

# SENATE BILL REPORT

## SB 5023

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As of January 20, 2025

**Title:** An act relating to providing labor market protections for domestic workers.

**Brief Description:** Providing labor market protections for domestic workers.

**Sponsors:** Senators Saldaña, Trudeau, Conway, Frame, Nobles, Salomon, Stanford, Valdez, Wellman and Wilson, C..

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/20/25.

### Brief Summary of Bill

- Requires hiring entities of domestic workers to pay them the minimum wage and overtime, provide meal and rest periods, allow them to keep their personal effects, have a written agreement with the worker, and provide a two-week notice of termination.
- Prohibits specified actions by hiring entities.
- Allows for investigations by the Department of Labor and Industries and a private right of action.
- Mandates the Attorney General's Office to develop a model disclosure statement and written agreement.
- Eliminates exceptions for domestic workers from certain labor laws.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Staff:** Susan Jones (786-7404)

**Background:** Labor Laws. Certain Washington laws address employment standards. The Minimum Wage Act (MWA) sets forth minimum wage and overtime requirements. The

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Wage Payment Act provides for administrative or court action to collect wages under the MWA and other wage laws. It is unlawful to make certain deductions from wages and to fail to pay wages. Under the MWA, it is a gross misdemeanor for an employer to discriminate against an employee because the employee complained to the employer or the Department of Labor and Industries (L&I) that the MWA has been violated, or because the employee was involved in a proceeding related to the MWA.

Under the MWA, employee does not include any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession.

The Industrial Welfare Act (IWA) deals with wages, hours, and working conditions. The IWA applies to employees who are employed in the business of the employer and excludes domestic or casual labor in or about private residences.

The Washington Law Against Discrimination (WLAD) provides the right to be free from discrimination, including the right to obtain and hold employment without discrimination. The law specifies certain unfair practices of employers. An individual in domestic service is not an employee under WLAD.

Meal and Rest Breaks. L&I establishes requirements for meal and rest breaks for employees. These rules do not apply to domestic or casual labor in or about private residences.

Employees working over five hours must be allowed to take a 30-minute meal period. Meal periods may be unpaid if the employee is completely relieved from duties during the meal period. Meal periods must be paid if the employee must remain on the premises and act in the interest of the employer. An employee who is required to remain on the premises and act in the interest of the employer may have their meal period interrupted to perform tasks, but once the task is complete, the meal period continues until the employee receives 30 minutes total.

Regarding rest periods, employees must receive a paid rest period of at least ten minutes for each four-hour period worked. The rest period must be allowed no later than the end of the third hour worked. Employees need not be given an uninterrupted ten-minute break if the nature of the work allows for intermittent rest periods equal to ten minutes. L&I's administrative policy describes intermittent rest periods as intervals of short duration in which employees are allowed to rest, and can include personal activities such as making personal telephone calls and attending to personal business. In certain circumstances, employers may require employees to remain on-call during their paid rest breaks. Employees may remain on-call during rest periods, but if they are called to duty, the break becomes an intermittent rest period.

Variations. An employer may apply to L&I for a variance from any rule establishing hours

or conditions of labor. L&I must issue a variance if the director determines that the employer has shown good cause for the lack of compliance.

Work Hours of Domestic Employees. No household or domestic employee may be employed by any person for a longer period than 60 hours in any one week. Employed time shall include minutes or hours when the employee has to remain subject to the call of the employer and when the employee is not free to follow their inclinations. In cases of emergency, the employee may be employed for a longer period than 60 hours. Any employer violating this law is guilty of a misdemeanor.

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.

Domestic Worker Workgroup. ESSB 5092 directed L&I to convene a workgroup to investigate how to make Washington's workers' compensation system easier to access for employers and hiring entities to provide workers' compensation coverage for domestic workers. The workgroup voted on and established a majority for certain recommendations, including eliminating domestic workers from the workers' compensation exclusion and asking the Legislature to direct L&I to reconvene the workgroup and report back in 2025.

**Summary of Bill:** Requirements of Hiring Entities of Domestic Workers. A hiring entity must:

- pay a domestic worker at least the state minimum wage and overtime at one and one-half times the worker's regular rate for worked in excess of 40 hours;
- provide a domestic worker certain paid and unpaid meal and rest periods;
- permit a domestic worker living in the hiring entities home to cook and eat their own food, with limited religious and health exceptions;
- allow a domestic worker to retain personal effects, including passport and immigration documents;
- have a specified signed and dated written agreement with the domestic worker, which may not include certain other terms or agreements such as noncompetition agreements;
- provide a two-week notice of termination—four weeks for live-in workers—with certain exceptions, or severance pay for the notice period; and
- keep certain records.

Prohibitions for Hiring Entities of Domestic Workers. A hiring entity that employs a domestic worker is prohibited from:

- requesting possession of a worker's personal effects;

- engaging in discrimination or harassment;
- interfering with the worker's work by creating an intimidating, hostile, or offensive work environment;
- monitoring or recording the worker in private activities or communications;
- informing on suspected citizenship or immigration status; and
- taking adverse action against the worker.

Where more than one hiring entity employs a domestic worker in connection with the same work or where more than one hiring entity has an overlapping employment relationship with a domestic worker, the hiring entities are subject to liability as well as concurrent fines and penalties for violations.

