

WASHINGTON LEGAL UPDATES

LEGISLATION, REGULATIONS & NOTABLE CASES

WASHINGTON LEGISLATION

Amended Equal Pay and Opportunities Act Now Includes a Temporary and Limited Window of Correction to Deficient Job Postings (SB 5408)

Washington's Equal Pay and Opportunities Act (EPOA), originally enacted in 2018, is intended to prohibit pay discrimination and promote fairness among workers by addressing business practices that may contribute to income disparities between employees. In addition to protections against discriminatory pay practices, EPOA protects the rights of employees to discuss their wages and related information.

Effective January 1, 2023, EPOA was amended to require employers to proactively include in each external job posting the applicable wage/salary scale, and a general description of all of the benefits and other compensation offered. Enforcement of these job posting requirements used the same private right of action and statutory penalties (\$5,000 for each violation) already existing in EPOA, but did not define who was a "job applicant" for purposes of bringing an action.

The framework of EPOA led to the filing of over 100 class action lawsuits—often for minor instances of nonconformance. In fact, a handful of individuals worked with a few law firms to file numerous separate class action lawsuits against different employers, seeking statutory penalties for everyone who might have seen the nonconforming job posting. Among the concerns from impacted employers resulting from these cases were (a) the lack of clarity around what constitutes a "job applicant"¹ and (b) the inability to cure deficient postings before liability attached.

Senate Bill 5408, which came into effect July 1, 2025, is aimed at addressing the latter by amending EPOA to:

- Allow the posting of a fixed wage rate if the job only has one wage rate instead of a salary range, rather than a range as had previously been required.
- Give employers a 5-day window of correction to a posting. *NOTE: This is a temporary reprieve for employers and will only last through July 27, 2027.*

¹ This issue was recently addressed by the Washington Supreme Court in the case of <ADD CITE>, which is addressed below.



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- Adopt an administrative complaint process with the Washington Department of Labor & Industries (L&I) for violations of the job posting requirement, with a separate remedy structure for violations of the job posting requirements, whether the claim is brought through L&I (who now has investigations and penalty enforcement authority) or a private lawsuit.

The amendment also changes the damages structure from a flat fee of \$5,000 per aggrieved applicant, to a damages range from \$100 to \$5,000 with a new multi-factor test used to determine the penalty amount.

Lastly, as amended, employers can no longer be held liable for postings that are republished on third-party websites without the employer's knowledge or consent.

KEY TAKEAWAYS

- Consult L&I's EPOA guidance and additional employer resources, available online at: <https://www.lni.wa.gov/workers-rights/wages/equal-pay-opportunities-act/epoa-employer-resources#>
- Make sure all job postings comply with the requirements regarding pay and benefits details, whether external or internal.
- Educate the necessary personnel about what to do if a notice of noncompliance is received, so that corrective actions can be taken within the **five-business-day** window.

Requiring a Valid Driver's License as a Condition of Employment Is Now Prohibited, Absent a Qualifying Exception (SB 5501)

Many employers routinely list a driver's license as a condition of employment—even when jobs do not involve driving or driving is not a core function. But Washington has found that such requirements could provide unnecessary barriers to employment for individuals with disabilities or those otherwise unable to obtain a valid driver's license. As of July 27, 2025, employers should carefully consider whether they should require that employees have a valid driver's license as a condition of employment. The State Senate amended the EPOA through Senate Bill 5501, which amends RCW 49.58.090 to make it unlawful, for an employer to either (1) require a valid driver's license as a condition of employment; or (2) include a statement in a posting for a job opening for the position that an applicant must have a valid driver's license. There are limited exceptions to this prohibition, notably where driving is one of the essential job functions or the driver's license requirement *for that position* is related to a legitimate business purpose.

If an employer does not comply with this new law, L&I has been tasked with issuing citations and forcing violating employers to pay injured applicants. A successful complainant can receive (1) any actual damages; (2) statutory damages equal to the actual damages or \$5,000, whichever is greater; and (3) interest of 1 percent per month on all compensation owed. Civil penalties may also be assessed up to \$500 for the first violation, and up to \$1,000 or 10 percent of the damages for a repeat violation, whichever is greater.

KEY TAKEAWAYS

- Be on the lookout for additional guidance expected from L&I.
- Review job postings and other relevant documentation to ensure that driver's licenses are only required where driving is an essential function or there is another legitimate business reason for requiring a license.
- Consider updating job descriptions to address licensing requirements, if applicable, and create a procedure for documenting the business reasons where a license is required.

Employers Are Prohibited from Coercion of Employees Based on Immigration Status (SB 5104)

As of July 1, 2025, under Senate Bill 5104, employers may be liable for a new penalty if the employer uses immigration status of an employee or of an employee's family members as a means to coerce or threaten an employee. This is particularly punishable if the employer threatens to use the immigration status to prevent the employee from filing a complaint under the Washington Wage Payment Act (WPA), Industrial Welfare Act, agricultural labor standards, or other employment-related rules.

