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ENGROSSED SUBSTITUTE SENATE BILL 6007

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State of Washington

68th Legislature

2024 Regular Session

**By** Senate Labor & Commerce (originally sponsored by Senators Conway, Keiser, Hasegawa, Dhingra, Randall, Saldaña, Liiias, Hunt, Nguyen, Kuderer, Van De Wege, Frame, Nobles, Pedersen, Salomon, Shewmake, Stanford, Trudeau, Valdez, and C. Wilson)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to employment standards for grocery workers;  
2 adding a new chapter to Title 49 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** (1) Supermarkets and other grocery  
5 retailers are the primary points of distribution for food and other  
6 daily necessities for the residents of Washington and are therefore  
7 essential to the vitality of every Washington community.

8 (2) The state has a compelling interest in ensuring the welfare  
9 of the residents of its communities through the maintenance of health  
10 and safety standards in grocery establishments.

11 (3) Experienced grocery retail workers with knowledge of proper  
12 sanitation procedures, health regulations and laws, and an  
13 experience-based understanding of the clientele and communities in  
14 which the retailer is located are essential in furthering this  
15 interest and the state's investments in health and safety.

16 (4) A transitional retention period for grocery retail workers  
17 upon change of ownership, control, or operation of grocery stores  
18 ensures stability throughout the state for these vital workers,  
19 which, in turn, results in preservation of health and safety  
20 standards.

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

4        (1) "Change in control" means any sale, purchase, assignment,  
5 acquisition, transfer, contribution, or other disposition of all or  
6 substantially all of the assets, cash on hand, or a controlling  
7 interest, including by consolidation, merger, or reorganization, of  
8 or by the incumbent grocery employer or any person who controls the  
9 incumbent grocery employer or any grocery establishment under the  
10 operation or control of either the incumbent grocery employer or any  
11 person who controls the incumbent grocery employer.

12        (2) "Eligible grocery worker" means any individual whose primary  
13 place of employment is at the grocery establishment subject to a  
14 change in control, and who has worked for the incumbent grocery  
15 employer for at least six months prior to the execution of the  
16 transfer document. "Eligible grocery worker" does not include a  
17 managerial, supervisory, or confidential employee.

18        (3) "Employment commencement date" means the date on which an  
19 eligible grocery worker retained by the successor grocery employer  
20 pursuant to this chapter commences work for the successor grocery  
21 employer in exchange for benefits and compensation under the terms  
22 and conditions established by the successor grocery employer and as  
23 required by law.

24        (4) (a) "Grocery establishment" means a retail store in this state  
25 that is over 15,000 square feet in size and that sells primarily  
26 household foodstuffs for off-site consumption, including the sale of  
27 fresh produce, meats, poultry, fish, deli products, dairy products,  
28 canned foods, dry foods, beverages, baked foods, or prepared foods.  
29 Other household supplies or other products must be secondary to the  
30 primary purpose of food sales.

31        (b) A distribution center owned and operated by a grocery  
32 establishment and used primarily to distribute goods to or from its  
33 owned stores is considered a grocery establishment, regardless of its  
34 square footage.

35        (c) A grocery establishment does not include a retail store that  
36 has ceased operations for 12 months or more.

37        (5) "Incumbent grocery employer" means the person that owns,  
38 controls, or operates the grocery establishment at the time of the  
39 change in control.

1 (6) "Job classification" means a system for categorizing certain  
2 duties into certain jobs.

3 (7) "Person" means an individual, corporation, partnership,  
4 limited partnership, limited liability partnership, limited liability  
5 company, business trust, estate, trust, association, joint venture,  
6 agency, instrumentality, or any other legal or commercial entity,  
7 whether domestic or foreign.

8 (8) "Successor grocery employer" means the person that owns,  
9 controls, or operates the grocery establishment after the change in  
10 control. A successor grocery employer may be the same entity as an  
11 incumbent employer when a change in control occurs, but the covered  
12 employer remains the same. "Successor grocery employer" does not  
13 include any person that owns or controls 25 or fewer grocery  
14 establishments in the state. A successor grocery employer does not  
15 include an establishment operated by a franchisee pursuant to a  
16 franchise agreement if the franchisee operates 25 or fewer grocery  
17 establishments in the state.

18 (9) "Transfer document" means the purchase agreement or other  
19 document effecting the change in control.

20 NEW SECTION. **Sec. 3.** (1)(a) The incumbent grocery employer  
21 must, within 15 days after the execution of the transfer document,  
22 provide to the successor grocery employer and any collective  
23 bargaining representative the name, address, date of hire, employment  
24 occupation classification, and, if known, the cellular telephone  
25 number and email address of each eligible grocery worker.

