

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6007

68th Legislature
2024 Regular Session

Passed by the Senate February 7, 2024
Yeas 32 Nays 16

President of the Senate

Passed by the House February 22, 2024
Yeas 60 Nays 33

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6007** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6007

Passed Legislature - 2024 Regular Session

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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