

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1217

68th Legislature
2023 Regular Session

Passed by the House April 14, 2023
Yeas 62 Nays 34

**Speaker of the House of
Representatives**

Passed by the Senate April 12, 2023
Yeas 33 Nays 16

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1217** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1217

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Ortiz-Self, Fosse, Berry, Reed, Simmons, Gregerson, Ramel, Macri, and Pollet)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to improving worker recovery in wage complaints
2 by authorizing the collection of interest and studying other options;
3 and amending RCW 49.48.083.

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

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

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

1 mailing can be tracked or the delivery can be confirmed to their last
2 known addresses.

3 (2) If the department determines that an employer has violated a
4 wage payment requirement and issues to the employer a citation and
5 notice of assessment, the department may order the employer to pay
6 employees all wages owed, including interest of one percent per month
7 on all wages owed, to the employee. The wages and interest owed must
8 be calculated from the first date wages were owed to the employee,
9 except that the department may not order the employer to pay any
10 wages and interest that were owed more than three years before the
11 date the wage complaint was filed with the department.

12 (3) If the department determines that the violation of the wage
13 payment requirement was a willful violation, the department also may
14 order the employer to pay the department a civil penalty as specified
15 in (a) of this subsection.

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

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

32 (c) The department shall waive any civil penalty assessed against
33 an employer under this section if the employer is not a repeat
34 willful violator, and the director determines that the employer has
35 provided payment to the employee of all wages that the department
36 determined that the employer owed to the employee, including
37 interest, within ten business days of the employer's receipt of the
38 citation and notice of assessment from the department.

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

4 (e) The department shall deposit civil penalties paid under this
5 section in the supplemental pension fund established under RCW
6 51.44.033.

7 (4) Upon payment by an employer, and acceptance by an employee,
8 of all wages and interest assessed by the department in a citation
9 and notice of assessment issued to the employer, the fact of such
10 payment by the employer, and of such acceptance by the employee,
11 shall: (a) Constitute a full and complete satisfaction by the
12 employer of all specific wage payment requirements addressed in the
13 citation and notice of assessment; and (b) bar the employee from
14 initiating or pursuing any court action or other judicial or
15 administrative proceeding based on the specific wage payment
16 requirements addressed in the citation and notice of assessment. The
17 citation and notice of assessment shall include a notification and
18 summary of the specific requirements of this subsection.

19 (5) The applicable statute of limitations for civil actions is
20 tolled during the department's investigation of an employee's wage
21 complaint against an employer. For the purposes of this subsection,
22 the department's investigation begins on the date the employee files
23 the wage complaint with the department and ends when: (a) The wage
24 complaint is finally determined through a final and binding citation
25 and notice of assessment or determination of compliance; or (b) the
26 department notifies the employer and the employee in writing that the
27 wage complaint has been otherwise resolved or that the employee has
28 elected to terminate the department's administrative action under RCW
29 49.48.085.

30 (6) For all wage complaints filed on or after January 1, 2024, if
31 the department offers the employer the option to resolve a wage
32 complaint without a citation and notice of assessment, and the
33 employer chooses to accept the offer, any settlement must include
34 interest of one percent per month on all amounts owed. The employee
35 may request a waiver or reduction of interest as part of the
36 settlement process.

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