

09/08/2025

Definition Amendment

[O.Brey]

Sponsor: Mosqueda

Proposed No.: BOH25-02

1 **STRIKING AMENDMENT TO PROPOSED RULE AND REGULATION BOH25-**
2 **02, VERSION 1**

3 On page 1, beginning on line 11, strike everything through page 10, line 198, and insert:

4 "PREAMBLE:

5 1. According to the seminal 2009 study, Broken Laws, Unprotected
6 Workers: Violations of Employment and Labor Laws in America's Cities,
7 conducted by sociologists at UCLA, University of Illinois, and Rutgers, in
8 any given week as many as twenty-five percent of workers in low wage
9 jobs are paid less than minimum wage. These results were replicated in
10 2018 by David Cooper & Teresa Kroeger who together published
11 Employers Steal Billions from Workers' Paychecks Each Year, which
12 found if low wage workers were paid in compliance with minimum wage
13 laws, 159,000 families in the top ten most populous states would be lifted
14 out of poverty. Likewise, according to a 2022 wage theft study conducted
15 by Neil Damron, Martin Garfinkel, Danielle Alvarado, and Daniel Galvin,
16 those trends are the same in King County where an estimated three in ten
17 low wage workers suffered minimum wage violations depriving them of
18 almost 20 percent of their earned wages.

19 2. The most vulnerable workers are most in need of protection from wage
20 theft. In *Detering Wage Theft: Alt Labor, State Politics, and the Policy*
21 *Determinants of Minimum Wage Compliance*, Daniel Galvin, Associate
22 Professor of Political Science and Faculty Fellow at the Institute for Policy
23 Research at Northwestern University, concluded that the more vulnerable
24 the worker, the more likely an employer will engage in wage theft. This is
25 because, as further described by Professor Nicole Hallett in *The Problem*
26 *of Wage Theft*, employers stand to gain more from violating the law the
27 greater the difference between the market wage and the minimum wage.

28 3. It is difficult and risky for vulnerable, low wage workers to bring
29 claims of wage theft, therefore policy solutions should focus on
30 deterrence, attempting to create a cultural expectation of timely payment.
31 Again, according to Daniel Galvin in *Detering Wage Theft*, it is possible
32 to achieve wage theft deterrence in two ways. First, if the consequence of
33 each violation is relatively low, deterrence can be achieved if the
34 enforcement happens reliably and consistently. Second, where consistent
35 enforcement is not possible, then the deterrence can still be achieved but
36 the individual consequences are more significant.

37 4. As has been recognized for many years, deterring wage theft among
38 vulnerable workers helps to preserve and protect public health. RCW
39 49.12.010, first enacted in 1917, makes this connection clear by declaring
40 "the welfare of the state of Washington demands that all employees be
41 protected from conditions of labor which have a pernicious effect on their

health. The state of Washington, therefore, exercising herein its police and sovereign power declares that inadequate wages and unsanitary conditions of labor exert such pernicious effect."

5. Upholding Washington's minimum wage law in *West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937), the United States Supreme Court agreed, finding "the exploitation of a class of workers who are in an unequal position with respect to bargaining power [. . .] is not only detrimental to their health and wellbeing but casts a direct burden for their support upon the community." In 1961, the legislature again affirmed this purpose again in Washington's minimum wage law by "declar[ing] that in its considered judgment the health, safety and the general welfare of the citizens of this state require the enactment of [the minimum wage law]."

BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

SECTION 1. Findings:

A. The Washington state Department of Labor and Industries conducts employment-related investigations and enforcement actions under Title 49 RCW, which includes laws governing: protected leave, under title 49 RCW; the Industrial Welfare Act, chapter 49.12 RCW; youth employment, under chapter 49.12 RCW and chapter 296-125 WAC; family care, under RCW 49.12.265 through RCW 49.12.295; emergency first responders, under RCW 49.12.460; healthcare overtime, under RCW 49.28.130; agriculture, under chapter 49.30 RCW, chapter 19.30 RCW, and chapter 296-131 WAC; minimum wage and paid sick leave, under chapter 49.46 RCW and chapter 296-128 WAC; retaliation, under chapter 49.46 RCW and chapter 296-128 WAC; wage payment,

under chapter 49.48 RCW; the Washington Equal Pay and Opportunities Act, chapter 49.58 RCW; isolated workers, under RCW 49.60.515; domestic violence protected leave, under chapter 49.76 RCW; military spousal leave, under chapter 49.77 RCW; warehouse protections, under chapter 49.84 RCW.