Citations will be accompanied by the following penalties for each instance of coercion against each affected employee or their family member:

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

KEY TAKEAWAYS

- Be aware and inform the necessary personnel about this new potential liability.
- Perform an audit of your current personnel records retention policies and practices to ensure knowledge of employee's immigration status is limited to those who only truly need to know.
- Consider adopting and/or updating internal reporting mechanisms for employees to report concerns about potential coercion or threats related to immigration status.

New Rules for Personnel Files (HB 1308)

Washington has long required employers to allow employees to inspect "personnel records," but the statute did not provide the employee a right to a copy of a personnel file and was silent on what belongs in the file. HB 1308 now fills those gaps and includes several other significant changes that took effect beginning on July 27, 2025.

A “personnel file” is now defined to expressly include: job applications, performance evaluations, non-active or closed disciplinary records, leave or accommodation paperwork, payroll records, and employment agreements, if those documents otherwise exist. Private employers must now provide a complete copy of the personnel file within 21 calendar days of any request by a current or former employee (or authorized representative), at no cost to the employee.² The deadline for providing a written statement as to the date and reason of termination (previously 10 days) is extended to 21 days after receipt of a written request of a former employee or their representative.

Lastly, the new law now expressly includes a private cause of action for employees to enforce the statute in superior court. If a deadline is missed, statutory damages for each violation is \$250 if the requested files or written statement are not provided within 21 days of the request. These damages rise to \$500 if the file is not provided within 28 days of the request, and \$1,000 after day 35, plus reasonable attorneys’ fees. The statute also imposes \$500 in statutory damages for “any other violations.” An employee must give at least five days’ notice before filing suit.

KEY TAKEAWAYS

- Ensure that HR personnel and front-line supervisors are properly trained on the new statutory requirements as they relate to personnel records.
- Review and update employee handbooks or internal policies to reflect the new process for requesting personnel records, including the 21-day deadline and the types of documents that will be provided in response.
- Establish a calendar-tracked workflow for managing written requests and maintain documentation of compliance with the deadline.

(More) Amendments to Paid Sick Leave—Now Covers Leave for Immigration Proceedings (HB 1875)

Effective July 27, 2025, Washington House Bill 1875 will expand the qualifying reasons for which an employee may use their accrued and available state-mandated paid sick leave to include time off for an employee to prepare for or participate in any judicial or administrative immigration proceeding involving either the employee or their family member.

For purposes of this amendment to Washington’s paid sick leave law, a “family member” is defined to include a child, grandchild, grandparent, parent, sibling, or spouse of an employee, as well as an individual who regularly resides in the employee’s home or where the relationship creates an expectation that the employee care for the person and that the individual depends on the employee for care.

² Public employers are subject to the Public Records Act, which will continue to govern.

Employers may request verification of an employee's need for leave relating to an immigration proceeding. In response to such a request, the employee may submit (and the employer must accept) documentation that the employee (or their family member) is involved in a qualifying immigration proceeding from any of the following persons: an advocate for immigrants or refugees, an attorney, a member of the clergy, or other professional. Alternatively, the employee may submit (and the employer must accept) a written statement from the employee that they (or their family member) are involved in a qualifying immigration proceeding and the leave was taken for a qualifying purpose. Note, however, that the supporting documentation submitted to the employer must not disclose any personally identifiable information about a person's immigrant status or underlying immigration protection.

KEY TAKEAWAYS

- Update your handbooks, attendance, and sick leave policies to incorporate these additional protections.
- Educate supervisors and others responsible for attendance management so they are aware that sick leave may be used for these purposes.
- Consider preparing a compliant self-attestation form for employees to use when they need to make use of sick leave to attend immigration proceedings.

A New Mini-WARN Act

Under the federal WARN Act a covered employer who plans to close a facility or implement a mass layoff must provide 60 days' advance notice to the affected employees, the designated state agency, and any union representing the affected employees. On July 27, 2025, Washington joined many other states that have their own "mini-WARN Act." Consequently, employers considering layoffs in Washington State need to review both the federal WARN Act and Washington's new mini-WARN Act to see if the layoff is covered, and if so, to ensure compliance with all requirements under either (or both) statutes.

There are several distinctions between Washington's new mini-WARN Act and the federal WARN Act. Washington's new act has some key differences from the federal Act including:

- **Covered Employers:** The federal WARN Act applies to private sector companies with either 100 full-time employees or 100 employees (full-time and part-time) if those employees collectively work at least 4,000 hours per week (not including overtime hours). The Washington WARN Act applies to a private sector employer with 50 or more full-time Washington employees.
 - o Under both statutes, "full-time employees" are those who work at least 20 hours a week **and** worked for the employer at least six months out of the 12 months preceding the date notice must be given (note, if the applicable collective bargaining agreement has a different definition that applies).

