

SENATE BILL REPORT

SB 5104

As Reported by Senate Committee On:
Labor & Commerce, January 31, 2025

Title: An act relating to protecting employees from coercion in the workplace based on immigration status.

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

Sponsors: Senators Hasegawa, Bateman, Conway, Nobles, Saldaña, Stanford, Valdez, Wellman and Wilson, C..

Brief History:

Committee Activity: Labor & Commerce: 1/20/25, 1/31/25 [DPS-WM, DNP].

Brief Summary of First Substitute Bill

- Imposes a civil penalty on an employer that coerces an employee based on an employee's or an employee's family member's immigration status in furtherance of the employer committing a violation of wage payment, condition of labor, or agricultural labor requirements.
- Requires the Department of Labor and Industries to investigate complaints of coercion by employers.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5104 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Saldaña, Chair; Conway, Vice Chair; Alvarado, Ramos and Stanford.

Minority Report: Do not pass.

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.

Signed by Senators King, Ranking Member; Braun, MacEwen and Schoesler.

Staff: Marlon Llanes (786-7423)

Background: The Wage Payment Act authorizes a person owed wages to file a wage complaint with the Department of Labor and Industries (L&I). L&I must investigate the complaint and issue either a citation and notice of assessment or a determination of compliance. A citation and notice of assessment state that a violation of wage payment requirements has occurred and impose a fine. A determination of compliance states that a violation has not occurred.

If L&I determines an employer has violated a wage payment requirement and issues a citation and notice of assessment to the employer, L&I may order the employer to pay the employee all wages owed. If L&I determines the violation of the wage payment requirement was willful or intentional, L&I may also impose civil penalties on the employer. The minimum for a civil penalty is \$1,000 or 10 percent of the total amount of unpaid wages, whichever is greater, and the maximum is \$20,000.

The Industrial Welfare Act contains a number of labor standards, such as the Family Care Act and child labor laws. It is also the authority for L&I's rules on meals and rest breaks. Employees must generally be allowed paid rest periods of at least ten minutes for every four hours worked, and at least 30 minutes for a meal period for every five hours worked.

In 2020, Washington State passed a law to amend the Washington Law Against Discrimination to include citizenship or immigration status as a protected class for discrimination claims. Employers are prohibited from using a worker's national origin, immigration status, or citizenship as a basis for, among other things, hiring and promoting.

In 2024, the state of New Jersey passed a law imposing a civil penalty on an employer who coerces an employee based on the immigration status of the employee in furtherance of a violation of employment, labor-related, or other laws.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): An employer that coerces an employee in furtherance of the employer committing a violation of wage payment, condition of labor, or agricultural labor requirements is subject to a civil penalty, in addition to any other penalty that may be imposed by L&I for those violations.

"Coercion" means a threat to compel or induce a person to engage in conduct which the person has a legal right to abstain from, or to abstain from conduct in which the person has a legal right to engage in.

"Threat" means any implicit or explicit communication specifically pertaining to an

employee's or an employee's family member's immigration status made by the employer to deter an employee from engaging in protected activities or exercising a right under laws related to wages, labor standards, industrial welfare, and agricultural labor.

If an employer's violation subjects the employer to a penalty under this bill and a separate penalty under a law related to prohibited acts by an employer, L&I must assess the higher amount of the two penalties.

A worker subject to coercion by an employer may file a complaint with L&I within 180 days of the coercive action. L&I must investigate the complaint and issue either a notice of citation assessing a penalty or a closure letter no later than 90 days after L&I receives the complaint. If L&I's investigation finds the employee's allegation cannot be substantiated, L&I must issue a closure letter with detailed findings to the employee and employer.

L&I must assess a civil penalty for each coercive act found to be a violation. The maximum penalties are:

- \$1,000 for the first violation;
- \$5,000 for a second violation; and
- \$10,000 for any subsequent violation.

Each act of coercion against each affected employee counts as a separate violation. Beginning July 1, 2028, L&I must adjust the penalties for inflation every three years.

Any personal information about the employee or the employee's family in a complaint or investigation is confidential and may only be disclosed to the employer, unless the employee gives written permission.

If, during an investigation of a separate complaint L&I discovers information suggesting coercion by the employer, L&I may investigate and take enforcement action without requiring the employee to file a new or separate complaint.

EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):

- Modifies the definition of threat to mean any implicit or explicit communication specifically pertaining to an employee's or their family member's immigration status made to deter an employee from engaging in a protected activity or exercising a right under laws related to wages, labor standards, industrial welfare, and agricultural labor, rather than any state law.
- Expands the types of violations that subject an employer to a civil penalty to include laws related to agricultural labor.
- Requires L&I to assess the higher amount of (1) the civil penalty under this bill, or (2) a penalty due to a violation of a law related to prohibited acts by employers, if the

- employer's action subjects it to both penalties.
- Requires L&I to issue a closure letter with detailed findings to the employee and employer if L&I's investigation finds the employee's allegation cannot be substantiated, rather than a determination of compliance.
 - Requires any personal information about the employee or their family in a complaint or investigation to be confidential and disclosed only to the employer.
 - Authorizes L&I to investigate and take enforcement action without requiring the employee to file a new complaint if, during an investigation of a separate complaint, L&I discovers information suggesting coercion by the employer.
 - Revises the effective date of the act from July 1, 2026, to July 1, 2025, and adds an emergency clause.

Appropriation: None.

Fiscal Note: Requested on January 20, 2025.

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

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

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: Current law does not explicitly prohibit an employer from coercing an employee by using the employee's immigration status. Members of the public shared personal experiences relating to immigrant workers not being paid for labor and employers threatening to report them to immigration agencies. If a worker complains to their employer or files a complaint with L&I, they often give up after being threatened. There is an imbalance of power in the workplace, and employers almost always have the leverage. It is important that people believe they can speak up about workplace injustices directly to their employers. This bill gives L&I tools to hold employers accountable.

OTHER: This bill raises concerns for employers. There is a need for clarity in the bill's definitions. A civil investigation may tip off a human trafficker to the fact they are being investigated.

Persons Testifying: PRO: Senator Bob Hasegawa, Prime Sponsor; Yasmene Hammoud, Seattle University Workers' Rights Clinic; Angelo Tadrous, Seattle University Workers' Rights Clinic; Elizabeth Ford, Seattle University Workers' Rights Committee; Jeremiah Miller, Fair Work Center.

OTHER: Rose Gundersen, WA Retail Association.

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