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**SUBSTITUTE HOUSE BILL 1354**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Labor (originally sponsored by Representatives Ryu, Goodman, S. Hunt, Riccelli, Farrell, Cody, Tharinger, Ortiz-Self, Sullivan, Bergquist, Pollet, Dunshee, Fitzgibbon, Moscoso, Appleton, Sells, Robinson, Reykdal, Walkinshaw, Wylie, Gregory, Moeller, Gregerson, Stanford, and Ormsby)

1 AN ACT Relating to the employment antiretaliation act; amending  
2 RCW 49.46.100 and 39.12.010; reenacting and amending RCW 49.46.010  
3 and 49.48.082; adding new sections to chapter 49.46 RCW; adding a new  
4 section to chapter 49.12 RCW; adding new sections to chapter 49.48  
5 RCW; adding new sections to chapter 39.12 RCW; adding new sections to  
6 chapter 49.52 RCW; creating a new section; and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that many workers  
9 are unable to exercise their wage and hour rights because of fear of  
10 adverse action or actual adverse action by unscrupulous employers.  
11 Employers should not gain a competitive advantage against law abiding  
12 business by retaliating or discriminating against their employees. No  
13 employee should have to fear adverse action simply for engaging in  
14 rights the state of Washington has deemed so important that they are  
15 protected by law. It is in the public interest of the state of  
16 Washington that employees be able to report concerns to their  
17 employers without fear of retaliation or discrimination. The  
18 legislature finds that strong, clear, and effective protections for  
19 employees will help address the problems of employer retaliation.

1       **Sec. 2.** RCW 49.46.010 and 2013 c 141 s 1 are each reenacted and  
2 amended to read as follows:

3       As used in this chapter:

4       (1) "Director" means the director of labor and industries or the  
5 director's authorized representative;

6       (2) "Employ" includes to permit to work;

7       (3) "Employee" includes any individual employed by an employer  
8 but shall not include:

9       (a) Any individual (i) employed as a hand harvest laborer and  
10 paid on a piece rate basis in an operation which has been, and is  
11 generally and customarily recognized as having been, paid on a piece  
12 rate basis in the region of employment; (ii) who commutes daily from  
13 his or her permanent residence to the farm on which he or she is  
14 employed; and (iii) who has been employed in agriculture less than  
15 thirteen weeks during the preceding calendar year;

16       (b) Any individual employed in casual labor in or about a private  
17 home, unless performed in the course of the employer's trade,  
18 business, or profession;

19       (c) Any individual employed in a bona fide executive,  
20 administrative, or professional capacity or in the capacity of  
21 outside salesperson as those terms are defined and delimited by rules  
22 of the director. However, those terms shall be defined and delimited  
23 by the human resources director pursuant to chapter 41.06 RCW for  
24 employees employed under the director of personnel's jurisdiction;

25       (d) Any individual engaged in the activities of an educational,  
26 charitable, religious, state or local governmental body or agency, or  
27 nonprofit organization where the employer-employee relationship does  
28 not in fact exist or where the services are rendered to such  
29 organizations gratuitously. If the individual receives reimbursement  
30 in lieu of compensation for normally incurred out-of-pocket expenses  
31 or receives a nominal amount of compensation per unit of voluntary  
32 service rendered, an employer-employee relationship is deemed not to  
33 exist for the purpose of this section or for purposes of membership  
34 or qualification in any state, local government, or publicly  
35 supported retirement system other than that provided under chapter  
36 41.24 RCW;

37       (e) Any individual employed full time by any state or local  
38 governmental body or agency who provides voluntary services but only  
39 with regard to the provision of the voluntary services. The voluntary  
40 services and any compensation therefor shall not affect or add to

1 qualification, entitlement, or benefit rights under any state, local  
2 government, or publicly supported retirement system other than that  
3 provided under chapter 41.24 RCW;

4 (f) Any newspaper vendor, carrier, or delivery person selling or  
5 distributing newspapers on the street, to offices, to businesses, or  
6 from house to house and any freelance news correspondent or  
7 "stringer" who, using his or her own equipment, chooses to submit  
8 material for publication for free or a fee when such material is  
9 published;

10 (g) Any carrier subject to regulation by Part 1 of the Interstate  
11 Commerce Act;

12 (h) Any individual engaged in forest protection and fire  
13 prevention activities;

14 (i) Any individual employed by any charitable institution charged  
15 with child care responsibilities engaged primarily in the development  
16 of character or citizenship or promoting health or physical fitness  
17 or providing or sponsoring recreational opportunities or facilities  
18 for young people or members of the armed forces of the United States;

19 (j) Any individual whose duties require that he or she reside or  
20 sleep at the place of his or her employment or who otherwise spends a  
21 substantial portion of his or her work time subject to call, and not  
22 engaged in the performance of active duties;

23 (k) Any resident, inmate, or patient of a state, county, or  
24 municipal correctional, detention, treatment or rehabilitative  
25 institution;

26 (l) Any individual who holds a public elective or appointive  
27 office of the state, any county, city, town, municipal corporation or  
28 quasi municipal corporation, political subdivision, or any  
29 instrumentality thereof, or any employee of the state legislature;

30 (m) All vessel operating crews of the Washington state ferries  
31 operated by the department of transportation;

32 (n) Any individual employed as a seaman on a vessel other than an  
33 American vessel;

34 (4) "Employer" includes any individual, partnership, association,  
35 corporation, business trust, or any person or group of persons acting  
36 directly or indirectly in the interest of an employer in relation to  
37 an employee;

38 (5) "Occupation" means any occupation, service, trade, business,  
39 industry, or branch or group of industries or employment or class of  
40 employment in which employees are gainfully employed;

1 (6) "Retail or service establishment" means an establishment  
2 seventy-five percent of whose annual dollar volume of sales of goods  
3 or services, or both, is not for resale and is recognized as retail  
4 sales or services in the particular industry;

5 (7) "Wage" means compensation due to an employee by reason of  
6 employment, payable in legal tender of the United States or checks on  
7 banks convertible into cash on demand at full face value, subject to  
8 such deductions, charges, or allowances as may be permitted by rules  
9 of the director;

10 (8) "Adverse action" means discharging, denying a promotion,  
11 demoting, failing to rehire after a seasonal interruption of work,  
12 threatening, penalizing, retaliating, engaging in unfair immigration-  
13 related practices, filing a false report with a government agency,  
14 changing an employee's status to a nonemployee, or otherwise  
15 discriminating against an employee. "Adverse action" may involve any  
16 aspect of employment, including pay, work hours, responsibilities, or  
17 other material change in the terms and condition of employment;