- **Mass Layoffs:** Both statutes apply to “mass layoffs” but the definitions of “mass layoff” are significantly different. Under the federal WARN Act, a mass layoff occurs when (a) 500+ full-time employees lose their jobs, **or** (b) if 50-499 full-time employees lose their jobs **and** they represent at least 33 percent of the employer’s total active full-time workforce. Under the Washington mini-WARN Act, a “mass layoff” occurs when 50 or more full-time employees lose their jobs in a 30-day period, regardless of what percentage of the workforce they represent.
- **Plant/Business Closure:** Under both federal and state Acts, a plant/business closure occurs when 50+ full-time employees at a single site or operating unit are laid off.
- **Short-term Layoffs:** Both statutes have exceptions from coverage under the statute for short-term layoffs (less than six months) even if such layoffs would otherwise be covered. In the case of a short-term layoff of less than three months, however, if the employer later extends that layoff period beyond three months, Washington requires the employer to provide notice to the employees of the extension when it becomes reasonably foreseeable that the extension is required. If the circumstances leading to the extension of a layoff of up to three months were reasonably foreseeable at the time the layoff began, the initial layoff may trigger possible liability for failing to give the 60-days’ advance notice.
- **Notices:** Both statutes require certain information to be in the 60-days’ advance notice, but there are some differences. Covered employers should make sure their notices comply with both.
- **Employees on Paid Family Medical Leave (PFML):** A specific Washington provision is that if a mass layoff is involved, employees currently on Washington PFML cannot be included in the layoff.

These are some of the main differences between the federal WARN Act and the new Washington mini-WARN Act. Both statutes are detailed in application, however, and there are other subtle differences.

Under both the federal and state statutes, lawsuits can be brought by the affected employees, their representative union, or the government to seek damages for failure to comply with the requirements, with an award of attorney fees also authorized. Likewise, both statutes authorize civil penalties against a non-compliant employer in addition to any damages paid to the affected employees.

KEY TAKEAWAYS

- Employers considering job eliminations, layoffs (permanent or temporary), or facility closures in Washington State should consult with counsel to determine if either or both the federal WARN Act or the Washington mini-WARN Act apply.
- Likewise, employers covered by either statute should consult with counsel to ensure that implementation complies with all the requirements.
- Employers implementing short-term layoffs need to carefully consider the length of those layoffs, given the potential penalties if a layoff less than three months is extended.

Paid Family Leave Expansion and Other Changes in 2026 (HB 1213)

House Bill 1213 both expands worker protections relating to Washington's PFML Insurance Program and allows an employer to limit an employee's ability to "stack" their protected leave entitlements. Unless otherwise noted, the changes summarized below go into effect January 1, 2026.

Job Protection Entitlements Expanded

Since enacted, employees taking leave under PFML have been entitled to job protections following a period of leave if the employee had: (1) worked for an employer with 50 or more employees, (2) been employed by the employer for at least 12 months before taking leave, and (3) worked at least 1,250 hours for that employer during the 12 months preceding the leave. Effective January 1, 2026, however, the eligibility requirements for job protections will be expanded to reduce the threshold to 180 days (six months) of employment with the employer **and** expanded to smaller employers incrementally according to the following timelines:

- Beginning January 1, 2026, employees who have worked for an employer with 25 or more employees will be entitled to job protections;
- Beginning January 1, 2027, employees who have worked for an employer with 15 or more employees will be entitled to job protections; and
- Beginning January 1, 2028, employees who have worked for an employer with 8 or more employees will be entitled to job protections.

These job protections will apply to employees who:

- Take leave under PFML; or
- Take unpaid leave under the federal Family and Medical Leave Act (FMLA), if the employee is also eligible for leave under PFML during the same period. Subject to certain exceptions, when an employee is taking unpaid sick leave or temporary disability for pregnancy or childbirth, these job restoration rights will apply, even if the employee did not apply for or receive PFML benefits.

Job Restoration Entitlements: Use 'Em or Lose 'Em

To be eligible for the above-mentioned job protections, employees must exercise their right to reinstatement on the first scheduled workday after their continuous or combined intermittent leave. For any period of leave that exceeds either two workweeks of continuous leave or 14 workdays of combined intermittent leave, employers must provide the employee with at least five (5) days' written notice of their first scheduled workday, as well as the estimated expiration of the employee's restoration rights. This places a duty on the employer to ensure the employee is informed of the work schedule—a best practice may be to arrange and notify the employee of the first scheduled workday at the same time the employee is arranging for leave.

Limiting “Stacking” of Protected Leave Entitlements

Although HB 1213 expands a PFML-eligible employee’s job protection rights when they take unpaid FMLA leave, it also expressly allows an employer to limit an employee’s ability to “stack” their protected leave entitlements, as long as they provide the requisite notice.

To run leave under PFML and FMLA concurrently, the employer must provide written notice to the employee that states:

- The employer is running the two leaves concurrently, specifying the amount the employee has used and has remaining, as well as the amount of FMLA leave counting against the employee’s PFML leave balance;
- The leave year start and end dates being applied; and
- That the employee’s eligibility for leave under PFML is not impacted by the employer’s decision to run the leave concurrently.

