

SENATE BILL REPORT

ESHB 1141

As of March 25, 2025

Title: An act relating to placing certain agricultural workers who are engaged in cultivating, growing, harvesting, or producing cannabis under the jurisdiction of the public employment relations commission for purposes of collective bargaining.

Brief Description: Concerning collective bargaining for agricultural cannabis workers.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Ortiz-Self, Fosse, Ryu, Leavitt, Stearns, Farivar, Berry, Reed, Ramel, Fitzgibbon, Macri, Cortes, Obras, Doglio, Bronoske, Gregerson, Simmons, Peterson, Street, Goodman, Wylie, Kloba, Ormsby, Scott and Hill).

Brief History: Passed House: 3/11/25, 55-40.

Committee Activity: Labor & Commerce: 3/25/25.

Brief Summary of Bill

- Establishes collective bargaining procedures for certain cannabis agricultural workers.
- Places cannabis agricultural worker collective bargaining under the jurisdiction of the Public Employment Relations Commission.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Jarrett Sacks (786-7448)

Background: National Labor Relations Act. The National Labor Relations Act (NLRA) governs collective bargaining of private sector workers, allowing employees the right to collectively bargain and join unions. NLRA excludes certain groups of workers from its coverage, including agricultural laborers.

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.

State Collective Bargaining Law. State law grants workers the right to organize and form labor unions, as well as engage in concerted activities for the purposes of collective bargaining free from interference, restraint, or coercion from employers.

The Public Employment Relations Commission (PERC) administers and enforces most public sector collective bargaining laws in Washington. PERC determines and certifies appropriate bargaining units, mediates labor disputes, and issues decisions in representation, unfair labor practice, and unit clarification cases. PERC does not have jurisdictional authority over private sector workers generally. In 2010, the Legislature placed musicians of certain symphonies not covered by NLRA under PERC's jurisdiction.

Cannabis Producers and Processors. The Liquor and Cannabis Board licenses cannabis producers, processors, and retailers. A cannabis producer license authorizes a licensee to produce, harvest, trim, dry, cure, and package cannabis into lots for sale at wholesale to cannabis processors and other cannabis producers. A cannabis producer may produce and sell:

- cannabis plants, seeds, and plant tissue culture to other cannabis producer licensees; and
- immature cannabis plants or clones and seeds for sale to cooperatives, qualifying patients, designated providers, and licensed cannabis researchers.

Cannabis processors are licensed to process, package, and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale at wholesale to cannabis processors and cannabis retailers.

Summary of Bill: Covered Employers and Employees. Collective bargaining for certain cannabis agricultural workers is placed under the jurisdiction of PERC. Covered employees are persons employed by an employer to perform the work of cultivating, growing, harvesting, or producing cannabis, including defoliation, drying, bucking, precuring, curing, trimming, sorting, and loading, if performed on a farm.

Covered employees do not include persons having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively recommend such action, if the authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

Covered employers are employers operating under a:

- cannabis producers license; or
- cannabis processors license, if the premises is colocated on a farm licensed for cannabis production.

Bargaining Unit Determinations and Modifications. PERC must decide in each application for certification as an exclusive bargaining representative the unit appropriate for collective

bargaining. In determining, modifying, or combining bargaining units, PERC must consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among employees, and the desire of the employees. If two or more units are represented by the same bargaining representative, the units may be consolidated into a single bargaining unit when appropriate.

No questions of representation may be raised if:

- fewer than 12 months have elapsed since the last certification; or
- a valid agreement is in effect, except for a period between 60 and 90 days before the expiration of the agreement.

Bargaining Representative Certification. Upon request of a prospective bargaining representative showing proof of at least 30 percent representation of employees within the unit, PERC must hold an election. The ballot must contain the prospective bargaining representative and any other bargaining representative with at least 10 percent representation of the employees within the unit, as well as the choice for employees to designate that they do not desire to be represented by a bargaining representative. Where more than one organization is on the ballot and none of the choices receive a majority vote, a runoff election must be held between the top two choices.

Upon request of a prospective bargaining representative showing written proof of at least 50 percent representation of the employees within a bargaining unit for which there is no incumbent representative, PERC must hold an election through cross-check by comparing the employee organization's membership records or authorization cards with the employment records of the employer.

The bargaining representative that has been determined to represent a majority of employees in a bargaining unit must be certified by PERC as the exclusive bargaining representative of, and must represent, all employees within the unit without regard to membership in the bargaining representative.

Disputes and Impasse. If the parties are unable to agree to a collective bargaining agreement (CBA), any matter in dispute may be submitted to PERC. After the termination date of a collective bargaining agreement, the terms and conditions of the agreement remain in effect for up to one year. After one year, the employer may implement its last and best offer. The parties may request that PERC appoint an arbitrator to assist in the resolution of disputes. PERC may not collect any fees from the employer or collective bargaining representative for services performed under the bill. A CBA may provide for binding arbitration of a labor dispute arising from the application or the interpretation of matters in the CBA.

