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ENGROSSED SUBSTITUTE SENATE BILL 5525

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State of Washington

69th Legislature

2025 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Cleveland, Saldaña, Hasegawa, Riccelli, Dhingra, Conway, Nobles, and Valdez)

READ FIRST TIME 02/18/25.

1 AN ACT Relating to protecting workers facing employment loss due  
2 to businesses closing or mass layoffs; adding a new chapter to Title  
3 49 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8 (1) "Affected employee" means an employee who may reasonably  
9 expect to experience an employment loss because of a proposed  
10 business closing or mass layoff by an employer.

11 (2) "Aggrieved employee" means an employee who has worked for the  
12 employer ordering the business closing or mass layoff and who,  
13 because of the employer's failure to comply with the requirements of  
14 this act, did not receive timely notice either directly or through  
15 the employee's representative.

16 (3) "Bargaining representative" means an exclusive representative  
17 of employees under the national labor relations act, 29 U.S.C. Sec.  
18 151 et seq., or the railway labor act, 45 U.S.C. Sec. 151 et seq.

19 (4) "Business closing" means the permanent or temporary shutdown  
20 of a single site of employment of one or more facilities or operating

1 units that will result in an employment loss for 50 or more  
2 employees, excluding part-time employees.

3 (5) "Commissioner" means the commissioner of the employment  
4 security department.

5 (6) "Department" means the employment security department.

6 (7) "Employee" means a person employed in this state by an  
7 employer. "Employee" includes part-time employees.

8 (8) "Employer" means a person who employs 50 or more employees in  
9 this state, excluding part-time employees. "Employer" does not  
10 include the state or any political subdivision thereof, including any  
11 unit of local government.

12 (9) (a) "Employment loss" means:

13 (i) An employment termination, other than a discharge for cause,  
14 voluntary separation, or retirement;

15 (ii) A layoff exceeding six months; or

16 (iii) A reduction in hours of more than 50 percent of work of  
17 individual employees during each month of a six-month period.

18 (b) "Employment loss" does not include instances when a business  
19 closing or mass layoff is the result of the relocation or  
20 consolidation of part or all of the employer's business and, before  
21 the business closing or mass layoff, the employer offers to transfer  
22 the employee to a different site of employment within a reasonable  
23 commuting distance, as defined by the department, with no more than a  
24 six-month break in employment.

25 (10) "Mass layoff" means a reduction in employment force that is  
26 not the result of a business closing and results in an employment  
27 loss during any 30-day period of 50 or more employees, excluding  
28 part-time employees.

29 (11) "Part-time employee" means an employee who is employed for  
30 an average of fewer than 20 hours per week, or an employee who has  
31 been employed for fewer than six of the twelve months preceding the  
32 date on which notice is required. However, if an applicable  
33 collective bargaining agreement defines a part-time employee, such  
34 definition shall supersede the definition in this subsection.

35 (12) "Single site of employment" means a single location or a  
36 group of contiguous locations, such as a group of structures that  
37 form a campus or business park or separate facilities across the  
38 street from each other.

1        NEW SECTION.    **Sec. 2.**    (1)(a) Subject to section 3 of this act,  
2 an employer may not order a business closing or a mass layoff until  
3 the end of a 60-day period that begins after the employer, pursuant  
4 to this section, serves written notice of such action to the  
5 department and to the affected employee or, if the employee is  
6 represented by a union, to the employee's bargaining representative.

7        (b) An employer who has previously announced and carried out a  
8 short-term mass layoff of three months or less that is extended  
9 beyond three months due to business circumstances not reasonably  
10 foreseeable at the time of the initial mass layoff is required to  
11 give notice when it becomes reasonably foreseeable that the extension  
12 is required. A mass layoff extending beyond three months from the  
13 date the mass layoff commenced for any other reason must be treated  
14 as an employment loss from the date of commencement of the initial  
15 mass layoff.

16        (c) In the case of the sale of part or all of a business, the  
17 seller is responsible for providing notice of any business closing or  
18 mass layoff which will take place up to and on the effective date of  
19 the sale. The buyer is responsible for providing notice of any  
20 business closing or mass layoff that will take place thereafter.

21        (2) Notice from the employer to the department or affected  
22 employees or, if the employees are represented, the employees'  
23 bargaining representative must be in written form, include the  
24 elements required, as they exist on the effective date of this  
25 section, by the federal worker adjustment and retraining notification  
26 act, 29 U.S.C. Sec. 2101 et seq., and include the following:

27        (a) The name and address of the employment site where the  
28 business closing or mass layoff will occur, and the name and contact  
29 information of a company official to contact for further information;

30        (b) A statement whether the planned action is expected to be  
31 permanent or temporary and, if the entire business is to be closed, a  
32 statement to that effect. If the planned action is expected to be  
33 temporary, the statement must also include whether the planned action  
34 is expected to last longer or shorter than three months;

35        (c) The expected date of the first employment loss and the  
36 anticipated schedule for employment losses;

37        (d) The job titles of positions to be affected and the names of  
38 the employees currently holding the affected jobs. The notice to the  
39 department must also include the addresses of the affected employees;  
40 and

1 (e) Whether the mass layoff or business closing is the result of,  
2 or will result in, the relocation or contracting out of the  
3 employer's operations or the employees' positions.

4 (3) The employer must provide additional notice of the date or  
5 schedule of dates of a planned business closing or mass layoff  
6 extended beyond the date of any period announced in the original  
7 notice.