In practice, this means that in order for an employer to consider PFML and FMLA to run “concurrently,” this notice **must** be provided to employees using leave. The employer must provide the above-described notices within five (5) business days of the employee’s initial request for leave; **and** on a monthly basis for the remainder of the leave year. A best practice may be to include this information on employee paystubs.

Note that HB 1213 grants L&I authority to conduct periodic audits of employer files and records for purposes of assisting or otherwise enforcing compliance with the PFML program.

New Exceptions to Health Insurance Coverage Continuation

HB 1213 incorporates new exceptions to an employer’s obligation to continue health insurance coverage during a period of leave under PFML. In general, an employer must maintain an employee’s health insurance coverage during a period of leave. Effective January 1, 2026, there will be three possible exceptions to this general rule:

1. If the employee is not employed by the employer at the time they file their application for PFML benefits, that employer is not required to continue the employee’s health benefits.
2. If the employee is not eligible for the above-described job protections under PFML, then the employee is also not entitled to any health benefit continuation.
3. If the employee did not timely exercise their right to employment protections under PFML, then they are not entitled to any health benefit continuation.

Employer Assistance Grants

HB 1213 also amends the eligibility requirements for employer assistance grants that may be provided due to costs incurred by the employer during a period of PFML leave and, in doing so, creates two categories of assistance grants:

1. Employers with 50 to 100 employees may apply for and receive a grant of up to \$3,000 if the employer hired a temporary worker to replace an employee on leave under PFML for a period of seven days or more, or a grant of up to \$1,000 for “significant additional wage-related costs” due to an employee taking leave under PFML. Eligible employers who receive assistance grants for these reasons **will not** be required to pay the employer share of PFML premiums for three years after their receipt of a grant.
2. Employers with fewer than 50 employees may apply for and receive a grant of up to \$3,000 if the employer hired a temporary worker to replace an employee on leave under PFML for a period of seven days or more or for “significant additional wage-related costs” due to an employee taking leave under PFML. Eligible employers who receive assistance grants for these reasons **will** be required to pay the employer share of PFML premiums for three years after their receipt of a grant.

For either of these grants, employers should exercise caution on the specific grant requirements, as some terms of the grant may not be agreeable to some employers.

KEY TAKEAWAYS

- Make sure leave administrators and other HR personnel involved with employee leaves, and the necessary leave administration forms and templates, are up to date with these changes before they go into effect January 1, 2026.
- Watch for the revised statement of employee rights published by L&I. Each employer must post the revised statement of employee rights in a conspicuous place where notices to employees and applicants are customarily posted. This revised notice will include information regarding eligibility requirements, possible weekly benefits, application processes, employment protection rights, nondiscrimination rights, other protections, and information about how to file a complaint. As a reminder, these notices must be provided to the employee within 5 days of a request or notice of a need for PFML-qualifying leave.
- Work with counsel to prepare or update your internal leave administration forms/ template documents to satisfy the above-described written notice requirements before January 1, 2026, when these changes take effect.
- Evaluate or develop recordkeeping practices and/or protocols to ensure compliance with the above-referenced requirements, to ensure that you are prepared to respond to any inspection or audit by L&I.
- Consider whether it may be in your business interest to apply for an assistance grant, if eligible. This may be of particular interest to employers with 50 to 100 employees, as there is no longer a requirement that employers in this size range commit to paying the employer share of PFML premiums for any particular period of time.

Expansion of Domestic Violence Leave Act to Cover Victims of Hate Crimes (SB 5101)

Effective on January 1, 2026, Senate Bill 5101 amends Washington's Domestic Violence Leave Act (DVLA) to include job protections for employees who need to be absent from work to:

- Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or their family member (defined under the DVLA as "any individual whose relationship to the employee can be classified as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship"), including but not limited to preparing for or participating in any civil or criminal legal proceeding related to or derived from a hate crime;
- Seek or attend health care treatment by a health care provider for physical or mental injuries caused to the employee (or their family member) by a hate crime;
- Obtain (or assist a family member in obtaining) services from a social services program for relief from a hate crime;
- Obtain (or assist a family member in obtaining) mental health counseling relating to a hate crime; or
- Participate in safety planning, temporary or permanent relocation, or take other actions to increase the safety of the employee or employee's family members from a future hate crime.

The DVLA defines a "hate crime" as the "commission, attempted commission, or alleged commission of an offense described in [RCW 9A.36.080](#)" and expressly includes offenses that are committed through online or internet-based communication.

Employees taking leave under the DVLA must provide their employer advance notice as dictated by the employer's policy, unless doing so is not possible because of emergency or unforeseen circumstances. In the event of emergency or unforeseen circumstances, the employee (or their designee) must notify the employer no later than the end of the first day that the employee takes leave. In practice, this means employers should be sure their policies are updated and include timelines for seeking non-emergency DVLA leave.

