

FAIR LABOR STANDARDS INITIATIVE JAN. 11 SUBMISSION DRAFT

AN ACT Relating to fair labor standards; amending RCW 49.46.005, RCW 49.46.020, RCW 49.46.090, RCW 49.46.100, and RCW 49.46.120; adding new sections; and providing a statement of intent, rule of construction, effective date, and severability clause.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

Sec. 1. NEW SECTION. Statement of intent.

(1) It is the intent of the people through this initiative to establish fair labor standards and protect the rights of workers by increasing the hourly minimum wage to \$11.00 (2017), \$11.50 (2018), \$12.00 (2019) and \$13.50 (2020), and requiring employers to provide employees with paid sick leave to care for the health of themselves and their families.

Sec. 2. RCW 49.46.005 is hereby amended as follows:

Declaration of necessity and police power.

(1) Whereas the establishment of a minimum wage for employees is a subject of vital and imminent concern to the people of this state and requires appropriate action by the legislature to establish minimum standards of employment within the state of Washington, therefore the legislature declares that in its considered judgment the health, safety, and the general welfare of the citizens of this state require the enactment of this measure, and exercising its police power, the legislature endeavors by this chapter to establish a minimum wage for employees in this state to encourage employment opportunities within the state. The provisions of this chapter are enacted in the exercise of the police power of the state for the purpose of protecting the immediate and future health, safety, and welfare of the people of this state.

(2) Since the enactment of Washington's original minimum wage act, the legislature and the people have repeatedly amended this chapter to establish and enforce modern fair labor standards, including periodically updating the minimum wage and establishing the forty-hour workweek and the right to overtime pay.

(3) The people through this initiative hereby amend this chapter to conform to modern fair labor standards by establishing a fair minimum wage and the right to paid sick leave to protect public health and allow workers to care for the health of themselves and their families.

PART I

ESTABLISHING FAIR LABOR STANDARDS BY INCREASING THE MINIMUM HOURLY WAGE TO \$11.00 (2017), \$11.50 (2018), \$12.00 (2019) AND \$13.50 (2020).

Sec. 2. RCW 49.46.020 is amended to read as follows:

~~(1) Until January 1, 1999, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than four dollars and ninety cents per hour.~~

~~(2) Beginning January 1, 1999, and until January 1, 2000, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than five dollars and seventy cents per hour.~~

~~(3) Beginning January 1, 2000, and until January 1, 2001, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than six dollars and fifty cents per hour.~~

(1) (a) Beginning January 1, 2017, and until January 1, 2018, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than eleven dollars per hour.

(b) Beginning January 1, 2018, and until January 1, 2019, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than eleven dollars and fifty cents per hour.

(c) Beginning January 1, 2019, and until January 1, 2020, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than twelve dollars per hour.

(d) Beginning January 1, 2020, and until January 1, 2021, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than thirteen dollars and fifty cents per hour.

(42)(a) Beginning on January 1, ~~2001~~ 2021, and each following January 1st as set forth under

(b) of this subsection, every employer shall pay to each of his or her employees who has reached the age of eighteen years wages at a rate of not less than the amount established under (b) of this subsection. FAIR LABOR STANDARDS INITIATIVE JAN. 11 SUBMISSION DRAFT PG. 3

(b) On September 30, ~~2000~~ 2020, and on each following September 30th, the department of labor and industries shall calculate an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. The adjusted minimum wage rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the twelve months prior to each September 1st as calculated by the United States department of labor. Each adjusted minimum wage rate calculated under this subsection (24)(b) takes effect on the following January 1st.

(3) An employer must pay to its employee(s): (a) all tips and gratuities, and (b) all service charges as defined under RCW 49.46.160 except those that, pursuant to that section, are itemized as not being payable to the employee or employees servicing the customer. Tips and service charges paid to an employee are in addition to, and may not count towards, the employee's hourly minimum wage.

(54) The director shall by regulation establish the minimum wage for employees under the age of eighteen years.

PART II

ESTABLISHING FAIR LABOR STANDARDS BY REQUIRING EMPLOYERS TO PROVIDE PAID SICK LEAVE TO EMPLOYEES.

Sec. 3. NEW SECTION. Findings.

The demands of the workplace and of families need to be balanced to promote public health, family stability, and economic security. It is in the public interest to provide reasonable paid sick leave for employees to care for the health of themselves and their families. Such paid sick leave shall be provided at the greater of the newly increased minimum wage or the employee's regular and normal wage.

Sec. 4. NEW SECTION. A new section is added to Chapter 49.46 as follows:

(1) Beginning January 1, 2018, every employer shall provide each of its employees paid sick leave as follows:

(a) An employee shall accrue at least one hour of paid sick leave for every forty hours worked as an employee. An employer may provide paid sick leave in advance of accrual provided that such front-loading meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave.

(b) An employee is authorized to use paid sick leave for the following reasons:

(i) An absence resulting from an employee's mental or physical illness, injury, or health condition; to accommodate the employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care;

(ii) To allow the employee to provide care for a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care for a family member who needs preventive medical care.

(iii) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such a reason.

(c) An employee is authorized to use paid sick leave for absences that qualify for leave under the Domestic Violence Leave Act, RCW Chapter 49.76.

