records as required under the
30 provisions of this chapter, or falsifies any such record, or refuses
31 to make any record accessible to the director or his or her
32 authorized representatives upon demand, or refuses to furnish a sworn
33 statement of such record or any other information required for the
34 proper enforcement of this chapter to the director or his or her
35 authorized representatives upon demand, or pays or agrees to pay an
36 employee or freelancer less than the employee or freelancer is
37 entitled to under this chapter, or otherwise violates any provision
38 of this chapter or of any regulation issued under this chapter shall

1 be deemed in violation of this chapter and shall, upon conviction
2 therefor, be guilty of a gross misdemeanor.

3 (2) Any employer who discharges or in any other manner
4 discriminates against any employee or freelancer because such
5 employee or freelancer has made any complaint to his or her employer,
6 to the director, or his or her authorized representatives that he or
7 she has not been paid wages in accordance with the provisions of this
8 chapter, or that the employer has violated any provision of this
9 chapter, or because such employee or freelancer has caused to be
10 instituted or is about to cause to be instituted any proceeding under
11 or related to this chapter, or because such employee or freelancer
12 has testified or is about to testify in any such proceeding shall be
13 deemed in violation of this chapter and shall, upon conviction
14 therefor, be guilty of a gross misdemeanor.

15 **Sec. 8.** RCW 49.46.110 and 1959 c 294 s 11 are each amended to
16 read as follows:

17 Nothing in this chapter shall be deemed to interfere with,
18 impede, or in any way diminish the right of employees or freelancers
19 to bargain collectively with their employers through representatives
20 of their own choosing in order to establish wages or other conditions
21 of work in excess of the applicable minimum under the provisions of
22 this chapter.

23 **Sec. 9.** RCW 49.48.060 and 2010 c 42 s 5 and 2010 c 8 s 12050 are
24 each reenacted and amended to read as follows:

25 (1) If upon investigation by the director, after taking
26 assignments of any wage claim under RCW 49.48.040 or after receiving
27 a wage complaint as defined in RCW 49.48.082 from an employee or
28 freelancer, it appears to the director that the employer is
29 representing to his or her employees or freelancers that he or she is
30 able to pay wages for their services and that the employees or
31 freelancers are not being paid for their services, the director may
32 require the employer to give a bond in such sum as the director deems
33 reasonable and adequate in the circumstances, with sufficient surety,
34 conditioned that the employer will for a definite future period not
35 exceeding six months conduct his or her business and pay his or her
36 employees and freelancers in accordance with the laws of the state of
37 Washington.

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

7 (3) If the court finds that there is just cause for requiring
8 such bond and that the same is reasonable, necessary, or appropriate
9 to secure the prompt payment of the wages of the employees and
10 freelancers of such employer and his or her compliance with one or
11 more wage payment requirements as defined in RCW 49.48.082, the court
12 shall enjoin such employer from doing business in this state until
13 the requirement is met, or shall make other, and may make further,
14 orders appropriate to compel compliance with the requirement.

15 (4) Upon being informed of a wage claim against an employer or
16 former employer, the director shall, if such claim appears to be
17 just, immediately notify the employer or former employer, of such
18 claim by mail. If the employer or former employer fails to pay the
19 claim or make satisfactory explanation to the director of his or her
20 failure to do so, within thirty days thereafter, the employer or
21 former employer shall be liable to a penalty of ten percent of that
22 portion of the claim found to be justly due. The director shall have
23 a cause of action against the employer or former employer for the
24 recovery of such penalty, and the same may be included in any
25 subsequent action by the director on said wage claim, or may be
26 exercised separately after adjustment of such wage claim without
27 court action. This subsection does not apply to wage complaints made
28 under RCW 49.48.083.

29 **Sec. 10.** RCW 49.48.080 and 1935 c 96 s 5 are each amended to
30 read as follows:

31 Nothing in RCW 49.48.040 through 49.48.080 shall apply to the
32 payment of wages or compensation of employees or freelancers directly
33 employed by any county, incorporated city or town, or other municipal
34 corporation. Nor shall anything herein apply to employees or
35 freelancers, directly employed by the state, any department, bureau,
36 office, board, commission or institution hereof.

37 **Sec. 11.** RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and
38 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 or
33 freelancer to the department that asserts that an employer has
34 violated one or more wage payment requirements and that is reduced to
35 writing.

