



PAID FAMILY & MEDICAL LEAVE TITLE 50A RCW – LISTENING SESSIONS PHASE 2 RULEMAKING

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50A.04.070

Employee notice of rights.

Whenever an employee of an employer who is qualified for benefits under this chapter is absent from work to provide family leave, or take medical leave for more than seven consecutive days, the employer shall provide the employee with a written statement of the employee's rights under this chapter in a form prescribed by the commissioner. The statement must be provided to the employee within five business days after the employee's seventh consecutive day of absence due to family or medical leave, or within five business days after the employer has received notice that the employee's absence is due to family or medical leave, whichever is later.

[[2017 3rd sp.s. c 5 § 71.](#)]

50A.04.075

Posting of notice regarding chapter—Penalties.

Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the commissioner, setting forth excerpts from, or summaries of, the pertinent provisions of this chapter and information pertaining to the filing of a complaint. Any employer that willfully violates this section may be subject to a civil penalty of not more than one hundred dollars for each separate offense. Any penalties collected by the department under this section shall be deposited into the family and medical leave enforcement account.

[[2017 3rd sp.s. c 5 § 75.](#)]

50A.04.080

Employer requirements.

(1) In the form and at the times specified in this chapter and by the commissioner, an employer shall make reports, furnish information, and collect and remit premiums as required by this chapter to the department. If the employer is a temporary help company that provides employees on a temporary basis to its customers, the temporary help company is considered the employer for purposes of this section.



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(2)(a) An employer must keep at the employer's place of business a record of employment, for a period of six years, from which the information needed by the department for purposes of this chapter may be obtained. This record shall at all times be open to the inspection of the commissioner.

(b) Information obtained under this chapter from employer records is confidential and not open to public inspection, other than to public employees in the performance of their official duties. However, an interested party shall be supplied with information from employer records to the extent necessary for the proper presentation of the case in question. An employer may authorize inspection of the employer's records by written consent.

(3) The requirements relating to the collection of family and medical leave premiums are as provided in this chapter. Before issuing a warning letter, the department shall enforce the collection of premiums through conference and conciliation. These requirements apply to:

(a) An employer that fails under this chapter to make the required reports, or fails to remit the full amount of the premiums when due;

(b) An employer that willfully makes a false statement or misrepresentation regarding a material fact, or willfully fails to report a material fact, to avoid making the required reports or remitting the full amount of the premiums when due under this chapter;

(c) A successor in the manner specified in RCW [50A.04.125](#); and

(d) An officer, member, or owner having control or supervision of payment and/or reporting of family and medical leave premiums, or who is charged with the responsibility for the filing of returns, in the manner specified in RCW [50A.04.090](#).

(4) Notwithstanding subsection (3) of this section, appeals are governed by RCW [50A.04.500](#).

[[2017 3rd sp.s. c 5 § 33.](#)]

50A.04.085

Unlawful acts—Employers.

(1) It is unlawful for any employer to:

(a) Interfere with, restrain, or deny the exercise of, or the attempt to exercise, any valid right provided under this chapter; or

(b) Discharge or in any other manner discriminate against any employee for opposing any practice made unlawful by this chapter.

(2) It is unlawful for any person to discharge or in any other manner discriminate against any employee because the employee has:

(a) Filed any complaint, or has instituted or caused to be instituted any proceeding, under or related to this chapter;

(b) Given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this chapter; or



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(c) Testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this chapter.

[[2017 3rd sp.s. c 5 § 72.](#)]

50A.04.090

Employer penalties.

(1) An employer who willfully fails to make the required reports is subject to penalties as follows: (a) For the second occurrence, the penalty is seventy-five dollars; (b) for the third occurrence, the penalty is one hundred fifty dollars; and (c) for the fourth occurrence and for each occurrence thereafter, the penalty is two hundred fifty dollars.

(2) An employer who willfully fails to remit the full amount of the premiums when due is liable, in addition to the full amount of premiums due and amounts assessed as interest under RCW [50A.04.140](#), to a penalty equal to the premiums and interest.

(3) Any penalties under this section shall be deposited into the family and medical leave enforcement account.

(4) For the purposes of this section, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

(5) The department shall enforce the collection of penalties through conference and conciliation.

(6) These penalties may be appealed as provided in RCW [50A.04.500](#) through [50A.04.595](#).
[[2017 3rd sp.s. c 5 § 68.](#)]

50A.04.095

Employee complaints.