B. The city of Seattle Office of Labor Standards conducts investigations and enforcement actions of city employment-related laws including: app-based worker minimum pay, chapter 8.37 Seattle Municipal Code ("SMC"); cannabis employee job retention, chapter 8.38 SMC; app-based worker paid sick and safe time, chapter 8.39 SMC; paid sick time, chapter 14.16 SMC; fair chance employment, chapter 14.17 SMC; hotel employees job retention, chapter 14.19 SMC; minimum wage, chapter 14.19 SMC; wages, hours, and conditions of employment, chapter 14.20 SMC; secure scheduling, chapter 14.22 SMC; domestic workers, chapter 14.23 SMC; protecting hotel employees from violent or harassing conduct, chapter 14.26 SMC; protecting hotel workers from injury, chapter 14.27 SMC; improving access to medical care for hotel employees, chapter 14.28 SMC; commuter benefit, chapter 14.30 SMC; and independent contractor protections, chapter 14.34 SMC.

C. The King County department of local services has the authority to conduct investigations and enforcement of county minimum wage laws in unincorporated areas under K.C.C. chapter 12.18B.

D. The Washington state Office of the Attorney General has independent authority to bring enforcement actions in the public interest to ensure compliance with Washington laws under RCW 43.10.030, including antidiscrimination, wage-and-hour, and other laws regulating the conditions of employment of Washington workers.

88 E. Financial obligations including fines and payments to affected workers may be
89 ordered by a court or imposed on employers by the state, city, or county as a result of the
90 employment-related enforcement actions.

91 F. On July 17, 2025, the King County Board of Health received a briefing that
92 enforcement of minimum standards of wage and labor laws in the food service context
93 protects the health of customers.

94 G. WAC 246-215-08405 identifies the conditions that would prompt prioritized
95 and more frequent inspections based on the Board of Health's assessment of a food
96 establishment's history of compliance with the food code and the establishment's
97 potential as a vector of foodborne illness.

98 H. Required by the federal Fair Labor Standards Act, employers are required to
99 post the federal minimum wage poster in a conspicuous place in their workplaces. Under
100 RCW 50A.20.020, employers are required to post the Paid Family and Medical Leave
101 Poster. Under RCW 49.17.220, employers are required to post the Job Safety and Health
102 Law poster.

103 I. Required by local jurisdictions, employers are required to post their local
104 jurisdictions' employer labor standards poster in their workplaces.

105 NEW SECTION. SECTION 2. There is hereby added to BOH 5.04 a new
106 section to read as follows:

107 "Noncompliant with employment-related financial obligations" means a failure to
108 comply with payment obligations imposed through a final government agency-initiated
109 order, determination, settlement, or court order, enforcing state and local labor standards
110 laws from which no appeal is pending.

111 SECTION 3. R&R 17-01, Section 5, as amended, and BOH 5.15.010 are each
112 hereby amended to read as follows:

113 A. The requirements of this section apply to general food service establishments,
114 bakeries, mobile food units, meat/fish establishments, and catering operations, and not to
115 any other category of food establishment.

116 B. The owner or operator of a general food service establishment, bakery, mobile
117 food unit, meat/fish establishment, or catering operation shall post, at the establishment, a
118 food safety rating placard or placards provided by the health officer. Each placard must
119 be posted:

120 1. Within five feet of the main public entrance or entrances of the general food
121 service establishment, bakery, mobile food unit, meat/fish establishment, or catering
122 operation, positioned conspicuously in a window or display case to ensure the placard is
123 clearly visible to passersby and to patrons entering or visiting the establishment; or

124 2. In a conspicuous location at the general food service establishment, bakery,
125 mobile food unit, meat/fish establishment, or catering operation as determined and
126 directed in the discretion of the health officer to ensure the placard is clearly visible to
127 passerby and to patrons entering or visiting the establishment.

128 C. After the conclusion of each routine food safety inspection, the health officer
129 shall recalculate the food safety rating of the general food service establishment, bakery,
130 mobile food unit, meat/fish establishment, or catering operation and provide the
131 establishment owner or operator one or more updated food safety rating placards for
132 display at the establishment.

