
SENATE BILL 5172

State of Washington

67th Legislature

2021 Regular Session

By Senators King, Brown, Fortunato, Honeyford, Muzzall, Schoesler, Short, and Wagoner

Read first time 01/12/21. Referred to Committee on Labor, Commerce & Tribal Affairs.

1 AN ACT Relating to the retroactivity of overtime claims in
2 exceptional cases; adding a new section to chapter 49.46 RCW;
3 creating new sections; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the
6 numerous cases in Washington state have addressed the application of
7 the prospective and retroactive effect of the courts' decisions.
8 While the courts have established a general rule favoring
9 retroactivity, the legislature finds that the rule imposes an
10 inequitable result in certain exceptional cases.

11 (2) The legislature intends to limit the retroactive effect of
12 court decisions concerning overtime wage claims by delineating
13 factors that establish inequitable results.

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

16 (1) When considering whether to award retroactive pay in a cause
17 of action seeking overtime pay under the provisions of RCW 49.46.130
18 or other provision of law, the court is prohibited from making such
19 an award when the award would create a substantially inequitable
20 result.

1 (2) An award of retroactive pay creates a substantially
2 inequitable result in causes of action for overtime pay when:
3 (a) A court announces a new rule or interpretation of law; and
4 (b) The previous rule or interpretation of law had been:
5 (i) Expressed in a statute, ordinance, rule, or court decision;
6 or
7 (ii) Expressed in a reasonable interpretation of such statute,
8 ordinance, rule, or court decision.

9 NEW SECTION. **Sec. 3.** Section 2 of this act applies to all
10 causes of action regarding overtime wage claims regardless of when
11 the cause of action may have arisen. To the extent a cause of action
12 has arisen before the effective date of this section, this section
13 applies retroactively, and applies prospectively in all other
14 respects.

15 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of
17 the state government and its existing public institutions, and takes
18 effect immediately.

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