Upon complaint by an employee, the commissioner shall investigate to determine if there has been compliance with this chapter and the rules adopted under this chapter. If the investigation indicates that a violation may have occurred, a hearing must be held in accordance with chapter [34.05](#) RCW. The commissioner must issue a written determination including the commissioner's findings after the hearing. A judicial appeal from the commissioner's determination may be taken in accordance with chapter [34.05](#) RCW.

[[2017 3rd sp.s. c 5 § 73.](#)]

50A.04.100

Damages.

Any employer who violates RCW [50A.04.085](#) is liable for damages equal to:



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(1) The amount of:

(a) Any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(b) In a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to wages or salary for the employee for up to sixteen weeks, or eighteen weeks if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(2)(a) The interest on the amount described in subsection (1) of this section calculated at the prevailing rate; and

(b) For a willful violation, an additional amount as liquidated damages equal to the sum of the amount described in subsection (1) of this section and the interest described in this subsection (2). For purposes of this section, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

[[2017 3rd sp.s. c 5 § 74.](#)]

50A.04.135

Jeopardized collection—Immediate assessment.

If the commissioner has reason to believe that an employer is insolvent or if any reason exists why the collection of any premiums accrued will be jeopardized by delaying collection, he or she may make an immediate assessment thereof and may proceed to enforce collection immediately, but interest and penalties shall not begin to accrue upon any premiums until the date when such premiums would normally have become delinquent.

[[2017 3rd sp.s. c 5 § 59.](#)]

50A.04.140

Delinquency—Accrual of interest.

If premiums are not paid on the date on which they are due and payable as prescribed by the commissioner, the whole or part thereof remaining unpaid shall bear interest at the rate of one percent per month or fraction thereof from and after such date until payment plus accrued interest is received by him or her. The date as of which payment of premiums, if mailed, is deemed to have been received may be determined by such regulations as the commissioner may prescribe. Interest collected pursuant to this section shall be paid into the family and medical leave enforcement account. Interest shall not accrue on premiums from any estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer qualifies as such, but premiums



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accruing with respect to employment of persons by any receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer shall become due and shall draw interest in the same manner as premiums due from other employers. Where adequate information has been furnished to the department and the department has failed to act or has advised the employer of no liability or inability to decide the issue, interest may be waived. [[2017 3rd sp.s. c 5 § 55.](#)]

50A.04.180

Injunction from continuing in business.

Any employer who is delinquent in the payment of premiums, interest, or penalties may be enjoined upon the suit of the state of Washington from continuing in business in this state or employing persons herein until the delinquent premiums, interest, and penalties have been paid, or until the employer has furnished a good and sufficient bond in a sum equal to double the amount of premiums, interest, and penalties already delinquent, plus such further sum as the court deems adequate to protect the department in the collection of premiums, interest, and penalties which will become due from such employer during the next ensuing calendar year, said bond to be conditioned upon payment of all premiums, interest, and penalties due and owing within thirty days after the expiration of the next ensuing calendar year or at such earlier date as the court may fix. Action under this section may be instituted in the superior court of any county of the state wherein the employer resides, has its principal place of business, or where it has anyone performing services for it, whether or not such services constitute employment. [[2017 3rd sp.s. c 5 § 65.](#)]

50A.04.195

Program administration—Information disclosure—Outreach.

(1) The department shall establish and administer the family and medical leave program and pay family and medical leave benefits as specified in this chapter. The department shall adopt government efficiencies to improve administration and reduce costs. These efficiencies shall include, to the extent feasible, combined reporting and payment, with a single return, of premiums under this chapter and contributions under chapter [50.24](#) RCW.

(2) The department shall establish procedures and forms for filing applications for benefits under this chapter. The department shall notify the employer within five business days of an application being filed.

(3) The department shall use information sharing and integration technology to facilitate the disclosure of relevant information or records by the department, so long as an employee consents to the disclosure as required under RCW [50A.04.035](#).



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(4) Information contained in the files and records pertaining to an employee under this chapter are confidential and not open to public inspection, other than to public employees in the performance of their official duties. However, the employee or an authorized representative of an employee may review the records or receive specific information from the records on the presentation of the signed authorization of the employee. An employer or the employer's duly authorized representative may review the records of an employee employed by the employer in connection with a pending application. At the department's discretion, other persons may review records when such persons are rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this chapter.