Unfair Labor Practices. It is an unfair labor practice for an employer to:

- interfere with, restrain, or coerce employees in the exercise of their rights guaranteed

- by the bill;
- control, dominate, or interfere with a bargaining representative;
- engage in or create the impression of surveillance of activities protected by the bill;
- discriminate against an employee who has filed an unfair labor practice charge or who has given testimony; or
- refuse to engage in collective bargaining.

It is an unfair labor practice for a bargaining representative to:

- interfere with, restrain, or coerce employees in the exercise of their rights guaranteed by the bill;
- induce the employer to commit an unfair labor practice;
- discriminate against an employee who has filed an unfair labor practice charge or who has given testimony; or
- refuse to engage in collective bargaining.

PERC must prevent unfair labor practices and issue appropriate remedial orders. Unfair labor practice complaints may not be processed for unfair labor practices occurring more than six months prior to the filing of the complaint. If PERC finds an unfair labor practice has been committed, it must issue a cease and desist and may take action to carry out the purpose of the bill, including requiring the payment of damages and reinstatement of employees. PERC may petition a superior court for the enforcement of its order and for appropriate temporary relief.

Dues Authorization. Upon the authorization of an employee within the bargaining unit, the employer must deduct from the payments to the employee the monthly amount of dues and transmit the dues to the exclusive bargaining representative. An employee's written, electronic, or recorded voice authorization to have the employer deduct membership dues from the employee's salary must be made by the employee to the exclusive bargaining representative. The employee's authorization remains in effect until expressly revoked in writing by the employee in accordance with the terms and conditions of the authorization. Once an employer receives confirmation from the exclusive bargaining representative that the employee has revoked the authorization, the employer must end the deduction no later than the second payroll after receipt of confirmation.

If the employer and the exclusive bargaining representative of a bargaining unit enter into a collective bargaining agreement that includes requirements for deductions of other payments, the employer must make such deductions upon authorization of the employee.

Other Provisions. The state law requiring employers to provide reasonable access to new employees is applied to cannabis agriculture collective bargaining.

An employer must provide certain information about each employee in a bargaining unit to the exclusive bargaining representative if the employer has the information in its records. This information includes the employee's name and date of hire, the employee's contact

information, and the employee's employment information. The information must be provided in an editable digital file format within 21 business days of hire for newly hired bargaining unit employees and every 120 business days for all bargaining unit employees.

The bill may not be interpreted by any court to apply to or extend any rights to any employee who is not specifically employed by an employer to perform the work of cultivating, growing, harvesting, or producing cannabis, including defoliating, drying, bucking, precuring, curing, drying, trimming, sorting, and loading, if performed on a farm.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Agricultural cannabis workers cannot collectively bargain while their counterparts in retail and processing can. It is a matter of fairness. The bill only focuses on cannabis workers so they can have parity with their colleagues. There is no enforcement mechanism currently and there is no recourse when their rights are violated, which allows them to be fired for organizing. The growers make the industry possible and work side by side with everyone else.

CON: Cannabis growers are barely hanging on. There is a long precedent of excluding agriculture workers because of the nature of the business. Cannabis cultivation is agriculture. Singling out the cannabis industry is not right. Cannabis also has unpredictable timelines and needs the same labor flexibility as other agriculture. The bill should not allow licenses to be impacted. The bill gives large corporations a leg up and will hurt small growers. It should not include card checks. Instead, it should require secret ballot elections.

OTHER: Cannabis is currently not recognized as agriculture in Washington, which risks creating a two-tiered system where cannabis farmers are treated as both agriculture and nonagriculture. The bill should add cannabis cultivation to agriculture.

Persons Testifying: PRO: Representative Lillian Ortiz-Self, Prime Sponsor; Diba Kamayo; Faye Guenther, UFCW 3000; John Traynor, Washington State Labor Council AFL-CIO; Peter Manning, Black Excellence in Cannabis; Mike Asai, Black Excellence in Cannabis.

CON: Jordan Zager, Dewey Botanicals/Dewey Cannabis Co.; Vicki Christophersen, Washington CannaBusiness Association; Scott Haggberg, Grow Op Farms; Ezra Eickmeyer, Producers NW; Scott Dilley, WAFLA - Worker and Farmer Labor Association; Brandon Park, Washington Cannabis Licensee Association; Michael Gempler, Washington

Growers League.

OTHER: Caitlein Ryan, THE CANNABIS ALLIANCE.

Persons Signed In To Testify But Not Testifying: No one.