(d) An employee is entitled to use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment.

(e) Employers are not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes.

(f) An employer may require employees to give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave.

(g) For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose. If an employer requires verification, verification must be provided to the employer within a reasonable time period during or after the leave. An employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.

(h) An employer may not require, as a condition of an employee taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave.

(i) For each hour of paid sick leave used, an employee shall be paid the greater of the minimum hourly wage rate established in this chapter or his or her normal hourly compensation. The employer is responsible for providing regular notification to employees about the amount of paid sick leave available to the employee.

(j) Unused paid sick leave carries over to the following year, except that an employer is not required to allow an employee to carry over paid sick leave in excess of forty hours per year.

(k) This section does not require an employer to provide financial or other reimbursement for accrued and unused paid sick leave to any employee upon the employee's termination, resignation, retirement, or other separation from employment. When there is a separation from employment and the employee is rehired within twelve months of separation by the same employer, whether at the same or a different business location of the employer, previously accrued unused paid sick leave shall be reinstated and the previous period of employment shall be counted for purposes of determining the employee's eligibility to use paid sick leave under paragraph 1(d) of this section.

(2) For purposes of this section, "family member" means any of the following:

(a) A child, including a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(b) A biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;

(c) A spouse;

(d) A registered domestic partner;

(e) A grandparent;

(f) A grandchild; or

(g) A sibling.

(3) An employer may not adopt or enforce any policy that counts the use of paid sick leave time as an absence that may lead to or result in discipline against the employee.

(4) An employer may not discriminate or retaliate against an employee for his or her exercise of any rights under this chapter including the use of paid sick leave.

PART III

MISCELLANEOUS

Sec. 5. NEW SECTION. A new section is added to Chapter 49.46 as follows:

(1) Beginning January 1, 2017, all existing rights and remedies available under state or local law for enforcement of the minimum wage shall be applicable to enforce all of the rights established under this initiative.

(2) The state shall pay individual providers, as defined in RCW 74.39A.240(3), in accordance with the minimum wage, overtime, and paid sick leave requirements of this chapter.

Sec. 6. RCW 49.46.090 is amended to read as follows:

(1) Any employer who pays any employee less than ~~the amounts~~ wages to which such employee is entitled under or by virtue of this chapter, shall be liable to such employee affected for the full amount due to such employee under this chapter ~~of such wages rate~~, less any amount actually paid to such employee by the employer, and for costs and such reasonable attorney's fees as may be allowed by the court. Any agreement between such employee and the employer ~~to work for~~ allowing the employee to receive less than what is due under this chapter ~~such wage rate~~ shall be no defense to such action.

(2) At the written request of any employee paid less than the ~~wages~~ amounts to which he or she is entitled under or by virtue of this chapter, the director may take an assignment under this chapter or as provided in RCW 49.48.040 of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court.

Sec. 7. RCW 49.46.100 is amended to read as follows:

(1) Any employer who hinders or delays the director or his or her authorized representatives in the performance of his or her duties in the enforcement of this chapter, or refuses to admit the director or his or her authorized representatives to any place of employment, or fails to make, keep, and preserve any records as required under the provisions of this chapter, or falsifies any such record, or refuses to make any record accessible to the director or his or her authorized representatives upon demand, or refuses to furnish a sworn statement of such record or any other information required for the

proper enforcement of this chapter to the director or his or her authorized representatives upon demand, or pays or agrees to pay an employee less than wages at a rate less than the rate applicable the employee is entitled to under this chapter, or otherwise violates any provision of this chapter or of any regulation issued under this chapter shall be deemed in violation of this chapter and shall, upon conviction therefore, be guilty of a gross misdemeanor.

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

Sec. 8. RCW 49.46.120 is hereby amended as follows.

This chapter establishes a minimum standards for wages, paid sick leave, and working conditions of all employees in this state, unless exempted here from, and is in addition to and supplementary to any other federal, state, or local law or ordinance, or any rule or regulation issued thereunder. Any standards relating to wages, hours, paid sick leave, or other working conditions established by any applicable federal, state, or local law or ordinance, or any rule or regulation issued thereunder, which are more favorable to employees than the minimum standards applicable under this chapter, or any rule or regulation issued hereunder, shall not be affected by this chapter and such other laws, or rules or regulations, shall be in full force and effect and may be enforced as provided by law.

Sec. 9. NEW SECTION.

The state department of labor and industries must adopt and implement rules to carry out and enforce this initiative, including but not limited to procedures for notification to employees and reporting regarding sick leave, and protecting employees from retaliation for the lawful use of sick leave and exercising other rights under this chapter. The department's rules for enforcement of rights under this initiative shall be at least equal to enforcement of the minimum wage.

NEW SECTION. Sec. 10. The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act. Nothing in the initiative precludes local jurisdictions from enacting additional local fair labor standards that are more favorable to employees, including but not limited to more generous minimum wage or paid sick leave requirements.

NEW SECTION. Sec. 11. This initiative shall be codified in RCW Chapter 49.46 and is subject to RCW 49.46.040 (Investigation, etc.) and RCW 49.46.070 (Recordkeeping).

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. This Act takes effect on January 1, 2017.