36 (12) "Wage payment requirement" means a wage payment requirement
37 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or
38 49.52.060, and any related rules adopted by the department.

39 (13) "Willful" means a knowing and intentional action that is
40 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) "Freelancer" means any natural person or any organization
4 composed of no more than one natural person, whether or not
5 incorporated or employing a trade name, that is hired or retained by
6 an employer as an independent contractor to provide services in
7 exchange for compensation.

8 **Sec. 12.** RCW 49.48.083 and 2011 c 301 s 16 are each amended to
9 read as follows:

10 (1) If an employee or freelancer files a wage complaint with the
11 department, the department shall investigate the wage complaint.
12 Unless otherwise resolved, the department shall issue either a
13 citation and notice of assessment or a determination of compliance no
14 later than sixty days after the date on which the department received
15 the wage complaint. The department may extend the time period by
16 providing advance written notice to the employee or freelancer and
17 the employer setting forth good cause for an extension of the time
18 period and specifying the duration of the extension. The department
19 may not investigate any alleged violation of a wage payment
20 requirement that occurred more than three years before the date that
21 the employee or freelancer filed the wage complaint. The department
22 shall send the citation and notice of assessment or the determination
23 of compliance to both the employer and the employee or freelancer by
24 service of process or using a method by which the mailing can be
25 tracked or the delivery can be confirmed to their last known
26 addresses.

27 (2) If the department determines that an employer has violated a
28 wage payment requirement and issues to the employer a citation and
29 notice of assessment, the department may order the employer to pay
30 employees and freelancers all wages owed, including interest of one
31 percent per month on all wages owed, to the employee or freelancer.
32 The wages and interest owed must be calculated from the first date
33 wages were owed to the employee or freelancer, except that the
34 department may not order the employer to pay any wages and interest
35 that were owed more than three years before the date the wage
36 complaint was filed with the department.

37 (3) If the department determines that the violation of the wage
38 payment requirement was a willful violation, the department also may

1 order the employer to pay the department a civil penalty as specified
2 in (a) of this subsection.

3 (a) A civil penalty for a willful violation of a wage payment
4 requirement shall be not less than one thousand dollars or an amount
5 equal to ten percent of the total amount of unpaid wages, whichever
6 is greater. The maximum civil penalty for a willful violation of a
7 wage payment requirement shall be twenty thousand dollars.

8 (b) The department may not assess a civil penalty if the employer
9 reasonably relied on: (i) A rule related to any wage payment
10 requirement; (ii) a written order, ruling, approval, opinion, advice,
11 determination, or interpretation of the director; or (iii) an
12 interpretive or administrative policy issued by the department and
13 filed with the office of the code reviser. In accordance with the
14 department's retention schedule obligations under chapter 40.14 RCW,
15 the department shall maintain a complete and accurate record of all
16 written orders, rulings, approvals, opinions, advice, determinations,
17 and interpretations for purposes of determining whether an employer
18 is immune from civil penalties under (b) (ii) of this subsection.

19 (c) The department shall waive any civil penalty assessed against
20 an employer under this section if the employer is not a repeat
21 willful violator, and the director determines that the employer has
22 provided payment to the employee or freelancer of all wages that the
23 department determined that the employer owed to the employee or
24 freelancer, including interest, within ten business days of the
25 employer's receipt of the citation and notice of assessment from the
26 department.

27 (d) The department may waive or reduce at any time a civil
28 penalty assessed under this section if the director determines that
29 the employer paid all wages and interest owed to an employee or
30 freelancer.

31 (e) The department shall deposit civil penalties paid under this
32 section in the supplemental pension fund established under RCW
33 51.44.033.

34 (4) Upon payment by an employer, and acceptance by an employee or
35 freelancer, of all wages and interest assessed by the department in a
36 citation and notice of assessment issued to the employer, the fact of
37 such payment by the employer, and of such acceptance by the employee
38 or freelancer, shall: (a) Constitute a full and complete satisfaction
39 by the employer of all specific wage payment requirements addressed
40 in the citation and notice of assessment; and (b) bar the employee or

1 freelancer from initiating or pursuing any court action or other
2 judicial or administrative proceeding based on the specific wage
3 payment requirements addressed in the citation and notice of
4 assessment. The citation and notice of assessment shall include a
5 notification and summary of the specific requirements of this
6 subsection.

