

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5104

69th Legislature
2025 Regular Session

Passed by the Senate February 12,
2025

Yea 40 Nays 9

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5104** as passed by the Senate and the House of Representatives on the dates hereon set forth.

President of the Senate

Passed by the House April 14, 2025
Yea 59 Nays 38

Secretary

Speaker of the House of Representatives

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5104

Passed Legislature - 2025 Regular Session

State of Washington

69th Legislature

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By Senate Labor & Commerce (originally sponsored by Senators Hasegawa, Bateman, Conway, Nobles, Saldaña, Stanford, Valdez, Wellman, and C. Wilson)

READ FIRST TIME 02/03/25.

1 AN ACT Relating to protecting employees from coercion in the
2 workplace based on immigration status; amending RCW 49.46.010; adding
3 a new section to chapter 49.46 RCW; creating a new section;
4 prescribing penalties; providing an effective date; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 49.46.010 and 2024 c 132 s 1 are each amended to
8 read as follows:

9 As used in this chapter:

10 (1) "Director" means the director of labor and industries;

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

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

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

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

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

10 (d) Any individual engaged in the activities of an educational,
11 charitable, religious, state or local governmental body or agency, or
12 nonprofit organization where the employer-employee relationship does
13 not in fact exist or where the services are rendered to such
14 organizations gratuitously. If the individual receives reimbursement
15 in lieu of compensation for normally incurred out-of-pocket expenses
16 or receives a nominal amount of compensation per unit of voluntary
17 service rendered, an employer-employee relationship is deemed not to
18 exist for the purpose of this section or for purposes of membership
19 or qualification in any state, local government, or publicly
20 supported retirement system other than that provided under chapter
21 41.24 RCW;

22 (e) Any individual employed full time by any state or local
23 governmental body or agency who provides voluntary services but only
24 with regard to the provision of the voluntary services. The voluntary
25 services and any compensation therefor shall not affect or add to
26 qualification, entitlement, or benefit rights under any state, local
27 government, or publicly supported retirement system other than that
28 provided under chapter 41.24 RCW;

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

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

37 (h) Any individual engaged in forest protection and fire
38 prevention activities;

39 (i) Any individual employed by any charitable institution charged
40 with child care responsibilities engaged primarily in the development

1 of character or citizenship or promoting health or physical fitness
2 or providing or sponsoring recreational opportunities or facilities
3 for young people or members of the armed forces of the United States;

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

8 (k) Any resident, inmate, or patient of a state, county, or
9 municipal correctional, detention, treatment or rehabilitative
10 institution;

11 (l) Any individual who holds a public elective or appointive
12 office of the state, any county, city, town, municipal corporation or
13 quasi municipal corporation, political subdivision, or any
14 instrumentality thereof, or any employee of the state legislature;

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

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

19 (o) Any farm intern providing his or her services to a small farm
20 which has a special certificate issued under RCW 49.12.471;

21 (p) An individual who is at least 16 years old but under twenty-
22 one years old, in his or her capacity as a player for a junior ice
23 hockey team that is a member of a regional, national, or
24 international league and that contracts with an arena owned,
25 operated, or managed by a public facilities district created under
26 chapter 36.100 RCW; or

27 (q) Any individual who has entered into a contract to play
28 baseball at the minor league level and who is compensated pursuant to
29 the terms of a collective bargaining agreement that expressly
30 provides for wages and working conditions;

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

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

38 (6) "Retail or service establishment" means an establishment
39 seventy-five percent of whose annual dollar volume of sales of goods

1 or services, or both, is not for resale and is recognized as retail
2 sales or services in the particular industry;

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

8 (8) "Coercion" means a threat to compel or induce a person to
9 engage in conduct which the person has a legal right to abstain from,
10 or to abstain from conduct in which the person has a legal right to
11 engage in;

12 (9) "Threat" means any implicit or explicit communication
13 specifically pertaining to an employee's or an employee's family
14 member's immigration status that is made by the employer to deter an
15 employee from engaging in protected activities or exercising a right
16 under this chapter, chapter 49.12, 49.30, or 49.48 RCW, or any rules
17 issued by the department of labor and industries pursuant to those
18 chapters.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.46
20 RCW to read as follows:

21 (1) Any employer that coerces an employee in furtherance of the
22 employer committing a violation of wage payment requirements as
23 defined in chapter 49.48 RCW, condition of labor requirements as
24 defined in chapter 49.12 RCW, or any violations under chapter 49.30
25 RCW, including rules issued by the department pursuant to chapter
26 49.30 RCW, is subject to a civil penalty under this section, in
27 addition to any other penalty that may be imposed by the department
28 against an employer for those violations. If an employer's violation
29 subjects the employer to a penalty under this section and a separate
30 penalty under RCW 49.46.100, the employer must be assessed the higher
31 amount of the two penalties.