18 (9) "Department" means the department of labor and industries;

19 (10) "Front pay" means the compensation the employee would earn  
20 if reinstated to his or her former position;

21 (11) "Interested party" includes: A contractor or subcontractor  
22 or an employee of a contractor or subcontractor; the director or the  
23 director's designee; an organization whose members' wages, benefits,  
24 and conditions of employment are affected by this chapter, including  
25 a labor union; or any other organization of workers that exists for  
26 the purpose, in whole or in part, of interacting with employers;

27 (12)(a) "Pattern or practice" means that, in addition to the  
28 current violation, within the previous ten years the employer was:

29 (i) Convicted of a criminal violation of a state or local law  
30 concerning retaliation;

31 (ii) Subject to a court order entering final judgment for a  
32 violation of section 3, 9, 14, or 19 of this act, and the judgment  
33 was not satisfied or current within thirty days of the later of:

34 (A) The expiration of the time for appealing the order; or

35 (B) If a timely appeal was made, the date of the final resolution  
36 of the appeal; or

37 (iii) Subject to a final and binding citation and notice of  
38 assessment from the department for a violation of section 3, 9, 14,  
39 or 19 of this act, and the citation and penalty were not satisfied or

1 current within thirty days of the date the citation became final and  
2 binding.

3 (b) For the purposes of this subsection (12), an employer  
4 includes a successor employer, as defined in RCW 49.48.082;

5 (13)(a) "Unfair immigration-related practice" includes any of the  
6 following practices:

7 (i) Requesting more or different documents than are required  
8 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents  
9 tendered pursuant to that section that on their face reasonably  
10 appear to be genuine;

11 (ii) Using the federal E-Verify system to check the employment  
12 authorization status of a person at a time or in a manner not  
13 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any  
14 memorandum of understanding governing the use of the federal E-Verify  
15 system;

16 (iii) Threatening to file or the filing of a false police report;

17 (iv) Threatening to contact or contacting immigration  
18 authorities;

19 (v) Withholding or threatening to destroy documents related to a  
20 person's immigration status.

21 (b) "Unfair immigration-related practice" does not include  
22 conduct undertaken at the express and specific direction or request  
23 of the federal government.

24 NEW SECTION. Sec. 3. A new section is added to chapter 49.46  
25 RCW to read as follows:

26 (1) An employer, any of its agents, or any person acting on  
27 behalf of the employer may not take adverse action against any  
28 individual or individuals because:

29 (a) An employee or former employee has informed any other person  
30 or made a complaint, or the employer believes an employee has  
31 informed any other person or made a complaint, including to the  
32 employer, the department, the attorney general, or any other person  
33 that the employer engaged in conduct that an employee reasonably  
34 believes violates this chapter;

35 (b) An employee or former employee demands from the employee's  
36 employer a lawful claim under this chapter;

37 (c) An employee or former employee has caused to be instituted,  
38 or is about to cause to be instituted, a proceeding under or related  
39 to this chapter;

1 (d) An employee or former employee has testified or is about to  
2 testify in a proceeding under or related to this chapter;

3 (e) An employee has refused to participate in an activity that  
4 would result in a violation of state or federal wage and hour law;

5 (f) An employee or former employee has sought information about  
6 his or her rights under this chapter or informed others about their  
7 rights under this chapter;

8 (g) An employee or former employee has, or the employer believes  
9 an employee has, otherwise exercised rights protected by this  
10 chapter; or

11 (h) An employee or former employee filed a complaint with the  
12 department or brought suit in court where the employer was determined  
13 to have violated this chapter.

14 (2) If an employer takes adverse action against an employee or  
15 former employee within ninety days of an activity described in  
16 subsection (1) of this section, the employer is presumed to have  
17 acted in retaliation in violation of subsection (1) of this section.  
18 However, in the case of seasonal work that ended before the close of  
19 the ninety day period, the presumption also applies if the employer  
20 fails to rehire a former employee at the next opportunity for work in  
21 the same position. The employer may rebut the presumption with clear  
22 and convincing evidence that the adverse action was taken for a  
23 permissible purpose.

24 (3) A complaint or other communication by an employee triggers  
25 the protections of this section regardless of whether the complaint  
26 or communication is in writing or makes explicit reference to this  
27 chapter.

28 (4) A violation of this section is a gross misdemeanor. The  
29 presumption created in subsection (2) of this section does not apply  
30 to this subsection.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.46  
32 RCW to read as follows:

33 (1) An individual aggrieved or an interested party filing on  
34 behalf of an individual aggrieved by section 3 of this act may file a  
35 complaint with the director.

36 (2) If an individual aggrieved or an interested party filing on  
37 behalf of an individual aggrieved files a complaint with the  
38 department, the director may investigate the complaint. If, following  
39 an investigation, the director determines that an employer violated

1 section 3 of this act, the director may order the employer to comply  
2 with any one or more of the following, unless prohibited by federal  
3 law:

4 (a) Pay a civil penalty of not less than one thousand dollars and  
5 not more than ten thousand dollars per individual aggrieved. The  
6 department must deposit civil penalties under this section in the  
7 supplemental pension fund established under RCW 51.44.033.

8 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved  
9 individual not less than one thousand dollars and not more than ten  
10 thousand dollars.

11 (ii) If an employee or former employee is the aggrieved  
12 individual, pay the individual the greater of:

13 (A) The amount of any civil penalty imposed under (a) of this  
14 subsection; or

15 (B) Three times the amount of any wages, salary, and employment  
16 benefits unlawfully denied or withheld, except benefits under Title  
17 50 or 51 RCW.

18 (c) If the aggrieved individual is a former employee of the  
19 violating employer, reinstate the aggrieved individual as an employee  
20 at not less than the most recent rate of pay received by the  
21 employee. The director may award front pay in lieu of reinstatement.

22 (3) An appeal from the director's determination may be taken in  
23 accordance with chapter 34.05 RCW, with the prevailing party entitled  
24 to recover reasonable costs and attorneys' fees.

25 (4) The director may not investigate any alleged violation under  
26 this section that occurred more than three years before the date that  
27 the employee filed the complaint. This period is tolled during any  
28 period of time that an employer, any of its agents, or any person  
29 acting on behalf of the employer deters an individual from filing a  
30 complaint.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 49.46  
32 RCW to read as follows:

33 (1) An individual aggrieved by a violation of section 3 of this  
34 act may bring suit on behalf of himself or herself or on behalf of  
35 any other individuals similarly situated.

