
**Labor & Workplace Standards
Committee**

HB 1561

Brief Description: Providing labor market protections for domestic workers.

Sponsors: Representatives Stonier, Ortiz-Self, Fosse, Berry, Ramel, Reed, Gregerson, Parshley, Salahuddin, Peterson, Taylor, Ormsby, Scott, Macri, Doglio, Hill, Thomas and Simmons.

Brief Summary of Bill

- Requires employers of domestic workers and individuals who pay wages for services of domestic workers, referred to as hiring entities, to pay minimum wage and overtime, provide meal and rest breaks, have the terms and expectations of employment in a written agreement, and provide notice before terminating employment.
- Makes employers of certain domestic workers subject to laws governing minimum wage, paid sick leave, workers' compensation, and antidiscrimination protections.
- Prohibits hiring entities from engaging in certain conduct, including taking adverse action against domestic workers exercising their rights, and creates a rebuttable presumption of retaliation under certain circumstances.
- Directs the Department of Labor and Industries to conduct certain enforcement actions and establishes a private cause of action.

Hearing Date: 2/18/25

Staff: Kelly Leonard (786-7147).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Wages. The Minimum Wage Act (MWA) establishes a statewide minimum hourly wage, requires overtime pay for certain workers, provides for paid sick leave, and provides for other employment standards, and the Wage Payment Act provides for administrative or court action to collect wages under the MWA and other wage laws.

The current statewide hourly minimum wage is \$16.66, which is adjusted annually for inflation by the Department of Labor and Industries (L&I). Overtime pay must be at least 1.5 times the employee's regular hourly rate, and employees cannot waive their right to overtime pay. It is unlawful to make certain deductions from wages and to fail to pay wages. Employers must provide employees with at least one hour of paid sick leave for every 40 hours worked. L&I may inspect places of business, investigate, and gather data regarding wages, hours, and other conditions and practices. It is a gross misdemeanor for an employer to discriminate against an employee because the employee complained to the employer or L&I that the MWA has been violated, or because the employee was involved in a proceeding related to the MWA.

Certain workers are exempt from the MWA, including persons whose duties required they sleep or reside at their place of employment, and persons employed in casual labor in or about private homes, unless the work is performed in the course of the employer's trade, business, or profession. These exemptions generally cover different types of domestic service.

Working Hours and Breaks. State law makes it a gross misdemeanor for an employer to employ a household or domestic employee for longer than 60 hours in any week, which includes any time when the employee has to remain subject to the call of the employer and when the employee is not free to follow his or her inclinations.

While the Industrial Welfare Act directs L&I to adopt rules governing meal and rest periods, it does not apply to domestic or casual labor in or about private residences.

Workers' Compensation. Workers who are injured or disabled in the course of employment are entitled to certain benefits through the workers' compensation program, administered by L&I. Benefits may include medical costs, temporary time-loss, vocational rehabilitation benefits, and permanent disabilities benefits. Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed 40 or more hours a week or employed to do gardening, maintenance, or repair, in or about the private home is excluded from workers' compensation.

Washington Law Against Discrimination. The Washington Law Against Discrimination (WLAD) prohibits discrimination in employment based on the person's protected status, such as race, creed, color, national origin, sex, disability, and other protected categories. The WLAD applies to employers who employ eight or more persons and does not include any nonprofit religious or sectarian organization. An aggrieved person may file a complaint with the Human Rights Commission or may file a private cause of action in court.

Summary of Bill:

The Legislature declares that health, safety, wage protections, and general welfare are guaranteed for domestic workers. Applicable federal, state, and local laws that are more favorable to domestic workers than those in the bill are not affected and still apply to domestic workers.

A "domestic worker" includes hourly and salaried employees and includes any worker who works for one or more hiring entities and works in residences as a nanny, house cleaner, home care worker, cook, gardener, or household manager, or for other domestic service purposes. Domestic worker does not include: individuals who provide babysitting, dog walking, pet sitting, or house sitting; certain providers of long-term care who contract with the Department of Social and Health Services; individuals in family relationships with the hiring entity; and casual laborers who perform irregular, uncertain, and incidental work that is different from the individual's customary work.

A "hiring entity" is any employer who employs a domestic worker or any individual or entity that pays a wage for services of a domestic worker. Home care agencies are not hiring entities.

Wages, Working Hours and Breaks, and Other Conditions. The MWA is modified to apply to domestic workers, as defined in the bill, effectively extending minimum wage, overtime, and sick leave protections to domestic workers. Hiring entities must specifically pay domestic workers at least the minimum hourly wage under the MWA and overtime wages for hours worked in excess of 40 hours per work week.