Although leave under the DVLA is generally unpaid, employees may use accrued and available paid sick leave during a period of leave under the DVLA. Employees taking leave under the DVLA remain entitled to certain job-related protections, including that employers may not refuse to hire an otherwise qualified individual because they are an actual or perceived victim of domestic violence, sexual assault, stalking, or hate crime. In addition, employers may not discriminate or retaliate against any individual, or refuse to make a reasonable safety accommodation requested by an individual, who is a victim of domestic violence, sexual assault, stalking, or hate crime.

KEY TAKEAWAYS

- Update handbooks and leave policies to ensure that they incorporate these expanded entitlements by January 1, 2026.

- Educate supervisory personnel and others involved with attendance management to ensure that absences that qualify for protected leave status, like DVLA leave, are not considered or used as a basis for discipline, negative performance evaluation, or denial of advancement or other job benefits and privileges.

Isolated Employees—HB 1524

House Bill 1524 will expand existing protections that apply to hotels, motels, retail, security guard entities, and property services contractors who employ isolated employees, effective January 1, 2026. It also clarifies that an “isolated employee” means janitors, security guards, hotel/motel housekeepers, or room service attendants who *either* work in an area where there are fewer than two co-workers/supervisors present to immediately respond without being summoned by the employee **or** spend at least 50 percent of their working hours alone.

In addition to the current isolated employees workplace requirements (publishing/training on sexual harassment policies, identifying reporting contacts, and providing panic buttons), by January 1, 2026, covered employers of isolated employees will also have to do the following:

1. **Retain records** of employees’ sexual harassment training,
2. **Train** isolated employees how to use panic buttons and supervisors how to respond,
3. **Maintain records** on panic button purchases and their utilization by isolated employees,
4. **Provide panic buttons** that (1) are portable, (2) are quick and easy to activate (no passwords or start-up wait times), (3) provide an effective signal, and (4) immediately identify the employee’s location when activated.

Further, property service contractors with isolated employees will need to **submit annual reports to L&I** confirming their compliance along with other information.

Finally, this bill also tasks L&I to investigate complaints of violations of these special rules for isolated employees and give citations to violating employers. Citations for violators *may* come with financial penalties between \$1,000 for a first willful violation, up to potentially \$10,000 for subsequent violations. L&I may reduce or waive penalties if the employer corrects the violation.

KEY TAKEAWAY

- Entities who employ isolated workers should review the additional requirements and take steps to be in compliance no later than January 1, 2026.

Important New Requirements Related to Use of Criminal Background Checks

Effective July 1, 2026, for employers with 15 or more employees, and effective January 1, 2027, for employers with less than 15 employees, Washington law will now prohibit criminal history or background checks until after a conditional offer of employment has been made. This prohibition will apply to interviews, recruiter decisions, and any form of screening before the conditional offer stage. Employers are also prohibited from taking adverse action based on arrests that did not lead to conviction and from considering juvenile convictions at all. An employer must have a “legitimate business reason” for taking an adverse action based on an adult conviction based on these factors:

1. The seriousness of the offense;
2. The number and types of convictions;
3. The time elapsed since the conviction;
4. Evidence of rehabilitation or subsequent good conduct;
5. The nature and duties of the job sought and applicant’s ability to perform; and
6. The work environment and the place and manner in which the job would be performed.

The law, as amended, will now include a two-business-day waiting period in which the applicant can give additional information on the context of the conviction or on their rehabilitation. Employers must give a written explanation for the decision to rescind the offer. Employers will face increased penalties for violations.

KEY TAKEAWAYS

- Review and revise hiring procedures to ensure that criminal history inquiries and background checks happen only after a conditional offer has been made.
- Train recruiters and hiring managers about these limitations to avoid prohibited discussion of criminal history, and update all application materials accordingly.
- Implement a documented, individualized assessment process and ensure there is a waiting period of two business days after notifying the applicant before proceeding.

New Restrictions on Minor Workers

Restrictions for Employers Regarding Safety and Working Conditions of Minors (HB 1644)

Effective July 1, 2026, House Bill 1644 will impose new restrictions on employing minors and bidding on public works projects, and will impose new penalties including possible permit revocations for violations.

