

ESSB 5525 - H COMM AMD

By Committee on Labor & Workplace Standards

ADOPTED 04/09/2025

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

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

6 (1) "Affected employee" means an employee who may reasonably
7 expect to experience an employment loss because of a proposed
8 business closing or mass layoff by an employer.

9 (2) "Aggrieved employee" means an employee who has worked for the
10 employer ordering the business closing or mass layoff and who,
11 because of the employer's failure to comply with the requirements of
12 this act, did not receive timely notice either directly or through
13 the employee's representative.

14 (3) "Bargaining representative" means an exclusive representative
15 of employees under the national labor relations act, 29 U.S.C. Sec.
16 151 et seq., or the railway labor act, 45 U.S.C. Sec. 151 et seq.

17 (4) "Business closing" means the permanent or temporary shutdown
18 of a single site of employment of one or more facilities or operating
19 units that will result in an employment loss for 50 or more
20 employees, excluding part-time employees.

21 (5) "Commissioner" means the commissioner of the employment
22 security department.

23 (6) "Department" means the employment security department.

24 (7) "Employee" means a person employed in this state by an
25 employer. "Employee" includes part-time employees.

26 (8) "Employer" means a person who employs 50 or more employees in
27 this state, excluding part-time employees. "Employer" does not
28 include the state or any political subdivision thereof, including any
29 unit of local government.

30 (9) (a) "Employment loss" means:

31 (i) An employment termination, other than a discharge for cause,
32 voluntary separation, or retirement;

1 (ii) A layoff exceeding six months; or

2 (iii) A reduction in hours of more than 50 percent of work of
3 individual employees during each month of a six-month period.

4 (b) "Employment loss" does not include instances when a business
5 closing or mass layoff is the result of the relocation or
6 consolidation of part or all of the employer's business and, before
7 the business closing or mass layoff, the employer offers to transfer
8 the employee to a different site of employment within a reasonable
9 commuting distance, as defined by the department, with no more than a
10 six-month break in employment.

11 (10) "Mass layoff" means a reduction in employment force that is
12 not the result of a business closing and results in an employment
13 loss during any 30-day period of 50 or more employees, excluding
14 part-time employees.

15 (11) "Part-time employee" means an employee who is employed for
16 an average of fewer than 20 hours per week, or an employee who has
17 been employed for fewer than six of the twelve months preceding the
18 date on which notice is required. However, if an applicable
19 collective bargaining agreement defines a part-time employee, such
20 definition shall supersede the definition in this subsection.

21 (12) "Single site of employment" means a single location or a
22 group of contiguous locations, such as a group of structures that
23 form a campus or business park or separate facilities across the
24 street from each other.

25 NEW SECTION. **Sec. 2.** (1)(a) Subject to section 3 of this act,
26 an employer may not order a business closing or a mass layoff until
27 the end of a 60-day period that begins after the employer, pursuant
28 to this section, serves written notice of such action to the
29 department and to the affected employee or, if the employee is
30 represented by a union, to the employee's bargaining representative.

31 (b) An employer who has previously announced and carried out a
32 short-term mass layoff of three months or less that is extended
33 beyond three months due to business circumstances not reasonably
34 foreseeable at the time of the initial mass layoff is required to
35 give notice when it becomes reasonably foreseeable that the extension
36 is required. A mass layoff extending beyond three months from the
37 date the mass layoff commenced for any other reason must be treated
38 as an employment loss from the date of commencement of the initial
39 mass layoff.

1 (c) In the case of the sale of part or all of a business, the
2 seller is responsible for providing notice of any business closing or
3 mass layoff which will take place up to and on the effective date of
4 the sale. The buyer is responsible for providing notice of any
5 business closing or mass layoff that will take place thereafter.

6 (2) Notice from the employer to the department or affected
7 employees or, if the employees are represented, the employees'
8 bargaining representative must be in written form, include the
9 elements required, as they exist on the effective date of this
10 section, by the federal worker adjustment and retraining notification
11 act, 29 U.S.C. Sec. 2101 et seq., and include the following:

12 (a) The name and address of the employment site where the
13 business closing or mass layoff will occur, and the name and contact
14 information of a company official to contact for further information;

15 (b) A statement whether the planned action is expected to be
16 permanent or temporary and, if the entire business is to be closed, a
17 statement to that effect. If the planned action is expected to be
18 temporary, the statement must also include whether the planned action
19 is expected to last longer or shorter than three months;

20 (c) The expected date of the first employment loss and the
21 anticipated schedule for employment losses;

22 (d) The job titles of positions to be affected and the names of
23 the employees currently holding the affected jobs. The notice to the
24 department must also include the addresses of the affected employees;
25 and

26 (e) Whether the mass layoff or business closing is the result of,
27 or will result in, the relocation or contracting out of the
28 employer's operations or the employees' positions.

29 (3) The employer must provide additional notice of the date or
30 schedule of dates of a planned business closing or mass layoff
31 extended beyond the date of any period announced in the original
32 notice.