A hiring entity employing a domestic worker must:

- allow for 30-minute uninterrupted meal breaks if the domestic worker works five or more hours;
- allow for 10-minute uninterrupted rest breaks if the domestic worker works more than three hours;
- permit the domestic worker to cook and consume the domestic worker's own food, with reasonable restrictions allowed, for domestic workers living in the home of their hiring entity; and
- keep and maintain records documenting hours worked, pay rate, and if applicable, the leave time earned and used.

A hiring entity may not:

- request that a domestic worker allow the hiring entity to take possession of the worker's personal effects, including any legal documents such as passports or other forms of identification;
- subject a domestic worker to conduct that creates an intimidating, hostile, or offensive work environment;
- monitor or record the domestic worker using the bathroom or changing clothes;
- monitor or record, or interfere with, private communications;
- communicate an intent to inform a government entity about the citizenship or immigration

status of a domestic worker or the worker's family member, in response to the domestic worker exercising any of the worker's rights; or

- take any adverse action against a domestic worker for exercising his or her rights, including the right to organize, participate in political speech, disclose immigration status, or institute any proceeding under the law.

Workers' Compensation. Workers' Compensation laws are modified by removing the exemption for any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed 40 or more hours a week or employed to do gardening, maintenance, or repair, in or about the private home. Effectively, this requires employers to provide for workers' compensation for these workers.

Written Agreements and Terminations. The terms and expectations of employment must be in a written agreement with details such as: the location where the work will be done, rate of pay, work schedule, and if applicable, information about sick days, vacation days, severance, health insurance costs, and other expectations. The written agreement must be provided in a language understood by the worker, and the hiring entity, and must be signed and dated by both parties. A written agreement may not contain provisions waiving a domestic worker's rights under federal, state, or local laws. The agreement may not contain a mandatory predispute arbitration clause for employee claims, or any nondisclosure, noncomplete, or nondisparagement clause. The Attorney General's Office must develop model disclosure statements, which describes a hiring entity's duties and a domestic worker's rights, and a model written agreement.

The hiring entity must provide a minimum of two-weeks notice before terminating employment. For live-in domestic workers, a minimum of four-weeks notice is required. A domestic worker is entitled to severance pay if a hiring entity fails to comply with notification requirements. A notice is not required if the termination:

- is in connection with termination of work performed on a casual labor basis;
- occurs during an agreed-upon probationary period;
- is based on a good faith belief that the domestic worker engaged in misconduct or if circumstances outside of the hiring entity's control apply; or
- is because the domestic worker is unable to meet the requirements of the agreement.

Agency Enforcement and Private Cause of Action for Domestic Worker Rights. A domestic worker may file a complaint alleging a violation of the bill in accordance with certain deadlines. L&I may order the hiring entity to pay a civil penalty of \$1,000 for each willful violation. If the hiring entity is a repeat violator, L&I may impose a civil penalty of not less than \$2,000, and no more than \$20,000, for each willful violation. L&I may waive or reduce the civil penalties and may not order any penalty if the hiring entity reasonably relied on a written order, ruling, opinion, advice, determination, agency interpretation, or other agency policy. L&I must deposit civil penalties into a domestic workers rights grant program to enforce domestic worker rights, educate domestic workers and hiring entities, and assist domestic workers in pursuing their rights.

A domestic worker may also bring a civil action for any violation of the worker's rights.

Retaliation Claims. It is unlawful for a hiring entity to use a domestic worker's exercise of rights as a negative factor in any employment action, such as disciplining the domestic worker, denying or delaying payment of wages, terminating or demoting the worker, or reducing the number of work hours the worker is scheduled to work. There is a rebuttable presumption of retaliation if the hiring entity takes adverse action against a domestic worker within 90 days of the domestic worker exercising their rights. The hiring entity may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

A domestic worker may file a claim with L&I alleging retaliation in accordance with certain deadlines. If the complaint is not resolved, L&I may, among other things, order the hiring entity to: pay lost earnings due to the retaliatory action; restore the domestic worker to employment; and pay civil penalties. Civil penalties for a retaliatory action may not be less than \$1,000, or an amount equal to 10 percent of the total amount of unpaid earnings attributable to the retaliatory action, whichever is greater. The maximum civil penalty is \$20,000 for the first violation and \$40,000 for each repeat violation. L&I may waive or reduce civil penalties if the hiring entity took corrective action. Civil penalties must be deposited in a fund dedicated to enforcement.

Washington Law Against Discrimination. The WLAD is modified to apply to employers of domestic service employees. Certain other exceptions are added for babysitting, providing services to a family member, casual labor about a private home, and individual providers. An employee in domestic service may file a complaint or bring suit alleging employment discrimination under the WLAD, with certain exceptions related to elderly or disabled persons.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.