1. **Student-Learner Variances:** Minor employees are prohibited from engaging in hazardous activities and are limited in the number of hours they can work during the school week. Currently, some employers may be able to obtain a variance from these restrictions from L&I. Beginning July 1, 2026, no variances will be granted without an L&I health and safety consultation and inspection for both agricultural and non-agricultural employers.
2. **Penalty Modifications:** Violations of minor employment regulations can lead to penalties. Under HB 1644 there will no longer be a distinction between agricultural and non-agricultural employers for penalties. Potential penalties range from \$100 for nonserious violations to \$142,000 for intentional serious violations that result in the death of a minor. For some violation classifications, L&I may reduce or waive a financial penalty if the employer corrects the violation.
3. **Permit Revocation:** Employers must get a minor work permit for any employees younger than 18 years old. Under HB 1644 L&I will revoke minor work permits and ban an employer from receiving permits for one year if (1) a minor employee was seriously injured or killed due to their employer's violation of minor worker health and safety laws or (2) a Washington court orders revocation.
4. **Additional WISHA Notice:** Currently, the Washington Industrial Safety and Health Act (WISHA) authorizes L&I to inspect and investigate workplaces with minor workers for compliance with health and safety standards and to penalize noncompliance. Under HB 1644 L&I will need to notify employers within 10 days of a WISHA inspection that identifies a hazard that could injure a minor worker.
5. **Public Works Bidding:** Currently, to bid on public works projects employers must meet responsible bidder criteria and submit a signed statement that they have not willfully violated wage payment laws during the last three years. HB 1644 will additionally require a signed statement with non-agricultural bids, affirming that the company has not had a minor work permit revoked within one year before the bid date.

Revised Minor Work Hours Restrictions (HB 1121)

At present, 16- and 17-year-olds in career and technical education programs are heavily restricted in the hours they can work for approved program employers during school weeks. Beginning July 1, 2026, approved employers may allow their minor employees in applicable programs to work as many hours during the school year as they can during non-school weeks.

Approved employers are those who are permitted to hire 16- and 17-year-old employees who are enrolled in a work-based learning program approved by the Office of the Superintendent of Public Instruction or the minor's school district. Approved employers will be able to schedule minor workers enrolled in an approved program for the following hours at any time:

MAXIMUM HOURS PER DAY	MAXIMUM HOURS PER WEEK	MAXIMUM DAYS PER WEEK	START TO END TIMES
8 hours	48 hours	6 days	5 a.m. - midnight

KEY TAKEAWAY

- Employers with under 18-year-old employees should carefully review all applicable regulations for employing minors generally and in their industry.

New Pregnancy Accommodations in 2027

All employers in Washington, regardless of size, will be required to provide certain pregnancy and post-partum accommodations to employees by 2027. These changes will expand the protections of Washington's Healthy Starts Act, which was adopted in 2017 and already mandates that pregnant employees working for employers with at least 15 employees be provided with certain accommodations, without any exceptions or medical certification:

- Frequent, longer, or additional restroom breaks.
- Modified food or drink policies.
- The ability to sit more frequently.
- Not to lift objects over 17 pounds.
- The need to express breast milk.

As of January 1, 2027, these obligations will apply to all employers in Washington, regardless of size. Employers must continue to provide the current accommodations for pregnant employees and must also (1) pay for lactation breaks and for travel time to access lactation stations/locations, (2) provide lactation breaks in addition to an employee's regular meal and rest breaks, and (3) provide accommodations for post-natal appointments (currently only prenatal appointments are covered under the law).

Initially these protections were enforced by the Attorney General's office, but going forward L&I will be responsible for investigation and enforcement of these protections, with an obligation to contact the employer and make good faith attempts to reach an agreement on a reasonable accommodation before more formal enforcement is undertaken. L&I is also directed to adopt rules related to enforcement before these changes go into effect.

KEY TAKEAWAYS

- Update handbooks and related policies to ensure that they comply with these additional pregnancy and postpartum-related requirements by 2027.
- Educate supervisory personnel to ensure that they are aware of these additional breaks and update policies and break practices accordingly.
- Adopt appropriate timekeeping and payroll procedures to ensure lactation breaks are tracked and paid.
- Watch for updated guidance from L&I regarding enforcement.

WASHINGTON REGULATIONS

Updates to Washington State and the Minimum Wage (SB 5578)

The Washington State minimum wage beginning January 1, 2026, will be increased to \$17.50 per hour. There are several jurisdictions that exceed this minimum wage amount and are also increasing to account for inflation. For a full list of jurisdictional minimum wage changes see [this article from L&L](#).

The cities of Burien and Everett made changes to their minimum wage ordinances that too effect within 2025. For more information on the Burien and Everett changes see [“Update on Jurisdictions Exceeding Washington State’s Minimum Wage in 2025: Burien and Everett.”](#)

Spokane’s “Ban the Address”—Ordinance No. C36666

Effective on May 25, 2025, Spokane passed the “Ban the Address” ordinance, prohibiting employers from inquiring about a job applicant’s current or prior residential address—or otherwise using housing status as a screening criterion—until after a provisional offer of employment has been made. Ban the Address is designed to ensure that qualified applicants are not excluded from consideration for jobs based on their housing status.

Under this ordinance Spokane employers can:

- NOT ask for an applicant’s address/housing history until after giving a provisional offer,
- NOT reject applicants because they are unhoused, live in shelters, or use P.O. boxes,
- Only allow an applicant to provide a mailing address or preferred method of contact solely for communication purposes during the hiring process,

For more information see our prior alert [“New Hiring and Employment Records Laws Take Effect in Washington.”](#)

WASHINGTON CASES

David v. Freedom Vans, LLC, 562 P3d 351, 352 (Wash. 2025)

David was a self-taught carpenter who took a job as a shop assistant with Freedom Vans, a company that converts and customizes vans into mobile houses. David never made more than twice the minimum wage while employed by the company, and didn’t receive any specialized training or guidance.