26 (b) If the incumbent grocery employer does not provide the  
27 information specified in (a) of this subsection within 15 days, the  
28 successor grocery employer may obtain the information from a  
29 collective bargaining representative.

30 (2) The successor grocery employer must maintain a preferential  
31 hiring list of eligible grocery workers identified by the incumbent  
32 grocery employer or collective bargaining representative pursuant to  
33 subsection (1) of this section and must hire from that list for a  
34 period beginning upon the execution of the transfer document and  
35 continuing for 180 days after the grocery establishment is fully  
36 operational and open to the public under the successor grocery  
37 employer.

38 (3) If the successor grocery employer extends an offer of  
39 employment to an eligible grocery worker pursuant to this chapter,

1 the successor grocery employer must retain written verification of  
2 that offer for at least three years after the date of the offer. The  
3 verification must include the name, address, date of hire, and  
4 employment occupation classification of each eligible grocery worker.

5 NEW SECTION. **Sec. 4.** (1) A successor grocery employer must  
6 retain each eligible grocery worker hired pursuant to this chapter  
7 for at least 180 days after the eligible grocery worker's employment  
8 commencement date. During this 180-day transition employment period,  
9 eligible grocery workers must be employed under the terms and  
10 conditions established by the successor grocery employer and pursuant  
11 to the terms of a relevant collective bargaining agreement, if any.

12 (2) If, within the period established in section 3(2) of this  
13 act, the successor grocery employer determines that it requires fewer  
14 eligible grocery workers than were required by the incumbent grocery  
15 employer, the successor grocery employer must retain eligible grocery  
16 workers by seniority within each job classification to the extent  
17 that comparable job classifications exist or pursuant to the terms of  
18 a relevant collective bargaining agreement, if any. Nonclassified  
19 eligible grocery workers must be retained by seniority and according  
20 to experience, or pursuant to the terms of a relevant collective  
21 bargaining agreement, if any.

22 (3) During the 180-day transition employment period, the  
23 successor grocery employer may not discharge without cause an  
24 eligible grocery worker retained pursuant to this chapter.

25 (4) At the end of the 180-day transition employment period, the  
26 successor grocery employer must make a written performance evaluation  
27 for each eligible grocery worker retained pursuant to this chapter.  
28 If the eligible grocery worker's performance during the 180-day  
29 transition employment period is satisfactory, the successor grocery  
30 employer must consider offering the eligible grocery worker continued  
31 employment under the terms and conditions established by the  
32 successor grocery employer and as required by law. The successor  
33 grocery employer must retain a record of the written performance  
34 evaluation for at least three years.

35 NEW SECTION. **Sec. 5.** (1) This section only applies to a  
36 successor grocery employer that, after a change in control, will own,  
37 control, or operate 20 or more grocery establishments.

1 (2) Notwithstanding other provisions of this chapter, if a  
2 successor grocery employer does not hire an eligible grocery worker  
3 following a change in control or does not retain an eligible grocery  
4 worker for at least 180 days following the change in control or the  
5 eligible grocery worker's employment commencement date, whichever is  
6 later, the successor grocery company must, unless the eligible  
7 grocery worker has quit or has been discharged for cause, provide the  
8 eligible grocery employee a dislocated grocery worker allowance equal  
9 to one week of pay for each full year of employment with the  
10 incumbent grocery employer. The rate of the dislocated grocery worker  
11 allowance will be the average regular rate of compensation received  
12 during the eligible grocery worker's last three years of employment  
13 with the incumbent grocery employer or the final regular rate of  
14 compensation paid to the eligible grocery worker, whichever is  
15 higher.

16 (3) The successor grocery employer must provide the greater of  
17 the dislocated grocery worker allowance required pursuant to:

18 (a) Subsection (2) of this section; or

19 (b) The terms of a relevant collective bargaining agreement, if  
20 any.

21 NEW SECTION. **Sec. 6.** (1) The incumbent grocery employer must  
22 post public notice of the change in control at the location of the  
23 affected grocery establishment within five business days following  
24 the execution of the transfer document. Notice must remain posted  
25 during any closure of the grocery establishment and until the grocery  
26 establishment is fully operational and open to the public under the  
27 successor grocery employer.

28 (2) Notice must include, but is not limited to:

29 (a) The name of the incumbent grocery employer and its contact  
30 information;

31 (b) The name of the successor grocery employer and its contact  
32 information; and

33 (c) The effective date of the change in control.

34 (3) Notice must be posted in a conspicuous place at the grocery  
35 establishment in a manner to be readily viewed by eligible grocery  
36 workers and other employees, customers, and members of the public.