36 (2) If a court determines that an employer violated section 3 of  
37 this act, the court, unless prohibited by federal law:

38 (a)(i) Shall award statutory damages for each individual  
39 aggrieved by the violation. Subject to (a)(ii) of this subsection,

1 statutory damages must not be less than one thousand dollars and not  
2 more than ten thousand dollars per individual, unless the employer  
3 engaged in a pattern or practice of violations, in which case the  
4 statutory damages must be not less than ten thousand dollars and not  
5 more than twenty-five thousand dollars per individual;

6 (ii) If an employee or former employee is the individual subject  
7 to adverse action, the court shall award the greater of:

8 (A) The amounts specified in (a)(i) of this subsection; or

9 (B) Three times the amount of any wages, salary, and employment  
10 benefits unlawfully denied or withheld, except benefits under Title  
11 50 or 51 RCW;

12 (b) May award actual damages sustained by the individual;

13 (c) May order injunctive or other equitable relief if the  
14 aggrieved individual is an employee or former employee of the  
15 violating employer. The relief may include:

16 (i) Reinstatement of the former employee as an employee to his or  
17 her former position at not less than the most recent rate of  
18 compensation received by the employee, including the value of any  
19 benefits; or

20 (ii) Front pay in lieu of reinstatement;

21 (d)(i) For a first violation, may order the appropriate  
22 government agencies to suspend all licenses that are held by the  
23 violating party for a period of up to fourteen days. The licenses  
24 that are subject to suspension are all licenses, certifications, or  
25 registrations held by the violating party specific to the business  
26 location or locations where the adverse action occurred;

27 (ii) For a second violation, the court may order the appropriate  
28 government agencies to suspend all licenses that are held by the  
29 violating party for a period of up to thirty days. The licenses that  
30 are subject to suspension are all licenses held by the violating  
31 party specific to the business location or locations where the  
32 adverse action occurred;

33 (iii) For a third violation, the court may order the appropriate  
34 government agencies to suspend all licenses that are held by the  
35 violating party for a period of up to ninety days. The licenses that  
36 are subject to suspension are all licenses held by the violating  
37 party specific to the business location or locations where the  
38 adverse action occurred.

39 (e) Shall award attorneys' fees and costs.



1 (3) A civil action under this section must be brought no later  
2 than three years after the violation occurred. This period is tolled  
3 during any period of time that an employer, any of its agents, or any  
4 person acting on behalf of the employer deters an individual from  
5 bringing an action under this section.

6 **Sec. 6.** RCW 49.46.100 and 2010 c 8 s 12044 are each amended to  
7 read as follows:

8 ((~~1~~)) Any employer who hinders or delays the director or his or  
9 her authorized representatives in the performance of his or her  
10 duties in the enforcement of this chapter, or refuses to admit the  
11 director or his or her authorized representatives to any place of  
12 employment, or fails to make, keep, and preserve any records as  
13 required under the provisions of this chapter, or falsifies any such  
14 record, or refuses to make any record accessible to the director or  
15 his or her authorized representatives upon demand, or refuses to  
16 furnish a sworn statement of such record or any other information  
17 required for the proper enforcement of this chapter to the director  
18 or his or her authorized representatives upon demand, or pays or  
19 agrees to pay wages at a rate less than the rate applicable under  
20 this chapter, or otherwise violates any provision of this chapter or  
21 of any regulation issued under this chapter shall be deemed in  
22 violation of this chapter and shall, upon conviction therefor, be  
23 guilty of a gross misdemeanor.

24 (~~(2)~~ Any employer who discharges or in any other manner  
25 discriminates against any employee because such employee has made any  
26 complaint to his or her employer, to the director, or his or her  
27 authorized representatives that he or she has not been paid wages in  
28 accordance with the provisions of this chapter, or that the employer  
29 has violated any provision of this chapter, or because such employee  
30 has caused to be instituted or is about to cause to be instituted any  
31 proceeding under or related to this chapter, or because such employee  
32 has testified or is about to testify in any such proceeding shall be  
33 deemed in violation of this chapter and shall, upon conviction  
34 therefor, be guilty of a gross misdemeanor.))

35 **INDUSTRIAL WELFARE ACT**

36 NEW SECTION. **Sec. 7.** A new section is added to chapter 49.12  
37 RCW to read as follows:

1 (1) An employer, any of its agents, or any person acting on  
2 behalf of the employer may not take adverse action against any  
3 individual or individuals because an employee has updated or  
4 attempted to update his or her personal information, unless the  
5 change is directly related to the skill set or knowledge required for  
6 the job.

7 (2) If an employer takes adverse action against an employee or  
8 former employee within ninety days of an activity described in  
9 subsection (1) of this section, the employer is presumed to have  
10 acted in retaliation in violation of subsection (1) of this section.  
11 However, in the case of seasonal work that ended before the close of  
12 the ninety day period, the presumption also applies if the employer  
13 fails to rehire a former employee at the next opportunity for work in  
14 the same position. The employer may rebut the presumption with clear  
15 and convincing evidence that the adverse action was taken for a  
16 permissible purpose.

17 (3) For the purposes of this section, "adverse action" has the  
18 same meaning as in RCW 49.46.010.

19 (4) An interested party or individual aggrieved by this section  
20 may file a complaint under section 4 of this act.

21 (5) An individual aggrieved by a violation of this section may  
22 also bring suit on behalf of himself or herself or on behalf of any  
23 other individuals similarly situated under section 5 of this act.

24 (6) A violation of this section is a gross misdemeanor. The  
25 presumption created in subsection (2) of this section does not apply  
26 to this subsection.

## 27 **WAGE PAYMENT ACT**

28 **Sec. 8.** RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and  
29 amended to read as follows:

30 The definitions in this section apply throughout this section and  
31 RCW 49.48.083 through 49.48.086:

32 (1) "Citation" means a written determination by the department  
33 that a wage payment requirement has been violated.

34 (2) "Department" means the department of labor and industries.

35 (3) "Determination of compliance" means a written determination  
36 by the department that wage payment requirements have not been  
37 violated.

1 (4) "Director" means the director of the department of labor and  
2 industries, or the director's authorized representative.

3 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for  
4 purposes of a wage payment requirement set forth in RCW 49.46.020 or  
5 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment  
6 requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

7 (6) "Employer" has the meaning provided in RCW 49.46.010 for  
8 purposes of a wage payment requirement set forth in RCW 49.46.020,  
9 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

10 (7) "Notice of assessment" means a written notice by the  
11 department that, based on a citation, the employer shall pay the  
12 amounts assessed under RCW 49.48.083.