Freedom Vans required all employees, including David, to sign a contract agreeing not to “directly or indirectly engage in any business that competes” with Freedom Vans during their employment. The agreement defined “direct or indirect competition” as including “engaging in a business as owner, partner, or agent” or “becoming an employee of any third party that is engaged” in a “competitive business.” David contended that he

declined additional work opportunities that he would have taken on to supplement his employment, had he not been in fear of being either terminated or faced legal action from Freedom Vans.

He and another coworker who had by then also left the company, initiated a class action lawsuit against Freedom Vans arguing that the contract violated chapter 49.62 RCW—a statute that regulates noncompete clauses in employment contracts. That law expressly restricts employers from prohibiting their low-wage workers (which it defines as those earning less than twice the minimum wage) from having an additional job or supplementing their income (this is referred to as an “anti-moonlighting law”).³ One of the exceptions to this prohibition under RCW 49.62.070 is if the outside work alters the employee’s ability to comply with the duty of loyalty among other obligations.

Freedom Vans moved for summary judgment dismissal of the case, arguing that the exception applied. The superior court read that exception fairly narrowly and awarded dismissal to Freedom Vans, reasoning, “RCW 49.62 does not restrict an employer’s right to require employee loyalty and avoidance of conflicts of interest during the course of employment consistent with the common law” in an express or implied manner. On appeal, the Court of Appeals affirmed that decision.

On January 23, 2025, the Washington Supreme Court reversed, finding that the duty of loyalty exception is limited to prohibitions that are “reasonable” and narrowly construed. It held that reasonableness is a fact-based inquiry, and adopted the following criteria for future courts dealing with that question:

1. Whether there is a need to protect the employer’s business or goodwill,
2. Whether the restraint on the employee is reasonably necessary, and
3. Whether enforcing the noncompete agreement violates public policy.

KEY TAKEAWAYS

- Employers with employees that have any noncompete agreements or noncompete provisions in employment contracts for Washington-based employees need to be aware that the duty of loyalty exception under RCW 49.62.070 will be narrowly construed by Washington courts and plan accordingly.
- Employers should review their offer letters, employment agreements, and policies to ensure any anti-moonlighting, loyalty, conflict of interest, noncompete, or other outside employment provisions are narrowly tailored as consistent with the new ruling.
- To minimize the risk of litigation and penalties under this employee friendly ruling, employers of low-wage workers should consider removing any restatement of the duty of loyalty from agreements, contracts, and even policies and practices.

³ A violation of Washington’s anti-moonlighting law provides a private right of action for actual damages or a \$5,000 penalty, whichever is greater, plus reasonable attorneys’ fees and litigation costs, with the potential for a class action.

***Branson v. Wash. Fine Wine & Spirits, LLC*, No. 103394-0, 2025 Wash. LEXIS 442, at *1 (Sep. 4, 2025)**

The Washington State Supreme Court was asked to resolve an open question under the relatively new Washington Pay Transparency Law (WPTL): to be entitled to remedies under the statute, does a “job applicant” need to prove that they applied for the job in good faith or are otherwise a *bona fide* applicant? The answer was NO, instead the only requirement to be considered a “job applicant” under the WPTL was proof that the Plaintiff actually applied to the applicable job posting.

This highly contentious decision means that employers cannot lean on an applicant’s subjective interest in the job, qualifications for the job, and ability to carry out the job requirements in defending against claims for WPTL violations. The *Branson* court held that, based upon the legislative intent, the applicant’s qualifications and good faith were not intended to be a consideration in determining if an applicant can bring a claim under the WPTL. These lawsuits, such as the *Branson* lawsuit, have been filed in mass, with several serial plaintiffs emerging since the law was passed in 2023. There is understandable concern that this decision may act as a boon for these kinds of plaintiffs to ramp up operations.

KEY TAKEAWAYS

- Employers should carefully review all existing and future job postings to ensure compliance with state pay transparency laws, particularly compliance with the pay and/or salary range information.
- To ensure that the notice of a posting’s deficiency reaches the right people in the company, employers should consider adding a sentence to job postings that includes an email address to which job applicants can send notices about noncompliance.

***Department of Labor & Industries v. Cannabis Green, LLC*, 569 P.3d 303, 305 (Wash. 2025).**

In 2019 Cannabis Green LLC (CG) received a wage complaint from L&I after one of its employees alleged they were owed overtime for work across three separate cannabis stores in the same workweeks. The stores were separate entities, but all were operated by the same owners. L&I investigated and concluded that CG had a joint-employer relationship with respect to its employees at all three stores, so it was required to pay overtime when an employee’s total hours exceeded 40 hours in a week across all the stores. It then issued a citation and notice of assessment against CG for wages owed to that particular employee, which was settled, and by its terms, the settlement did not affect any other worker.

