

SHB 1217 - S COMM AMD

By Committee on Labor & Commerce

ADOPTED AND ENGROSSED 04/12/2023

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 49.48.083 and 2011 c 301 s 16 are each amended to  
4 read as follows:

5 (1) If an employee files a wage complaint with the department,  
6 the department shall investigate the wage complaint. Unless otherwise  
7 resolved, the department shall issue either a citation and notice of  
8 assessment or a determination of compliance no later than (~~sixty~~)  
9 60 days after the date on which the department received the wage  
10 complaint. The department may extend the time period by providing  
11 advance written notice to the employee and the employer setting forth  
12 good cause for an extension of the time period and specifying the  
13 duration of the extension. The department may not investigate any  
14 alleged violation of a wage payment requirement that occurred more  
15 than three years before the date that the employee filed the wage  
16 complaint. The department shall send the citation and notice of  
17 assessment or the determination of compliance to both the employer  
18 and the employee by service of process or using a method by which the  
19 mailing can be tracked or the delivery can be confirmed to their last  
20 known addresses.

21 (2) If the department determines that an employer has violated a  
22 wage payment requirement and issues to the employer a citation and  
23 notice of assessment, the department may order the employer to pay  
24 employees all wages owed, including interest of one percent per month  
25 on all wages owed, to the employee. The wages and interest owed must  
26 be calculated from the first date wages were owed to the employee,  
27 except that the department may not order the employer to pay any  
28 wages and interest that were owed more than three years before the  
29 date the wage complaint was filed with the department.

30 (3) If the department determines that the violation of the wage  
31 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 of all wages that the department  
23 determined that the employer owed to the employee, including  
24 interest, within ten business days of the employer's receipt of the  
25 citation and notice of assessment from the department.

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

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

32 (4) Upon payment by an employer, and acceptance by an employee,  
33 of all wages and interest assessed by the department in a citation  
34 and notice of assessment issued to the employer, the fact of such  
35 payment by the employer, and of such acceptance by the employee,  
36 shall: (a) Constitute a full and complete satisfaction by the  
37 employer of all specific wage payment requirements addressed in the  
38 citation and notice of assessment; and (b) bar the employee from  
39 initiating or pursuing any court action or other judicial or  
40 administrative proceeding based on the specific wage payment

1 requirements addressed in the citation and notice of assessment. The  
2 citation and notice of assessment shall include a notification and  
3 summary of the specific requirements of this subsection.

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

15 (6) For all wage complaints filed on or after January 1, 2024, if  
16 the department offers the employer the option to resolve a wage  
17 complaint without a citation and notice of assessment, and the  
18 employer chooses to accept the offer, any settlement must include  
19 interest of one percent per month on all amounts owed. The employee  
20 may request a waiver or reduction of interest as part of the  
21 settlement process."

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**ADOPTED 04/12/2023**

22 On page 1, line 2 of the title, after "options;" strike the  
23 remainder of the title and insert "and amending RCW 49.48.083."

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