32 (2) A worker who believes the worker was subject to coercion by
33 the worker's employer based on the worker's immigration status may
34 file a complaint with the department within 180 days of the alleged
35 coercive action.

36 (3) (a) The department must investigate a complaint of coercion by
37 an employer based on immigration status.

38 (b) Unless otherwise resolved, the department shall issue either
39 a notice of citation assessing a penalty or a closure letter no later

1 than 90 days after the date on which the department received the
2 complaint.

3 (c) The department may extend the time period by providing
4 advance written notice to the employee and the employer setting forth
5 good cause for an extension of the time period and specifying the
6 duration of the extension.

7 (d) The department shall send the citation assessing a penalty or
8 closure letter to both the employer and the employee by service of
9 process or using a method by which the mailing can be tracked or the
10 delivery can be confirmed to their last known addresses.

11 (e) If the department's investigation finds that the employee's
12 allegation cannot be substantiated, the department must issue a
13 closure letter to the employee and employer detailing such finding.

14 (f) If the department determines the employer violated this
15 section, the department must assess a civil penalty for each coercive
16 act as follows:

17 (i) For the first violation, a civil penalty not to exceed
18 \$1,000;

19 (ii) For the second violation, a civil penalty not to exceed
20 \$5,000; and

21 (iii) For any subsequent violation, a civil penalty not to exceed
22 \$10,000.

23 (4) Each act of coercion against each affected employee
24 constitutes a separate violation of this act.

25 (5) The department shall deposit all civil penalties paid under
26 this section in the supplemental pension fund established under RCW
27 51.44.033.

28 (6)(a) The penalties payable pursuant to this section shall be
29 adjusted for inflation every three years, beginning July 1, 2028,
30 based upon changes in the consumer price index during that time
31 period.

32 (b) For purposes of this subsection, "consumer price index"
33 means, for any calendar year, that year's average consumer price
34 index for the Seattle, Washington area for urban wage earners and
35 clerical workers, all items, compiled by the bureau of labor
36 statistics, United States department of labor.

37 (7) Any personal information about the employee or the employee's
38 family members, including names, in a complaint or investigation is
39 confidential and may be disclosed only to the employer. Any personal

1 information may not be disclosed to any other person or entity
2 without the written permission of the employee.

3 (8) If, during an investigation of any other complaint, the
4 department discovers information that suggests an employer has
5 coerced an employee based on immigration status, the department may
6 investigate and take appropriate enforcement action without requiring
7 the employee to file a new or separate complaint.

8 (9)(a) A person, firm, or corporation aggrieved by a citation
9 assessing a civil penalty issued by the department under this section
10 may appeal the citation to the director by filing a notice of appeal
11 with the director within 30 days of the department's issuance of the
12 citation. A citation assessing a civil penalty not appealed within 30
13 days is final and binding, and not subject to further appeal.

14 (b) A notice of appeal filed with the director under this section
15 stays the effectiveness of the citation assessing a civil penalty
16 pending final review of the appeal by the director as provided for in
17 chapter 34.05 RCW.

18 (c) Upon receipt of a notice of appeal, the director shall assign
19 the hearing to an administrative law judge of the office of
20 administrative hearings to conduct the hearing and issue an initial
21 order. The hearing and review procedures must be conducted in
22 accordance with chapter 34.05 RCW, and the standard of review by the
23 administrative law judge of an appealed citation assessing a civil
24 penalty shall be de novo. Any party who seeks to challenge an initial
25 order shall file a petition for administrative review with the
26 director within 30 days after service of the initial order. The
27 director will conduct administrative review in accordance with
28 chapter 34.05 RCW.

29 (d) The director shall issue all final orders after appeal of the
30 initial order. The final order of the director is subject to judicial
31 review in accordance with chapter 34.05 RCW.

32 (e) Orders that are not appealed within the period specified in
33 this section and chapter 34.05 RCW are final and binding, and not
34 subject to further appeal.

35 (f) An employer who fails to allow adequate inspection of records
36 in an investigation by the department under this section within a
37 reasonable time period may not use such records in any appeal under
38 such rules to challenge the correctness of any determination by the
39 department of penalties assessed.

1 (10) The collections procedures under RCW 49.48.086 apply to this
2 section.

3 (11) For the purposes of this section, "department" means the
4 department of labor and industries.

5 NEW SECTION. **Sec. 3.** The department of labor and industries may
6 adopt rules to implement this act.

7 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of
9 the state government and its existing public institutions, and takes
10 effect July 1, 2025.

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