13 (8) "Repeat willful violator" means any employer that has been  
14 the subject of a final and binding citation and notice of assessment  
15 for a willful violation of a wage payment requirement within three  
16 years of the date of issue of the most recent citation and notice of  
17 assessment for a willful violation of a wage payment requirement.

18 (9) "Successor" means any person to whom an employer quitting,  
19 selling out, exchanging, or disposing of a business sells or  
20 otherwise conveys in bulk and not in the ordinary course of the  
21 employer's business, more than fifty percent of the property, whether  
22 real or personal, tangible or intangible, of the employer's business.

23 (10) "Wage" has the meaning provided in RCW 49.46.010.

24 (11) "Wage complaint" means a complaint from an employee to the  
25 department that asserts that an employer has violated one or more  
26 wage payment requirements and that is reduced to writing.

27 (12) "Wage payment requirement" means a wage payment requirement  
28 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or  
29 49.52.060, and any related rules adopted by the department.

30 (13) "Willful" means a knowing and intentional action that is  
31 neither accidental nor the result of a bona fide dispute, as  
32 evaluated under the standards applicable to wage payment violations  
33 under RCW 49.52.050(2).

34 (14) "Adverse action" means discharging, denying a promotion,  
35 demoting, failing to rehire after a seasonal interruption of work,  
36 threatening, penalizing, retaliating, engaging in unfair immigration-  
37 related practices, filing a false report with a government agency,  
38 changing an employee's status to a nonemployee, or otherwise  
39 discriminating against an employee. "Adverse action" may involve any

1 aspect of employment, including pay, work hours, responsibilities, or  
2 other material change in the terms and condition of employment.

3 (15) "Front pay" means the compensation the employee would earn  
4 if reinstated to his or her former position.

5 (16) "Interested party" includes: A contractor or subcontractor  
6 or an employee of a contractor or subcontractor; the director or the  
7 director's designee; an organization whose members' wages, benefits,  
8 and conditions of employment are affected by this chapter, including  
9 a labor union; or any other organization of workers that exists for  
10 the purpose, in whole or in part, of interacting with employers.

11 (17)(a) "Pattern or practice" means that, in addition to the  
12 current violation, within the previous ten years the employer was:

13 (i) Convicted of a criminal violation of a state or local law  
14 concerning retaliation;

15 (ii) Subject to a court order entering final judgment for a  
16 violation of section 3, 9, 14, or 19 of this act, and the judgment  
17 was not satisfied or current within thirty days of the later of:

18 (A) The expiration of the time for appealing the order; or

19 (B) If a timely appeal was made, the date of the final resolution  
20 of the appeal; or

21 (iii) Subject to a final and binding citation and notice of  
22 assessment from the department for a violation of section 3, 14, or  
23 19 of this act, and the citation and penalty were not satisfied or  
24 current within thirty days of the date the citation became final and  
25 binding.

26 (b) For the purposes of this subsection (17), an employer  
27 includes a successor employer, as defined in RCW 49.48.082.

28 (18)(a) "Unfair immigration-related practice" includes any of the  
29 following practices:

30 (i) Requesting more or different documents than are required  
31 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents  
32 tendered pursuant to that section that on their face reasonably  
33 appear to be genuine;

34 (ii) Using the federal E-Verify system to check the employment  
35 authorization status of a person at a time or in a manner not  
36 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any  
37 memorandum of understanding governing the use of the federal E-Verify  
38 system;

39 (iii) Threatening to file or the filing of a false police report;

1        (iv) Threatening to contact or contacting immigration  
2 authorities;

3        (v) Withholding or threatening to destroy documents related to a  
4 person's immigration status.

5        (b) "Unfair immigration-related practice" does not include  
6 conduct undertaken at the express and specific direction or request  
7 of the federal government.

8        NEW SECTION. Sec. 9. (1) An employer, any of its agents, or any  
9 person acting on behalf of the employer may not take adverse action  
10 against any individual or individuals because:

11        (a) An employee or former employee has informed any other person  
12 or made a complaint, or the employer believes an employee has  
13 informed any other person or made a complaint, including to the  
14 employer, the department, the attorney general, or any other person  
15 that the employer engaged in conduct that an employee reasonably  
16 believes violates this chapter;

17        (b) An employee or former employee demands from the employee's  
18 employer a lawful claim under this chapter;

19        (c) An employee or former employee has caused to be instituted,  
20 or is about to cause to be instituted, a proceeding under or related  
21 to this chapter;

22        (d) An employee or former employee has testified or is about to  
23 testify in a proceeding under or related to this chapter;

24        (e) An employee has refused to participate in an activity that  
25 would result in a violation of state or federal wage and hour law;

26        (f) An employee or former employee has sought information about  
27 his or her rights under this chapter or informed others about their  
28 rights under this chapter;

29        (g) An employee or former employee has, or the employer believes  
30 an employee has, otherwise exercised rights protected by this  
31 chapter; or

32        (h) An employee or former employee filed a complaint with the  
33 department or brought suit in court where the employer was determined  
34 to have violated this chapter.

35        (2) If an employer takes adverse action against an employee or  
36 former employee within ninety days of an activity described in  
37 subsection (1) of this section, the employer is presumed to have  
38 acted in retaliation in violation of subsection (1) of this section.  
39 However, in the case of seasonal work that ended before the close of

1 the ninety day period, the presumption also applies if the employer  
2 fails to rehire a former employee at the next opportunity for work in  
3 the same position. The employer may rebut the presumption with clear  
4 and convincing evidence that the adverse action was taken for a  
5 permissible purpose.

6 (3) A complaint or other communication by an employee triggers  
7 the protections of this section regardless of whether the complaint  
8 or communication is in writing or makes explicit reference to this  
9 chapter.

10 (4) A violation of this section is a gross misdemeanor. The  
11 presumption created in subsection (2) of this section does not apply  
12 to this subsection.

13 NEW SECTION. **Sec. 10.** (1) An individual aggrieved or an

14 interested party filing on behalf of an individual aggrieved by  
15 section 9 of this act may file a complaint with the director.

16 (2) If an individual aggrieved or an interested party filing on  
17 behalf of an individual aggrieved files a complaint with the  
18 department, the director may investigate the complaint. If, following  
19 an investigation, the director determines that an employer violated  
20 section 9 of this act, the director may order the employer to comply  
21 with any one or more of the following, unless prohibited by federal  
22 law:

23 (a) Pay a civil penalty of not less than one thousand dollars and  
24 not more than ten thousand dollars per individual aggrieved. The  
25 department must deposit civil penalties under this section in the  
26 supplemental pension fund established under RCW 51.44.033.