33 NEW SECTION. **Sec. 3.** (1) An employer is not required to comply
34 with the notice requirements under section 2 of this act if:

35 (a)(i) At the time the notice would have been required, the
36 employer was actively seeking capital or business;

37 (ii) The capital or business sought, if obtained, would have
38 enabled the employer to avoid or postpone the business closing or
39 mass layoff; and

1 (iii) The employer reasonably and in good faith believed that
2 giving the notice required by section 2 of this act would have
3 precluded the employer from obtaining the needed capital or business;

4 (b) The mass layoff or business closing is caused by business
5 circumstances that were not reasonably foreseeable at the time the
6 notice would have been required. The unforeseeable business
7 circumstances must be caused by a sudden, dramatic, and unexpected
8 action or condition outside of the employer's control;

9 (c) The mass layoff or business closing is due to a natural
10 disaster, such as a flood, earthquake, drought, storm, tornado, or
11 similar effects of nature; or

12 (d) The mass layoff occurs at:

13 (i) A construction project and the affected employees were hired
14 with the understanding that their employment was limited to the
15 duration of a particular portion of that construction project; or

16 (ii) A multiemployer construction project and the only affected
17 employees are subject to a full union referral or dispatch system.

18 (2) If an exception under this section applies for only part of
19 the 60-day notice window, notice is required at the time the
20 exception no longer applies. If notice is not provided, the employer
21 is liable for each day notice is not provided pursuant to sections 4
22 and 5 of this act.

23 (3) The department may not determine an exception under this
24 section applies unless the employer meets the documentation and other
25 requirements established by the department pursuant to section 7 of
26 this act.

27 NEW SECTION. **Sec. 4.** (1) An employer that orders a business
28 closing or mass layoff without providing a notice required by section
29 2 of this act is liable to each aggrieved employee who suffers an
30 employment loss because of the closing or layoff for:

31 (a) Back pay for each day of violation not less than the higher
32 of:

33 (i) The average regular rate of compensation received by the
34 employee during the last three years of the employee's employment; or

35 (ii) The employee's final rate of compensation; and

36 (b) The value of the cost of any benefits to which the employee
37 would have been entitled had their employment not been lost,
38 including the cost of any medical expenses incurred by the employee
39 that would have been covered under an employee benefit plan.

1 (2) Liability under this section must be calculated for the
2 period of the employer's violation up to a maximum of 60 days.

3 (3) The amount for which an employer is liable under this section
4 must be reduced by:

5 (a) Any wages paid by the employer to the employee during the
6 period of the violation;

7 (b) Any voluntary and unconditional payment by the employer to
8 the employee that is not required by any legal obligation;

9 (c) The amount paid to the employee pursuant to the federal
10 worker adjustment and retraining notification act, 29 U.S.C. Sec.
11 2101 et seq.; and

12 (d) Any payment by the employer to a third party or trustee, such
13 as premiums for health benefits or payments to a defined contribution
14 pension plan, on behalf and attributable to the employee for the
15 period of the violation.

16 (4) (a) The department, an aggrieved employee, or the bargaining
17 representative of the aggrieved employee may bring a civil action on
18 behalf of the person, other persons similarly situated, or both, in
19 any court of competent jurisdiction within three years of the alleged
20 violation. The court may award reasonable attorneys' fees as part of
21 costs to any plaintiff who prevails in a civil action brought under
22 this chapter.

23 (b) If the court determines that an employer conducted a
24 reasonable investigation in good faith and had reasonable grounds to
25 believe that its conduct was not a violation of this chapter, the
26 court may reduce the amount of any penalty it would otherwise impose
27 against the employer under this chapter.

28 (c) This chapter does not grant any court the authority to enjoin
29 a mass layoff or business closing.

30 NEW SECTION. **Sec. 5.** (1) An employer who fails to give the
31 notice required by section 2 of this act to the department is subject
32 to a civil penalty of not more than \$500 for each day of the
33 employer's violation. However, the employer is not subject to a civil
34 penalty under this section if the employer pays to all applicable
35 employees the amounts for which the employer is liable under section
36 4 of this act within three weeks from the date the employer orders
37 the mass layoff, relocation, or termination.

38 (2) Any civil penalty paid by the employer under the federal
39 worker adjustment and retraining notification act, 29 U.S.C. Sec.

1 2101 et seq., must be considered a payment of the civil penalty under
2 this section.

3 (3) All penalties recovered under this section must be paid into
4 the state treasury and credited to the general fund.

5 NEW SECTION. **Sec. 6.** Except in the cases exempted under section
6 3(1) (b) through (d) of this act, an employer may not include an
7 employee in an order of a mass layoff if the employee is currently on
8 paid family or medical leave under Title 50A RCW.

9 NEW SECTION. **Sec. 7.** The department shall administer and
10 enforce the provisions of this chapter and may adopt rules to carry
11 out its purpose. Rules adopted pursuant to this section must include
12 documentation requirements for the exceptions in section 3 of this
13 act.

14 NEW SECTION. **Sec. 8.** This act may be known and cited as the
15 securing timely notification and benefits for laid-off employees act.

16 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act
17 constitute a new chapter in Title 49 RCW.

18 NEW SECTION. **Sec. 10.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected."

22 Correct the title.

EFFECT: Modifies the construction project-based notice
requirement exemption to mass layoffs that occur during a
construction project instead of mass layoffs that are the result of
the completion of the construction project.

Modifies the multiemployer construction project notice
requirement exemption to mass layoffs that occur during the
multiemployer construction project, instead of mass layoffs that
result from the completion of a multiemployer construction project.

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