A few months later, CG received additional correspondence from L&I indicating that it believed other employees may be owed wages and requested certain payroll records. CG provided the requested records and additional follow-up questions. However, after a few more months, L&I sent two more letters to CG requesting yet more records and information about CG’s sick time, break, opening and closing, and tip policies. CG did

not comply with either set of requests and instead sent its own letter objecting to the investigation and stated it was declining to provide further information.

Ultimately, L&I completed its investigation in mid-2021 and sent CG a proposed compliance agreement to “resolve wage and hour issues, sick leave issues and other matters for the purpose of avoiding the inconvenience, uncertainty, and expense of litigation.” CG rejected the terms offered, and L&I’s subsequent proposal for mediation. Without first issuing a formal order directing CG to pay a specific amount, L&I then filed suit on behalf of “all current and former non-exempt employees” who worked for CG during the relevant timeframe. The complaint stated five claims for relief which had been addressed in the proposed agreement, as well as some new claims. CG moved to get the case dismissed on the basis that L&I needed to formally order payment before commencing an action.

Both the lower courts agreed with CG, but the Supreme Court disagreed, holding that neither a formal L&I order, nor a specific monetary demand is required before filing suit for a wage violation under RCW 49.48.040(1)(b). While it held L&I must demand payment from a defendant before filing suit, once it has done so, it may commence an action, with or without asserting the specific amount of damages at issue. The Court reasoned that when an employer withholds records in the investigation, like CG did, L&I may not be able to calculate a specific sum. This case signals to employers that they should take informal signals from L&I seriously because litigation could, even quickly, follow.

KEY TAKEAWAYS

- Employers should promptly respond to and address wage complaints and have systems in place if a complaint arises.
- If L&I investigates a wage complaint, the employer should be aware of the risks that this case illustrates: Ignoring or refusing to cooperate with even informal directives from L&I could lead to full blown litigation, and in that context, L&I can recover not just the amount owed to the employee(s), but also attorneys’ fees and statutory double damages.

***Androckitis v. Va. Mason Med. Ctr.*, 32 Wn. App. 2d 418, 556 P.3d 714 (2024)**

Under Washington’s minimum wage act, employees are entitled to an unpaid, uninterrupted 30-minute meal break for shifts of five hours or more and to a 10-minute rest break every four hours. Virginia Mason Medical Center had a policy that would automatically deduct 30 minutes of an employee’s recorded time and the employee could cancel the deduction if they did not take the lunch break. However, employees were not given a chance to take a later lunch break or compensation for the loss of the lunch break. The system granted employees a 15-minute break every four-hour period and if the employee did not get their appropriate break, they needed to report the missed break in the timekeeping system, and a manager would manually approve or deny the missed break. This would grant the employee 15 more minutes of pay.

Virginia Mason employee, Rheannon Androckitis, brought a punitive class action suit claiming Virginia Mason did not provide compliant meal periods and affected employees were entitled to 30 minutes of penalty pay for the interrupted or non-existent periods. The trial court certified the class and found that the class was entitled to (1) pay for all missed break periods, (2) an additional 30 minutes of penalty pay for each noncompliant meal period, (3) prejudgment interest, and (4) double damages due to its finding that Virginia Mason's failure to timely pay the aggrieved employees was willful.

The Court of Appeals found the trial court's order to be reasonable. Finding that employees have a *right* to a 30-minute respite for every five-hour shift under the Industrial Welfare Act, the appellate court made it clear that payment for only the amount of an unused meal break is not sufficient. Denial of this right requires an employer to pay the aggrieved employee for an extra 30 minutes, and the same is true for unused break periods. It agreed that an employer that fails to remedy a discrepancy, in full, after it is discovered will trigger a finding of willfulness and trigger liability for double damages. The Washington State Supreme Court denied review of this case in February 2025, which means the Court of Appeals holding remains the law, at least in Division 1 (which covers King, Snohomish, Skagit, Island, San Juan, and Whatcom Counties).

KEY TAKEAWAYS

- This case illustrates that employers could be liable for as much as 120 minutes of pay for one missed 30-minute unpaid meal break. To avoid this, Washington employers should be sure to revisit their policies and practices to ensure meal breaks are taken, to make sure missed breaks are easy to report and that employees, ideally, are required to document their breaks.
- If employees are waiving their meal breaks, the waivers must be recorded in a written, easily accessible format for every waived meal period.
- Absent effective waivers, employers should be sure that if and when an employee misses any of the required meal or rest periods, their pay is accurately corrected and as immediately as possible.

Disclaimer: This summary is not legal advice and is based upon current statutes, regulations, and related guidance that is subject to change, with or without notice. It is provided solely for informational and educational purposes and does not fully address the complexity of the issues or steps employers must take under applicable laws. For legal advice on these or related issues, please consult qualified legal counsel directly.