27 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved  
28 individual not less than one thousand dollars and not more than ten  
29 thousand dollars.

30 (ii) If an employee or former employee is the aggrieved  
31 individual, pay the individual the greater of:

32 (A) The amount of any civil penalty imposed under (a) of this  
33 subsection; or

34 (B) Three times the amount of any wages, salary, and employment  
35 benefits unlawfully denied or withheld, except benefits under Title  
36 50 or 51 RCW.

37 (c) If the aggrieved individual is a former employee of the  
38 violating employer, reinstate the aggrieved individual as an employee

1 at not less than the most recent rate of pay received by the  
2 employee. The director may award front pay in lieu of reinstatement.

3 (3) An appeal from the director's determination may be taken in  
4 accordance with chapter 34.05 RCW, with the prevailing party entitled  
5 to recover reasonable costs and attorneys' fees.

6 (4) The director may not investigate any alleged violation under  
7 this section that occurred more than three years before the date that  
8 the employee filed the complaint. This period is tolled during any  
9 period of time that an employer, any of its agents, or any person  
10 acting on behalf of the employer deters an individual from filing a  
11 complaint.

12 NEW SECTION. **Sec. 11.** (1) An individual aggrieved by a  
13 violation of section 9 of this act may bring suit on behalf of  
14 himself or herself or on behalf of any other individuals similarly  
15 situated.

16 (2) If a court determines that an employer violated section 9 of  
17 this act, the court, unless prohibited by federal law:

18 (a)(i) Shall award statutory damages for each individual  
19 aggrieved by the violation. Subject to (a)(ii) of this subsection,  
20 statutory damages must not be less than one thousand dollars and not  
21 more ten thousand dollars per individual, unless the employer engaged  
22 in a pattern or practice of violations, in which case the statutory  
23 damages must be not less than ten thousand dollars and not more than  
24 twenty-five thousand dollars per individual;

25 (ii) If an employee or former employee is the individual subject  
26 to adverse action, the court shall award the greater of:

27 (A) The amounts specified in (a)(i) of this subsection; or

28 (B) Three times the amount of any wages, salary, and employment  
29 benefits unlawfully denied or withheld, except benefits under Title  
30 50 or 51 RCW;

31 (b) May award actual damages sustained by the individual;

32 (c) May order injunctive or other equitable relief if the  
33 aggrieved individual is an employee or former employee of the  
34 violating employer. The relief may include:

35 (i) Reinstatement of the former employee as an employee to his or  
36 her former position at not less than the most recent rate of  
37 compensation received by the employee, including the value of any  
38 benefits; or

39 (ii) Front pay in lieu of reinstatement;

1 (d)(i) For a first violation, may order the appropriate  
2 government agencies to suspend all licenses that are held by the  
3 violating party for a period of up to fourteen days. The licenses  
4 that are subject to suspension are all licenses, certifications, or  
5 registrations held by the violating party specific to the business  
6 location or locations where the adverse action occurred;

7 (ii) For a second violation, the court may order the appropriate  
8 government agencies to suspend all licenses that are held by the  
9 violating party for a period of up to thirty days. The licenses that  
10 are subject to suspension are all licenses held by the violating  
11 party specific to the business location or locations where the  
12 adverse action occurred;

13 (iii) For a third violation, the court may order the appropriate  
14 government agencies to suspend all licenses that are held by the  
15 violating party for a period of up to ninety days. The licenses that  
16 are subject to suspension are all licenses held by the violating  
17 party specific to the business location or locations where the  
18 adverse action occurred.

19 (e) Shall award attorneys' fees and costs.

20 (3) A civil action under this section must be brought no later  
21 than three years after the violation occurred. This period is tolled  
22 during any period of time that an employer, any of its agents, or any  
23 person acting on behalf of the employer deters an individual from  
24 bringing an action under this section.

25 NEW SECTION. **Sec. 12.** Sections 9 through 11 of this act are  
26 each added to chapter 49.48 RCW.

#### 27 **PREVAILING WAGE**

28 **Sec. 13.** RCW 39.12.010 and 1989 c 12 s 6 are each amended to  
29 read as follows:

30 The definitions in this section apply throughout this chapter  
31 unless the context clearly requires otherwise.

32 (1) The "prevailing rate of wage," (~~(, for the intents and~~  
33 ~~purposes of this chapter, shall be)) means the rate of hourly wage,~~  
34 usual benefits, and overtime paid in the locality, as (~~hereinafter~~)  
35 defined in this section, to the majority of workers, laborers, or  
36 mechanics, in the same trade or occupation. In the event that there  
37 is not a majority in the same trade or occupation paid at the same



1 rate, then the average rate of hourly wage and overtime paid to such  
2 laborers, workers, or mechanics in the same trade or occupation shall  
3 be the prevailing rate. If the wage paid by any contractor or  
4 subcontractor to laborers, workers, or mechanics on any public work  
5 is based on some period of time other than an hour, the hourly wage  
6 for the purposes of this chapter shall be mathematically determined  
7 by the number of hours worked in such period of time.

8 (2) The "locality" (~~for the purposes of this chapter shall be~~)  
9 means the largest city in the county wherein the physical work is  
10 being performed.

11 (3) The "usual benefits" (~~for the purposes of this chapter~~  
12 ~~shall~~) includes the amount of:

13 (a) The rate of contribution irrevocably made by a contractor or  
14 subcontractor to a trustee or to a third person pursuant to a fund,  
15 plan, or program; and

16 (b) The rate of costs to the contractor or subcontractor which  
17 may be reasonably anticipated in providing benefits to workers,  
18 laborers, and mechanics pursuant to an enforceable commitment to  
19 carry out a financially responsible plan or program which was  
20 communicated in writing to the workers, laborers, and mechanics  
21 affected, for medical or hospital care, pensions on retirement or  
22 death, compensation for injuries or illness resulting from  
23 occupational activity, or insurance to provide any of the foregoing,  
24 for unemployment benefits, life insurance, disability and sickness  
25 insurance, or accident insurance, for vacation and holiday pay, for  
26 defraying costs of apprenticeship or other similar programs, or for  
27 other bona fide fringe benefits, but only where the contractor or  
28 subcontractor is not required by other federal, state, or local law  
29 to provide any of such benefits.

