
Labor & Workplace Standards Committee

SSB 5104

Brief Description: Protecting employees from coercion in the workplace based on immigration status.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Hasegawa, Bateman, Conway, Nobles, Saldaña, Stanford, Valdez, Wellman and Wilson, C.).

Brief Summary of Substitute Bill

- Prohibits an employer from making threats in regards to an employee's immigration status or his or her family member's immigration status in order to deter the employee from engaging in protected activities or exercising his or her rights under certain labor and employment laws.

Hearing Date: 3/14/25

Staff: Kelly Leonard (786-7147).

Background:

Wage Payment Act.

The Wage Payment Act (WPA) provides for certain rights to enforce wage and other related requirements, including those pertaining to minimum wage and agreed wages, overtime, sick leave, tips and service charges, and unauthorized deductions. A person owed wages may file a wage complaint with the Department of Labor and Industries (L&I), and in turn, L&I is required to investigate the complaint. L&I must issue either a citation and notice of assessment or a determination of compliance. When L&I issues a citation and notice of assessment, it may order the employer to pay the employee wages plus interest and, if the violation was willful, may order

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the employer to pay a civil penalty.

Industrial Welfare Act.

The Industrial Welfare Act (IWA) contains a number of labor and employment standards, including requirements for meal and rest breaks, the protection of minor workers (child labor), family care leave, work apparel, and personnel file access, among others. The IWA makes it unlawful to employ persons under conditions of labor detrimental to their health. "Conditions of labor" specifically includes conditions of meal and rest breaks and other practices, methods and means by or through which labor or services are performed by employees but excludes conditions governed by other health and safety laws, like the Washington Industrial Safety and Health Act (WISHA). L&I is directed to adopt rules for implementing and enforcing the IWA.

The IWA does not apply to agricultural labor, domestic or casual labor, or newspaper carriers. Separate state laws establish labor and employment standards in agricultural industries, for which L&I has adopted rules for purposes of implementation. This includes requirements for meal and rest breaks and the protection of minor workers (child labor).

Retaliation.

State law and rules prohibit an employer from discriminating or retaliating against an employee, including taking certain adverse actions, because an employee exercised his or her rights under certain minimum wage and related labor laws. L&I rules provide that an "adverse action" includes threatening to take, or taking action, based upon the immigration status of an employee or an employee's family member. The current penalties for violations range from \$1,000 up to an amount equal to 10 percent of unpaid earnings attributable to the retaliatory action, except the penalty may be no more than \$20,000 for a first violation and \$40,000 for any repeat violation.

Summary of Bill:

An employer may not coerce an employee in furtherance of the employer committing a violation of the wage payment requirements in the WPA, condition of labor requirements in the IWA, or the state laws governing agricultural labor and employment standards. For purposes of this requirement, "coercion" means any threat to compel or induce the employee to engage in conduct that person has a legal right to abstain from, or to abstain from conduct in which the person has a legal right to engage in. A "threat" means any implicit or explicit communication specifically pertaining to an employee's or an employee's family member's immigration status that is made by the employer to deter an employee from engaging in protected activities or exercising his or her rights under those applicable labor and employment standards. Each act of coercion constitutes a separate violation.

A worker may file a complaint within 180 days of an alleged coercive action. L&I must investigate the complaint and either issue a citation or closure letter within 90 days, except L&I may extend the time period for good cause. Any personal information about the employee or the employee's family members in a complaint or investigation is confidential and may be disclosed only to the employer. Any personal information may not be disclosed to any other person or

entity without the written permission of the employee.

If L&I determines a violation has occurred, it must assess a monetary penalty for each coercive action as follows:

- no more than \$1,000 for the first violation;
- no more than \$5,000 for the second violation; and
- no more than \$10,000 for any subsequent violation.

Beginning July 1, 2028, L&I must adjust the penalty amounts for inflation every three years.

If an employer's conduct also would result in a violation and penalty under existing antiretaliation provisions for minimum wage and labor laws, the employer must be assessed the higher amount of the two penalties.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2025.