Investigation, Penalties, Appeals and Collections. L&I may investigate domestic worker complaints within three years of alleged violations of the requirements and issue citation assessing penalty or closure letter within 60 days or extend the time by providing a good cause exception. Penalties for each willful violation are \$1,000 and \$2,000 for each repeat willful violation up to \$20,000, to be deposited in the Domestic Workers Rights Grant Program. L&I may waive or reduce penalties in specified situations. Repeat willful violator and willful are defined terms. Appeals and collection processes are provided.

Unlawful Action by Hiring Entity. It is unlawful for a hiring entity to interfere with a domestic worker exercising specified rights. Interference includes using exercising a right as a negative factor in employment actions. A hiring entity may not communicate their intent to inform on suspected citizenship or immigration status or take adverse action against a worker for exercising their rights. This includes a rebuttable presumption that an action taken within 90 days of the exercise of rights is an adverse action.

Investigation, Penalties, Appeals, and Collections. A domestic worker who believes they were retaliated against may file a complaint with L&I within 180 days of the action, with exceptions in extenuating circumstances. L&I may investigate the complaint within 90 days or extend the time by providing a good cause exception. Upon finding retaliation, L&I may issue a citation and notice of assessment with up to 30 days to cure and provide for remedies, including penalties of \$1,000 or 10 percent of unpaid earnings up to \$20,000 for the first violation and \$40,000 for repeat violations. L&I may waive or reduce penalties. Appeals processes are provided.

Model Disclosure Statement and Written Agreement. The Attorney General's Office must develop and make available a model disclosure statement and a written agreement of obligations and rights. The model documents must be written in at least eight of the most commonly spoken languages in Washington State.

Private Right of Action. A domestic worker may bring a civil action for violations.

Additional Investigations. L&I may conduct additional compliance investigations upon

obtaining information about violations and order payment of wages and file collection actions.

Definitions are provided, including for casual labor, domestic services, domestic worker, family member, hiring entity, and standard rate of pay. "Hiring entity" means any employer who employs a domestic worker, as well as any individual or entity, or any combination, which pays a wage or pays wages for the services of a domestic worker. It includes any such entity, person, or group of persons that provides compensation directly or indirectly to a domestic worker for the performance of domestic services and any such entity, person, or persons acting directly or indirectly in the interest of the hiring entity in relation to the worker.

Exceptions Removed from Minimum Wage Act, Washington Law Against Discrimination, and Workers' Compensation. There is an exception in the definition of employee for individuals whose duties require them to reside or sleep at the workplace or be on call in the MWA and labor standards provisions. Domestic workers are not included in the exception.

For the Washington Law Against Discrimination, domestic service is removed from the exception in the definition of employee. Certain other exceptions are added related to babysitting, providing services to a family member, casual labor about a private home, and individual providers. An employee in domestic service who files a complaint or brings suit alleging discrimination allowed all rights in related to unfair practice employment, with certain exceptions related to elderly or disabled persons.

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 are removed from the exception to workers' compensation laws.

Legislative intent is provided.

**Appropriation:** None.

**Fiscal Note:** Requested on January 9, 2025.

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

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: The domestic workers were excluded from many of our worker protections and laws because of the time that those laws were put in place, there was still segregation. There was still not the same kind of recognition that all work deserves to be dignified with good wages and worker safety protections and domestic workers were one of the classes of workers that were excluded from those laws.

We strongly support for SB 5023, which is so urgently needed. Domestic work really fuels our economy and makes the rest of our work possible. Yet these workers are still excluded from the most fundamental of labor protections. Despite the fact that we pride ourselves on strong standards in our state, we have not yet addressed the harm caused by excluding this workforce who is often immigrant women and people of color, denying them the same rights that every other worker in our state has. Lack of clarity in the law leaves these workers reliant on the goodwill of their employer to be treated fairly.

Employers who want to treat workers with respect and dignity don't have enough guidance about what is expected of them. The right to a written contract will clarify expectations for both workers and employers.

It will ensure that workers are paid for their work, can take breaks during long shifts and can afford to stay home when they're sick. It'll guarantee that they are protected from discrimination and have a safety net to fall back on when they're injured on the job.

Stories were shared of workers who experienced wage theft, last minute cancellations, unpredictability in work, intimidation, harassment, sexual abuse, sickness and injury with no clear recourse.

Seattle workers have these protections, but not all workers live in Seattle. People who hire a domestic worker were grateful to get information on their obligations. Since the ordinance passed there has been great improvement for the workers.

OTHER: There are a series of questions from L&I to understand the enforcement provisions and to assess the costs of enforcement and the intent. There was a workgroup. The workgroup thought these workers should be covered under workers' compensation but there were questions of who is the employer and how the employer would report hours, would they have to get a UBI number. It was an issue of timing and they wanted the legislature to reconvene the workgroup.

**Persons Testifying:** PRO: Senator Rebecca Saldaña, Prime Sponsor; Rocio Avila, National Domestic Workers Alliance; Danielle Alvarado, Fair Work Center; Ingrid Chapman; Silvia Gonzalez, Casa Latina; Teresa Chay Ricalde; Monica Salas Cano; Edilka Dominguez; Jael Cuellar; Elvia Cortes; Jordan Goldwarg; Dawn Utzig; Doris Hinrich; Laura Gonzalez; Lilia Salmeron; Lisbeth Herrera; Maria Suchilt; Guadalupe Parades; Guadalupe Paredes.

OTHER: Tammy Fellin, Department of Labor & Industries.

**Persons Signed In To Testify But Not Testifying:** PRO: Olga de la Cruz; Maria Flores; Maria Elena Echeverria; Lizbeth Luna; Veronica Sanchez; Veronica Sanchez.

CON: Barbara CARMEL Gulley.