7 (5) The applicable statute of limitations for civil actions is
8 tolled during the department's investigation of an (~~employee's~~)
9 employee or freelancer's wage complaint against an employer. For the
10 purposes of this subsection, the department's investigation begins on
11 the date the employee or freelancer files the wage complaint with the
12 department and ends when: (a) The wage complaint is finally
13 determined through a final and binding citation and notice of
14 assessment or determination of compliance; or (b) the department
15 notifies the employer and the employee or freelancer in writing that
16 the wage complaint has been otherwise resolved or that the employee
17 or freelancer has elected to terminate the department's
18 administrative action under RCW 49.48.085.

19 **Sec. 13.** RCW 49.48.085 and 2006 c 89 s 4 are each amended to
20 read as follows:

21 (1) An employee or freelancer who has filed a wage complaint with
22 the department may elect to terminate the department's administrative
23 action, thereby preserving any private right of action, by providing
24 written notice to the department within ten business days after the
25 (~~employee's~~) employee or freelancer's receipt of the department's
26 citation and notice of assessment.

27 (2) If the employee or freelancer elects to terminate the
28 department's administrative action: (a) The department shall
29 immediately discontinue its action against the employer; (b) the
30 department shall vacate a citation and notice of assessment already
31 issued by the department to the employer; and (c) the citation and
32 notice of assessment, and any related findings of fact or conclusions
33 of law by the department, and any payment or offer of payment by the
34 employer of the wages, including interest, assessed by the department
35 in the citation and notice of assessment, shall not be admissible in
36 any court action or other judicial or administrative proceeding.

37 (3) Nothing in this section shall be construed to limit or
38 affect: (a) The right of any employee or freelancer to pursue any
39 judicial, administrative, or other action available with respect to

1 an employer; (b) the right of the department to pursue any judicial,
2 administrative, or other action available with respect to an employee
3 or freelancer that is identified as a result of a wage complaint; or
4 (c) the right of the department to pursue any judicial,
5 administrative, or other action available with respect to an employer
6 in the absence of a wage complaint. For purposes of this subsection,
7 "employee or freelancer" means an employee or freelancer other than
8 an employee or freelancer who has filed a wage complaint with the
9 department and who thereafter has elected to terminate the
10 department's administrative action as provided in subsection (1) of
11 this section.

12 **Sec. 14.** RCW 49.48.086 and 2014 c 210 s 1 are each amended to
13 read as follows:

14 (1) After a final order is issued under RCW 49.48.084, if an
15 employer defaults in the payment of: (a) Any wages determined by the
16 department to be owed to an employee or freelancer, including
17 interest; or (b) any civil penalty ordered by the department under
18 RCW 49.48.083, the director may file with the clerk of any county
19 within the state a warrant in the amount of the payment plus any
20 filing fees. The clerk of the county in which the warrant is filed
21 shall immediately designate a superior court cause number for the
22 warrant, and the clerk shall cause to be entered in the judgment
23 docket under the superior court cause number assigned to the warrant,
24 the name of the employer mentioned in the warrant, the amount of
25 payment due on it plus any filing fees, and the date when the warrant
26 was filed. The aggregate amount of the warrant as docketed becomes a
27 lien upon the title to, and interest in, all real and personal
28 property of the employer against whom the warrant is issued, the same
29 as a judgment in a civil case docketed in the office of the clerk.
30 The sheriff shall proceed upon the warrant in all respects and with
31 like effect as prescribed by law with respect to execution or other
32 process issued against rights or property upon judgment in a court of
33 competent jurisdiction. The warrant so docketed is sufficient to
34 support the issuance of writs of garnishment in favor of the state in
35 a manner provided by law in case of judgment, wholly or partially
36 unsatisfied. The clerk of the court is entitled to a filing fee which
37 will be added to the amount of the warrant. A copy of the warrant
38 shall be mailed to the employer within three days of filing with the
39 clerk.

1 (2) (a) The director may issue to any person, firm, corporation,
2 other entity, municipal corporation, political subdivision of the
3 state, a public corporation, or any agency of the state, a notice and
4 order to withhold and deliver property of any kind when he or she has
5 reason to believe that there is in the possession of the person,
6 firm, corporation, other entity, municipal corporation, political
7 subdivision of the state, public corporation, or agency of the state,
8 property that is or will become due, owing, or belonging to an
9 employer upon whom a notice of assessment has been served by the
10 department for payments or civil penalties due to the department. The
11 effect of a notice and order is continuous from the date the notice
12 and order is first made until the liability out of which the notice
13 and order arose is satisfied or becomes unenforceable because of
14 lapse of time. The department shall release the notice and order when
15 the liability out of which the notice and order arose is satisfied or
16 becomes unenforceable by reason of lapse of time and shall notify the
17 person against whom the notice and order was made that the notice and
18 order has been released.