30 (4) (~~An "interested party" for the purposes of this chapter~~  
31 ~~shall include a contractor, subcontractor, an employee of a~~  
32 ~~contractor or subcontractor, an organization whose members' wages,~~  
33 ~~benefits, and conditions of employment are affected by this chapter,~~  
34 ~~and the director of labor and industries or the director's~~  
35 ~~designee.)) "Adverse action" means discharging, denying a promotion,  
36 demoting, failing to rehire after a seasonal interruption of work,  
37 threatening, penalizing, retaliating, engaging in unfair immigration-  
38 related practices, filing a false report with a government agency,  
39 changing an employee's status to a nonemployee, or otherwise  
40 discriminating against an employee. "Adverse action" may involve any~~

1 aspect of employment, including pay, work hours, responsibilities, or  
2 other material change in the terms and condition of employment.

3 (5) "Department" means the department of labor and industries.

4 (6) "Front pay" means the compensation the employee would earn if  
5 reinstated to his or her former position.

6 (7) "Interested party" includes: A contractor or subcontractor or  
7 an employee of a contractor or subcontractor; the director or the  
8 director's designee; an organization whose members' wages, benefits,  
9 and conditions of employment are affected by this chapter, including  
10 a labor union; or any other organization of workers that exists for  
11 the purpose, in whole or in part, of interacting with employers.

12 (8)(a) "Pattern or practice" means that, in addition to the  
13 current violation, within the previous ten years the employer was:

14 (i) Convicted of a criminal violation of a state or local law  
15 concerning retaliation;

16 (ii) Subject to a court order entering final judgment for a  
17 violation of section 3, 9, 14, or 19 of this act, and the judgment  
18 was not satisfied or current within thirty days of the later of:

19 (A) The expiration of the time for appealing the order; or

20 (B) If a timely appeal was made, the date of the final resolution  
21 of the appeal; or

22 (iii) Subject to a final and binding citation and notice of  
23 assessment from the department for a violation of section 3, 9, or 19  
24 of this act, and the citation and penalty were not satisfied or  
25 current within thirty days of the date the citation became final and  
26 binding.

27 (b) For the purposes of this subsection (8), an employer includes  
28 a successor employer, as defined in RCW 49.48.082.

29 (9)(a) "Unfair immigration-related practice" includes any of the  
30 following practices:

31 (i) Requesting more or different documents than are required  
32 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents  
33 tendered pursuant to that section that on their face reasonably  
34 appear to be genuine;

35 (ii) Using the federal E-Verify system to check the employment  
36 authorization status of a person at a time or in a manner not  
37 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any  
38 memorandum of understanding governing the use of the federal E-Verify  
39 system;

40 (iii) Threatening to file or the filing of a false police report;

1 (iv) Threatening to contact or contacting immigration  
2 authorities;

3 (v) Withholding or threatening to destroy documents related to a  
4 person's immigration status.

5 (b) "Unfair immigration-related practice" does not include  
6 conduct undertaken at the express and specific direction or request  
7 of the federal government.

8 NEW SECTION. Sec. 14. (1) An employer, any of its agents, or  
9 any person acting on behalf of the employer may not take adverse  
10 action against any individual or individuals because:

11 (a) An employee or former employee has informed any other person  
12 or made a complaint, or the employer believes an employee has  
13 informed any other person or made a complaint, including to the  
14 employer, the department, the attorney general, or any other person  
15 that the employer engaged in conduct that an employee reasonably  
16 believes violates this chapter;

17 (b) An employee or former employee demands from the employee's  
18 employer a lawful claim under this chapter;

19 (c) An employee or former employee has caused to be instituted,  
20 or is about to cause to be instituted, a proceeding under or related  
21 to this chapter;

22 (d) An employee or former employee has testified or is about to  
23 testify in a proceeding under or related to this chapter;

24 (e) An employee has refused to participate in an activity that  
25 would result in a violation of state or federal wage and hour law;

26 (f) An employee or former employee has sought information about  
27 his or her rights under this chapter or informed others about their  
28 rights under this chapter;

29 (g) An employee or former employee has, or the employer believes  
30 an employee has, otherwise exercised rights protected by this  
31 chapter; or

32 (h) An employee or former employee filed a complaint with the  
33 department or brought suit in court where the employer was determined  
34 to have violated this chapter.

35 (2) If an employer takes adverse action against an employee or  
36 former employee within ninety days of an activity described in  
37 subsection (1) of this section, the employer is presumed to have  
38 acted in retaliation in violation of subsection (1) of this section.  
39 However, in the case of seasonal work that ended before the close of

1 the ninety day period, the presumption also applies if the employer  
2 fails to rehire a former employee at the next opportunity for work in  
3 the same position. The employer may rebut the presumption with clear  
4 and convincing evidence that the adverse action was taken for a  
5 permissible purpose.

6 (3) A complaint or other communication by an employee triggers  
7 the protections of this section regardless of whether the complaint  
8 or communication is in writing or makes explicit reference to this  
9 chapter.

10 (4) A violation of this section is a gross misdemeanor. The  
11 presumption created in subsection (2) of this section does not apply  
12 to this subsection.

13 NEW SECTION. **Sec. 15.** (1) An individual aggrieved or an  
14 interested party filing on behalf of an individual aggrieved by  
15 section 14 of this act may file a complaint with the director.

16 (2) If an individual aggrieved or an interested party filing on  
17 behalf of an individual aggrieved files a complaint with the  
18 department, the director may investigate the complaint. If, following  
19 an investigation, the director determines that an employer violated  
20 section 14 of this act, the director may order the employer to comply  
21 with any one or more of the following, unless prohibited by federal  
22 law:

23 (a) Pay a civil penalty of not less than one thousand dollars and  
24 not more than ten thousand dollars per individual aggrieved. The  
25 department must deposit civil penalties under this section in the  
26 supplemental pension fund established under RCW 51.44.033.

27 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved  
28 individual not less than one thousand dollars and not more than ten  
29 thousand dollars.

30 (ii) If an employee or former employee is the aggrieved  
31 individual, pay the individual the greater of:

32 (A) The amount of any civil penalty imposed under (a) of this  
33 subsection; or

34 (B) Three times the amount of any wages, salary, and employment  
35 benefits unlawfully denied or withheld, except benefits under Title  
36 50 or 51 RCW.

37 (c) If the aggrieved individual is a former employee of the  
38 violating employer, reinstate the aggrieved individual as an employee

1 at not less than the most recent rate of pay received by the  
2 employee. The director may award front pay in lieu of reinstatement.

3 (3) An appeal from the director's determination may be taken in  
4 accordance with chapter 34.05 RCW, with the prevailing party entitled  
5 to recover reasonable costs and attorneys' fees.