8 NEW SECTION. **Sec. 3.** (1) An employer is not required to comply  
9 with the notice requirements under section 2 of this act if:

10 (a)(i) At the time the notice would have been required, the  
11 employer was actively seeking capital or business;

12 (ii) The capital or business sought, if obtained, would have  
13 enabled the employer to avoid or postpone the business closing or  
14 mass layoff; and

15 (iii) The employer reasonably and in good faith believed that  
16 giving the notice required by section 2 of this act would have  
17 precluded the employer from obtaining the needed capital or business;

18 (b) The mass layoff or business closing is caused by business  
19 circumstances that were not reasonably foreseeable at the time the  
20 notice would have been required. The unforeseeable business  
21 circumstances must be caused by a sudden, dramatic, and unexpected  
22 action or condition outside of the employer's control;

23 (c) The mass layoff or business closing is due to a natural  
24 disaster, such as a flood, earthquake, drought, storm, tornado, or  
25 similar effects of nature; or

26 (d) The mass layoff is the result of:

27 (i) The completion of a construction project, and the affected  
28 employees were hired with the understanding that their employment was  
29 limited to the duration of the construction project; or

30 (ii) The completion of a multiemployer construction project  
31 employing persons who are subject to a full union referral or  
32 dispatch system.

33 (2) If an exception under this section applies for only part of  
34 the 60-day notice window, notice is required at the time the  
35 exception no longer applies. If notice is not provided, the employer  
36 is liable for each day notice is not provided pursuant to sections 4  
37 and 5 of this act.

38 (3) The department may not determine an exception under this  
39 section applies unless the employer meets the documentation and other

1 requirements established by the department pursuant to section 7 of  
2 this act.

3 NEW SECTION. **Sec. 4.** (1) An employer that orders a business  
4 closing or mass layoff without providing a notice required by section  
5 2 of this act is liable to each aggrieved employee who suffers an  
6 employment loss because of the closing or layoff for:

7 (a) Back pay for each day of violation not less than the higher  
8 of:

9 (i) The average regular rate of compensation received by the  
10 employee during the last three years of the employee's employment; or

11 (ii) The employee's final rate of compensation; and

12 (b) The value of the cost of any benefits to which the employee  
13 would have been entitled had their employment not been lost,  
14 including the cost of any medical expenses incurred by the employee  
15 that would have been covered under an employee benefit plan.

16 (2) Liability under this section must be calculated for the  
17 period of the employer's violation up to a maximum of 60 days.

18 (3) The amount for which an employer is liable under this section  
19 must be reduced by:

20 (a) Any wages paid by the employer to the employee during the  
21 period of the violation;

22 (b) Any voluntary and unconditional payment by the employer to  
23 the employee that is not required by any legal obligation;

24 (c) The amount paid to the employee pursuant to the federal  
25 worker adjustment and retraining notification act, 29 U.S.C. Sec.  
26 2101 et seq.; and

27 (d) Any payment by the employer to a third party or trustee, such  
28 as premiums for health benefits or payments to a defined contribution  
29 pension plan, on behalf and attributable to the employee for the  
30 period of the violation.

31 (4)(a) The department, an aggrieved employee, or the bargaining  
32 representative of the aggrieved employee may bring a civil action on  
33 behalf of the person, other persons similarly situated, or both, in  
34 any court of competent jurisdiction within three years of the alleged  
35 violation. The court may award reasonable attorneys' fees as part of  
36 costs to any plaintiff who prevails in a civil action brought under  
37 this chapter.

38 (b) If the court determines that an employer conducted a  
39 reasonable investigation in good faith and had reasonable grounds to

1 believe that its conduct was not a violation of this chapter, the  
2 court may reduce the amount of any penalty it would otherwise impose  
3 against the employer under this chapter.

4 (c) This chapter does not grant any court the authority to enjoin  
5 a mass layoff or business closing.

6 NEW SECTION. **Sec. 5.** (1) An employer who fails to give the  
7 notice required by section 2 of this act to the department is subject  
8 to a civil penalty of not more than \$500 for each day of the  
9 employer's violation. However, the employer is not subject to a civil  
10 penalty under this section if the employer pays to all applicable  
11 employees the amounts for which the employer is liable under section  
12 4 of this act within three weeks from the date the employer orders  
13 the mass layoff, relocation, or termination.

14 (2) Any civil penalty paid by the employer under the federal  
15 worker adjustment and retraining notification act, 29 U.S.C. Sec.  
16 2101 et seq., must be considered a payment of the civil penalty under  
17 this section.

18 (3) All penalties recovered under this section must be paid into  
19 the state treasury and credited to the general fund.

20 NEW SECTION. **Sec. 6.** Except in the cases exempted under section  
21 3(1) (b) through (d) of this act, an employer may not include an  
22 employee in an order of a mass layoff if the employee is currently on  
23 paid family or medical leave under Title 50A RCW.

24 NEW SECTION. **Sec. 7.** The department shall administer and  
25 enforce the provisions of this chapter and may adopt rules to carry  
26 out its purpose. Rules adopted pursuant to this section must include  
27 documentation requirements for the exceptions in section 3 of this  
28 act.

29 NEW SECTION. **Sec. 8.** This act may be known and cited as the  
30 securing timely notification and benefits for laid-off employees act.

31 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act  
32 constitute a new chapter in Title 49 RCW.

33 NEW SECTION. **Sec. 10.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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