19 (b) The notice and order to withhold and deliver must be served
20 by the sheriff of the county or by the sheriff's deputy, by certified
21 mail, return receipt requested, or by the director. A person, firm,
22 corporation, other entity, municipal corporation, political
23 subdivision of the state, public corporation, or agency of the state
24 upon whom service has been made shall answer the notice within twenty
25 days exclusive of the day of service, under oath and in writing, and
26 shall make true answers to the matters inquired of in the notice and
27 order. Upon service of the notice and order, if the party served
28 possesses any property that may be subject to the claim of the
29 department, the party shall promptly deliver the property to the
30 director. The director shall hold the property in trust for
31 application on the employer's indebtedness to the department, or for
32 return without interest, in accordance with a final determination of
33 a petition for review. In the alternative, the party shall furnish a
34 good and sufficient surety bond satisfactory to the director
35 conditioned upon final determination of liability. If a party served
36 and named in the notice fails to answer the notice within the time
37 prescribed in this section, the court may render judgment by default
38 against the party for the full amount claimed by the director in the
39 notice, together with costs. If a notice is served upon an employer
40 and the property subject to it is wages, the employer may assert in

1 the answer all exemptions provided for by chapter 6.27 RCW to which
2 the wage earner is entitled.

3 (c) As an alternative to the methods of service described in this
4 section, the department may electronically serve a financial
5 institution with a notice and order to withhold and deliver by
6 providing a list of its outstanding warrants, except those for which
7 a payment agreement is in good standing, to the department of
8 revenue. The department of revenue may include the warrants provided
9 by the department in a notice and order to withhold and deliver
10 served under RCW 82.32.235(3). A financial institution that is served
11 with a notice and order to withhold and deliver under this subsection
12 (2)(c) must answer the notice within the time period applicable to
13 service under RCW 82.32.235(3). The department and the department of
14 revenue may adopt rules to implement this subsection (2)(c).

15 (3) In addition to the procedure for collection of wages owed,
16 including interest, and civil penalties as set forth in this section,
17 the department may recover wages owed, including interest, and civil
18 penalties assessed under RCW 49.48.083 in a civil action brought in a
19 court of competent jurisdiction of the county where the violation is
20 alleged to have occurred.

21 (4) Whenever any employer quits business, sells out, exchanges,
22 or otherwise disposes of the employer's business or stock of goods,
23 any person who becomes a successor to the business becomes liable for
24 the full amount of any outstanding citation and notice of assessment
25 or penalty against the employer's business under this chapter if, at
26 the time of the conveyance of the business, the successor has: (a)
27 Actual knowledge of the fact and amount of the outstanding citation
28 and notice of assessment or (b) a prompt, reasonable, and effective
29 means of accessing and verifying the fact and amount of the
30 outstanding citation and notice of assessment from the department. If
31 the citation and notice of assessment or penalty is not paid in full
32 by the employer within ten days of the date of the sale, exchange, or
33 disposal, the successor is liable for the payment of the full amount
34 of the citation and notice of assessment or penalty, and payment
35 thereof by the successor must, to the extent thereof, be deemed a
36 payment upon the purchase price. If the payment is greater in amount
37 than the purchase price, the amount of the difference becomes a debt
38 due the successor from the employer.

39 (5) This section does not affect other collection remedies that
40 are otherwise provided by law.

1 **Sec. 15.** RCW 49.48.125 and 2010 c 42 s 6 are each amended to
2 read as follows:

3 (1) The department shall assess a civil penalty against any
4 repeat willful violator in an amount of not less than one thousand
5 dollars or an amount equal to ten percent of the total amount of
6 unpaid wages, whichever is greater. The maximum civil penalty for a
7 repeat willful violator under this section is twenty thousand
8 dollars.

9 (2) The department may waive or reduce a civil penalty assessed
10 under this section if the director determines that the employer has
11 paid all wages and interest owed to the employee or freelancer.

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