6 (4) The director may not investigate any alleged violation under  
7 this section that occurred more than three years before the date that  
8 the employee filed the complaint. This period is tolled during any  
9 period of time that an employer, any of its agents, or any person  
10 acting on behalf of the employer deters an individual from filing a  
11 complaint.

12 NEW SECTION. **Sec. 16.** (1) An individual aggrieved by a  
13 violation of section 14 of this act may bring suit on behalf of  
14 himself or herself or on behalf of any other individuals similarly  
15 situated.

16 (2) If a court determines that an employer violated section 14 of  
17 this act, the court, unless prohibited by federal law:

18 (a)(i) Shall award statutory damages for each individual  
19 aggrieved by the violation. Subject to (a)(ii) of this subsection,  
20 statutory damages must not be less than one thousand dollars and not  
21 more ten thousand dollars per individual, unless the employer engaged  
22 in a pattern or practice of violations, in which case the statutory  
23 damages must be not less than ten thousand dollars and not more than  
24 twenty-five thousand dollars per individual;

25 (ii) If an employee or former employee is the individual subject  
26 to adverse action, the court shall award the greater of:

27 (A) The amounts specified in (a)(i) of this subsection; or

28 (B) Three times the amount of any wages, salary, and employment  
29 benefits unlawfully denied or withheld, except benefits under Title  
30 50 or 51 RCW;

31 (b) May award actual damages sustained by the individual;

32 (c) May order injunctive or other equitable relief if the  
33 aggrieved individual is an employee or former employee of the  
34 violating employer. The relief may include:

35 (i) Reinstatement of the former employee as an employee to his or  
36 her former position at not less than the most recent rate of  
37 compensation received by the employee, including the value of any  
38 benefits; or

39 (ii) Front pay in lieu of reinstatement;

1 (d)(i) For a first violation, may order the appropriate  
2 government agencies to suspend all licenses that are held by the  
3 violating party for a period of up to fourteen days. The licenses  
4 that are subject to suspension are all licenses, certifications, or  
5 registrations held by the violating party specific to the business  
6 location or locations where the adverse action occurred;

7 (ii) For a second violation, the court may order the appropriate  
8 government agencies to suspend all licenses that are held by the  
9 violating party for a period of up to thirty days. The licenses that  
10 are subject to suspension are all licenses held by the violating  
11 party specific to the business location or locations where the  
12 adverse action occurred;

13 (iii) For a third violation, the court may order the appropriate  
14 government agencies to suspend all licenses that are held by the  
15 violating party for a period of up to ninety days. The licenses that  
16 are subject to suspension are all licenses held by the violating  
17 party specific to the business location or locations where the  
18 adverse action occurred.

19 (e) Shall award attorneys' fees and costs.

20 (3) A civil action under this section must be brought no later  
21 than three years after the violation occurred. This period is tolled  
22 during any period of time that an employer, any of its agents, or any  
23 person acting on behalf of the employer deters an individual from  
24 bringing an action under this section.

25 NEW SECTION. **Sec. 17.** Sections 14 through 16 of this act are  
26 each added as new sections to chapter 39.12 RCW.

## 27 **WAGE DEDUCTIONS**

28 NEW SECTION. **Sec. 18.** The definitions in this section apply  
29 throughout this chapter unless the context clearly requires  
30 otherwise.

31 (1) "Adverse action" means discharging, denying a promotion,  
32 demoting, failing to rehire after a seasonal interruption of work,  
33 threatening, penalizing, retaliating, engaging in unfair immigration-  
34 related practices, filing a false report with a government agency,  
35 changing an employee's status to a nonemployee, or otherwise  
36 discriminating against an employee. "Adverse action" may involve any

1 aspect of employment, including pay, work hours, responsibilities, or  
2 other material change in the terms and condition of employment.

3 (2) "Department" means the department of labor and industries.

4 (3) "Director" means the director of the department of labor and  
5 industries.

6 (4) "Front pay" means the compensation the employee would earn if  
7 reinstated to his or her former position.

8 (5) "Interested party" includes: A contractor or subcontractor or  
9 an employee of a contractor or subcontractor; the director or the  
10 director's designee; an organization whose members' wages, benefits,  
11 and conditions of employment are affected by this chapter, including  
12 a labor union; or any other organization of workers that exists for  
13 the purpose, in whole or in part, of interacting with employers.

14 (6)(a) "Pattern or practice" means that, in addition to the  
15 current violation, within the previous ten years the employer was:

16 (i) Convicted of a criminal violation of a state or local law  
17 concerning retaliation;

18 (ii) Subject to a court order entering final judgment for a  
19 violation of section 3, 9, 14, or 19 of this act, and the judgment  
20 was not satisfied or current within thirty days of the later of:

21 (A) The expiration of the time for appealing the order; or

22 (B) If a timely appeal was made, the date of the final resolution  
23 of the appeal; or

24 (iii) Subject to a final and binding citation and notice of  
25 assessment from the department for a violation of section 3, 9, or 15  
26 of this act, and the citation and penalty were not satisfied or  
27 current within thirty days of the date the citation became final and  
28 binding.

29 (b) For the purposes of this subsection (6), an employer includes  
30 a successor employer, as defined in RCW 49.48.082.

31 (7)(a) "Unfair immigration-related practice" means any of the  
32 following practices:

33 (i) Requesting more or different documents than are required  
34 under 8 U.S.C. Sec. 1324a(b), or a refusal to honor documents  
35 tendered pursuant to that section that on their face reasonably  
36 appear to be genuine;

37 (ii) Using the federal E-Verify system to check the employment  
38 authorization status of a person at a time or in a manner not  
39 required under 8 U.S.C. Sec. 1324a(b), or not authorized under any

1 memorandum of understanding governing the use of the federal E-Verify  
2 system;

3 (iii) Threatening to file or the filing of a false police report;

4 (iv) Threatening to contact or contacting immigration  
5 authorities;

6 (v) Withholding or threatening to destroy documents related to a  
7 person's immigration status.

8 (b) "Unfair immigration-related practice" does not include  
9 conduct undertaken at the express and specific direction or request  
10 of the federal government.