133 D.1. If the health officer has been notified under Section 4(9) that the general
134 food service establishment, bakery, mobile food unit, meat/fish establishment, or catering
135 operation is noncompliant with employment-related financial obligations, the health
136 officer shall place an additional placard with information regarding the noncompliance
137 with employment-related financial obligations in a conspicuous location directly adjacent
138 to the food safety placard while completing the health safety inspection under Section
139 4(9).

140 2. The additional placard shall remain in place until the food service
141 establishment, bakery, mobile food unit, meat/fish establishment, or catering operation
142 notifies the department that they are no longer noncompliant with employment-related
143 financial obligations due to initiation of payment or subsequent appeal. Upon notifying
144 the department, the food service establishment bakery, mobile food unit, meat/fish
145 establishment, or catering operation may remove the additional placard.

146 NEW SECTION. SECTION 4. There is hereby added to BOH 5.60 a new
147 section to read as follows:

148 **Frequency – Performance- and risk-based.** WAC 246-215-08405 is
149 supplemented with the following:

150 (9) Whether the health officer has been notified by the city of Seattle Office of
151 Labor Standards, the Washington state Department of Labor and Industries, or the
152 Washington state Attorney General that the establishment is noncompliant with
153 employment-related financial obligations under BOH chapter 5.04.

154 NEW SECTION. SECTION 5. There is hereby added to BOH 5.60 a new
155 section to read as follows:

An inspection prompted by noncompliance with employment-related financial obligations shall be completed by the health officer within thirty business days of receiving notification from the city of Seattle Office of Labor Standards, the Washington state Department of Labor and Industries, or the Washington state Attorney General that an establishment is noncompliant with employment-related financial obligations.

NEW SECTION. SECTION 6. There is hereby added to BOH 5.60 a new section to read as follows:

Public Health - Seattle & King County shall design an additional placard indicating a food service establishment's noncompliance with employment-related financial obligations. The additional placard should:

A. Indicate that the food establishment is subject to increased inspections due to the noncompliance with employment-related financial obligations; and

B. Be designed to complement the existing food safety rating placard design and not obscure information on the food safety rating placard.

NEW SECTION. SECTION 7. There is hereby added to BOH 5.60 a new section to read as follows:

The health officer shall distribute written materials or provide a link to web-based information on the food inspection report explaining sections 2 through 6 of this rule and regulation to the person in charge of a food establishment as part of all food safety inspections.

SECTION 8. The King County executive shall confer with the city of Seattle Office of Labor Standards, the Washington state Department of Labor and Industries, and the Washington state Attorney General and endeavor to agree with each entity by August

1, 2026, on terms for an agreement that shall contain, but not be limited to, the following elements:

A. The process for notifying the Seattle-King County Department of Public Health of owners or permit holders who are located within King County or have zip codes within King County who are noncompliant with employment-related financial obligations.

B. Identification of the data that will be transmitted between agencies including, for example, name of owner or permit holders who are noncompliant with employment-related financial obligations, contact information, unique business identifier, the name and case number of the final judgment, frequency of transmission of data, no less than once per quarter, and mechanism for transmission.

C. The process and authority for other Washington state and city of Seattle departments to communicate with Seattle-King County Department of Public Health that the establishment has resolved the employment-related financial obligation notified under subsection A. of this section or if the establishment is under protest.

D. Language to be included in the placard and communications from the Public Health - Seattle & King County, the city of Seattle Office of Labor Standards, the Washington state Department of Labor and Industries, and the Washington state Attorney General to the owners or permit holders regarding this rule and regulation.

SECTION 9. Sections 1 through 7 of this R&R take effect August 15, 2026.

SECTION 10. Severability. If any provision of this rule or its application to any person or circumstance is held invalid, the remainder of the rule or the application of the provision to other persons or circumstances is not affected."

EFFECT prepared by O. Brey: The amendment would make clarifying edits to the definition of "noncompliant with employment-related financial obligations" and make edits to the use of the term throughout the R&R. The amendment would add to the findings the Washington State Attorney General's role in enforcing labor-related laws and add additional employment and labor-related laws to the list of laws that the City of Seattle's Office of Labor Standards enforces. The amendment would also add the Washington State Attorney General as a party that could share data on businesses that are noncompliant with employment-related financial obligations.