37 NEW SECTION. **Sec. 7.** (1) An employer must not refuse to employ,  
38 terminate, reduce the compensation of, or otherwise take adverse

1 action against any employee for seeking to enforce the employee's  
2 rights under this chapter, including participating in proceedings,  
3 opposing any practice prescribed by this chapter, or otherwise  
4 asserting rights under this chapter.

5 (2) This section applies to an employee who mistakenly, but in  
6 good faith, alleges noncompliance with this chapter.

7 NEW SECTION. **Sec. 8.** (1) An aggrieved employee or an employee  
8 representative, such as a collective bargaining representative or  
9 nonprofit corporation, may bring an action in the superior court of  
10 the state of Washington for violations of this chapter and may be  
11 awarded the following:

12 (a) Hiring and reinstatement rights pursuant to this chapter. For  
13 violations of the retention provision, the 180-day transition  
14 employment period does not commence until the eligible grocery  
15 worker's employment commencement date with the successor grocery  
16 employer;

17 (b) Front pay or back pay for each day during which the violation  
18 continues;

19 (c) The value of the benefits the employee would have received  
20 under any benefit plans;

21 (d) Reasonable attorneys' fees and costs to any employee or  
22 employee representative who prevails in an enforcement action.

23 (2) Before an employee or an employee representative brings an  
24 action in the superior court of the state of Washington for a  
25 violation of this chapter, both of the following requirements must be  
26 met:

27 (a) The employee has provided written notice to the employer of  
28 the provisions of this chapter alleged to have been violated and the  
29 facts to support the alleged violation; and

30 (b) The employer has not cured the alleged violation within 30  
31 calendar days from receipt of the written notice.

32 NEW SECTION. **Sec. 9.** This chapter does not apply to grocery  
33 establishments that will be located in geographic areas designated by  
34 the United States department of agriculture as food deserts, based on  
35 the original food desert measure contained in the Food Access  
36 Research Atlas, provided that both of the following apply:

1 (1) More than six years have elapsed since the most recent  
2 grocery establishment was located in the area designated as a food  
3 desert; and

4 (2) The grocery establishment stocks and, during normal business  
5 hours, sells fresh fruit and vegetables in amounts and of a quality  
6 that is comparable to what the establishment sells in its three  
7 geographically closest stores, which are located outside of the food  
8 desert.

9 NEW SECTION. **Sec. 10.** (1) In the case of a change of control  
10 from a merger, a successor grocery employer may not cause a grocery  
11 establishment that is located in a geographic area designated by the  
12 United States department of agriculture as a food desert to cease  
13 being fully operational and open to the public until the  
14 establishment provides a written notice to the city council, county  
15 council, local health department, and attorney general 180 days  
16 before the establishment ceases to be fully operational and open to  
17 the public.

18 (2) The notice required by subsection (1) of this section must  
19 include both of the following:

20 (a) A written analysis and explanation, including data, of how  
21 residents living in the geographic area designated by the United  
22 States department of agriculture as a food desert will be able, at  
23 comparable costs, including transportation costs, time off work, and  
24 child care costs, to purchase food after the establishment ceases  
25 being fully operational and open to the public; and

26 (b) A profit and loss statement for the establishment consistent  
27 with generally accepted accounting principles for the two years prior  
28 to the merger attested to by a responsible officer of the successor  
29 employer.

30 NEW SECTION. **Sec. 11.** (1) This chapter does not apply to an  
31 incumbent grocery employer and the successor grocery employer  
32 executing the transfer document with that incumbent grocery employer,  
33 if the sum of both of the following is less than 300:

34 (a) The number of grocery workers employed immediately prior to  
35 the change in control by the incumbent grocery employer across that  
36 employer's grocery establishments nationwide; and

1 (b) The number of grocery workers employed immediately prior to  
2 the change in control by the successor grocery employer across that  
3 employer's grocery establishments nationwide.

4 (2) For purposes of this section only, the following definitions  
5 apply:

6 (a) "Grocery establishment," as used in this section, has the  
7 same meaning as defined in section 2 of this act, but also includes  
8 grocery establishments in other states in the United States.

9 (b) "Grocery worker," as used in this section, means any  
10 individual whose primary place of employment is at a grocery  
11 establishment that is owned, controlled, or operated by the incumbent  
12 or successor grocery employer, as applicable.

13 NEW SECTION. **Sec. 12.** This chapter is not to be construed to  
14 limit an eligible grocery worker's right to bring legal action for  
15 wrongful termination.

16 NEW SECTION. **Sec. 13.** This chapter does not preempt any city,  
17 county, or city and county ordinances that provide equal or greater  
18 protection to eligible grocery workers.

19 NEW SECTION. **Sec. 14.** If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 15.** Sections 1 through 13 of this act  
24 constitute a new chapter in Title 49 RCW.

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