11 NEW SECTION. **Sec. 19.** (1) An employer, any of its agents, or  
12 any person acting on behalf of the employer may not take adverse  
13 action against any individual or individuals because:

14 (a) An employee or former employee has informed any other person  
15 or made a complaint, or the employer believes an employee has  
16 informed any other person or made a complaint, including to the  
17 employer, the department, the attorney general, or any other person  
18 that the employer engaged in conduct that an employee reasonably  
19 believes violates this chapter;

20 (b) An employee or former employee demands from the employee's  
21 employer a lawful claim under this chapter;

22 (c) An employee or former employee has caused to be instituted,  
23 or is about to cause to be instituted, a proceeding under or related  
24 to this chapter;

25 (d) An employee or former employee has testified or is about to  
26 testify in a proceeding under or related to this chapter;

27 (e) An employee has refused to participate in an activity that  
28 would result in a violation of state or federal wage and hour law;

29 (f) An employee or former employee has sought information about  
30 his or her rights under this chapter or informed others about their  
31 rights under this chapter;

32 (g) An employee or former employee has, or the employer believes  
33 an employee has, otherwise exercised rights protected by this  
34 chapter; or

35 (h) An employee or former employee filed a complaint with the  
36 department or brought suit in court where the employer was determined  
37 to have violated this chapter.

38 (2) If an employer takes adverse action against an employee or  
39 former employee within ninety days of an activity described in



1 subsection (1) of this section, the employer is presumed to have  
2 acted in retaliation in violation of subsection (1) of this section.  
3 However, in the case of seasonal work that ended before the close of  
4 the ninety day period, the presumption also applies if the employer  
5 fails to rehire a former employee at the next opportunity for work in  
6 the same position. The employer may rebut the presumption with clear  
7 and convincing evidence that the adverse action was taken for a  
8 permissible purpose.

9 (3) A complaint or other communication by an employee triggers  
10 the protections of this section regardless of whether the complaint  
11 or communication is in writing or makes explicit reference to this  
12 chapter.

13 (4) A violation of this section is a gross misdemeanor. The  
14 presumption created in subsection (2) of this section does not apply  
15 to this subsection.

16 NEW SECTION. **Sec. 20.** (1) An individual aggrieved or an  
17 interested party filing on behalf of an individual aggrieved by  
18 section 19 of this act may file a complaint with the director.

19 (2) If an individual aggrieved or an interested party filing on  
20 behalf of an individual aggrieved files a complaint with the  
21 department, the director may investigate the complaint. If, following  
22 an investigation, the director determines that an employer violated  
23 section 19 of this act, the director may order the employer to comply  
24 with any one or more of the following, unless prohibited by federal  
25 law:

26 (a) Pay a civil penalty of not less than one thousand dollars and  
27 not more than ten thousand dollars per individual aggrieved. The  
28 department must deposit civil penalties under this section in the  
29 supplemental pension fund established under RCW 51.44.033.

30 (b)(i) Subject to (b)(ii) of this subsection, pay any aggrieved  
31 individual not less than one thousand dollars and not more than ten  
32 thousand dollars.

33 (ii) If an employee or former employee is the aggrieved  
34 individual, pay the individual the greater of:

35 (A) The amount of any civil penalty imposed under (a) of this  
36 subsection; or

37 (B) Three times the amount of any wages, salary, and employment  
38 benefits unlawfully denied or withheld, except benefits under Title  
39 50 or 51 RCW.

1 (c) If the aggrieved individual is a former employee of the  
2 violating employer, reinstate the aggrieved individual as an employee  
3 at not less than the most recent rate of pay received by the  
4 employee. The director may award front pay in lieu of reinstatement.

5 (3) An appeal from the director's determination may be taken in  
6 accordance with chapter 34.05 RCW, with the prevailing party entitled  
7 to recover reasonable costs and attorneys' fees.

8 (4) The director may not investigate any alleged violation under  
9 this section that occurred more than three years before the date that  
10 the employee filed the complaint. This period is tolled during any  
11 period of time that an employer, any of its agents, or any person  
12 acting on behalf of the employer deters an individual from filing a  
13 complaint.

14 NEW SECTION. **Sec. 21.** (1) An individual aggrieved by a  
15 violation of section 19 of this act may bring suit on behalf of  
16 himself or herself or on behalf of any other individuals similarly  
17 situated.

18 (2) If a court determines that an employer violated section 19 of  
19 this act, the court, unless prohibited by federal law:

20 (a)(i) Shall award statutory damages for each individual  
21 aggrieved by the violation. Subject to (a)(ii) of this subsection,  
22 statutory damages must not be less than one thousand dollars and not  
23 more than ten thousand dollars per individual, unless the employer  
24 engaged in a pattern or practice of violations, in which case the  
25 statutory damages must be not less than ten thousand dollars and not  
26 more than twenty-five thousand dollars per individual;

27 (ii) If an employee or former employee is the individual subject  
28 to adverse action, the court shall award the greater of:

29 (A) The amounts specified in (a)(i) of this subsection; or

30 (B) Three times the amount of any wages, salary, and employment  
31 benefits unlawfully denied or withheld, except benefits under Title  
32 50 or 51 RCW;

33 (b) May award actual damages sustained by the individual;

34 (c) May order injunctive or other equitable relief if the  
35 aggrieved individual is an employee or former employee of the  
36 violating employer. The relief may include:

37 (i) Reinstatement of the former employee as an employee to his or  
38 her former position at not less than the most recent rate of

1 compensation received by the employee, including the value of any  
2 benefits; or

3 (ii) Front pay in lieu of reinstatement;

4 (d)(i) For a first violation, may order the appropriate  
5 government agencies to suspend all licenses that are held by the  
6 violating party for a period of up to fourteen days. The licenses  
7 that are subject to suspension are all licenses, certifications, or  
8 registrations held by the violating party specific to the business  
9 location or locations where the adverse action occurred;

10 (ii) For a second violation, the court may order the appropriate  
11 government agencies to suspend all licenses that are held by the  
12 violating party for a period of up to thirty days. The licenses that  
13 are subject to suspension are all licenses held by the violating  
14 party specific to the business location or locations where the  
15 adverse action occurred;

16 (iii) For a third violation, the court may order the appropriate  
17 government agencies to suspend all licenses that are held by the  
18 violating party for a period of up to ninety days. The licenses that  
19 are subject to suspension are all licenses held by the violating  
20 party specific to the business location or locations where the  
21 adverse action occurred.

22 (e) Shall award attorneys' fees and costs.

23 (3) A civil action under this section must be brought no later  
24 than three years after the violation occurred. This period is tolled  
25 during any period of time that an employer, any of its agents, or any  
26 person acting on behalf of the employer deters an individual from  
27 bringing an action under this section.

28 NEW SECTION. **Sec. 22.** Sections 18 through 21 of this act are  
29 each added as new sections to chapter 49.52 RCW.

30 NEW SECTION. **Sec. 23.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

--- END ---