(5) The department shall develop and implement an outreach program to ensure that employees who may be qualified to receive family and medical leave benefits under this chapter are made aware of these benefits. Outreach information shall explain, in an easy to understand format, eligibility requirements, the application process, weekly benefit amounts, maximum benefits payable, notice and certification requirements, reinstatement and nondiscrimination rights, confidentiality, voluntary plans, and the relationship between employment protection, leave from employment, and wage replacement benefits under this chapter and other laws, collective bargaining agreements, and employer policies. Outreach information shall be available in English and other primary languages as defined in RCW [74.04.025](#).

(6) The department is authorized to inspect and audit employer files and records relating to the family and medical leave program, including employer voluntary plans.

[[2017 3rd sp.s. c 5 § 29.](#)]

50A.04.230

Small business assistance—Grants.

(1) The legislature recognizes that while family leave and medical leave benefit both employees and employers, there may be costs that disproportionately impact small businesses. To equitably balance the risks among employers, the legislature intends to assist small businesses with the costs of an employee's use of family or medical leave.

(2) Employers with one hundred fifty or fewer employees and employers with fifty or fewer employees who are assessed all premiums under RCW 50A.04.115(5)(b) may apply to the department for a grant under this section.

(3)(a) An employer may receive a grant of three thousand dollars if the employer hires a temporary worker to replace an employee on family or medical leave for a period of seven days or more.

(b) For an employee's family or medical leave, an employer may receive a grant of up to one thousand dollars as reimbursement for significant additional wage-related costs due to the employee's leave.

(c) An employer may receive a grant under (a) or (b) of this subsection, but not both, except that an employer who received a grant under (b) of this subsection may receive a grant of the



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difference between the grant awarded under (b) of this subsection and three thousand dollars if the employee on leave extended the leave beyond the leave initially planned and the employer hired a temporary worker for the employee on leave.

(4) An employer may apply for a grant no more than ten times per calendar year and no more than once for each employee on leave.

(5) To be eligible for a grant, the employer must provide the department written documentation showing the temporary worker hired or significant wage-related costs incurred are due to an employee's use of family or medical leave.

(6) The department must assess an employer with fewer than fifty employees who receives a grant under this section for all premiums for three years from the date of receipt of a grant.

(7) The grants under this section shall be funded from the family and medical leave insurance account.

(8) The commissioner shall adopt rules as necessary to implement this section.

(9) For the purposes of this section, the number of employees must be calculated as provided in RCW 50A.04.115.

(10) An employer who has an approved voluntary plan is not eligible to receive a grant under this section.

[[2017 3rd sp.s. c 5 § 84.](#)]

50A.04.505

Appeals—Assessments.

(1) When an order and notice of assessment has been served upon or mailed to a delinquent employer, the employer may within thirty days file an appeal with the department, stating that the assessment is unjust or incorrect and requesting a hearing. The appeal must set forth the reasons why the assessment is objected to and the amount of premiums, if any, which the employer admits to be due. If no appeal is filed, the assessment shall be conclusively deemed to be just and correct except that in such case, and in cases where payment of premiums, interest, or penalties has been made pursuant to a jeopardy assessment, the commissioner may properly entertain a subsequent application for refund. The filing of an appeal on a disputed assessment with the administrative law judge stays the distraint and sale proceeding provided for in this chapter until a final decision has been made, but the filing of an appeal shall not affect the right of the commissioner to perfect a lien, as provided by this chapter, upon the property of the employer. The filing of a petition on a disputed assessment stays the accrual of interest and penalties on the disputed premiums until a final decision is made.

(2) Within thirty days after notice of denial of refund or adjustment has been mailed or delivered, whichever is the earlier, to an employer, the employer may file an appeal with the department for a hearing unless assessments have been appealed from and have become final. The employer shall set forth the reasons why such hearing should be granted and the amount



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which the employer believes should be adjusted or refunded. If no appeal is filed within said thirty days, the determination of the commissioner as stated in the notice shall be final.

[[2017 3rd sp.s. c 5 § 36.](#)]

50A.04.520

Appeals—Assessments—Procedure.

In any proceeding before an administrative law judge involving an appeal from a disputed order and notice of assessment or a disputed denial of refund or adjustment, the administrative law judge, after affording the parties a reasonable opportunity for hearing, shall affirm, modify, or set aside the notice of assessment or denial of refund. The parties shall be duly notified of such decision together with the reasons, which shall be deemed to be the final decision unless within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this chapter relating to review by the commissioner.

[[2017 3rd sp.s. c 5 § 38.](#)]