

SENATE BILL REPORT

SB 5110

As of January 12, 2023

Title: An act relating to adding penalties for certain prohibited practices in chapter 49.44 RCW.

Brief Description: Adding penalties for certain prohibited practices in chapter 49.44 RCW.

Sponsors: Senators Keiser and Kuderer.

Brief History:

Committee Activity: Labor & Commerce: 1/12/23.

Brief Summary of Bill

- Adds penalties for the provisions in the Revised Code of Washington, Chapter 49.44 that do not already have specified criminal or civil penalties.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Jarrett Sacks (786-7448)

Background: The Revised Code of Washington (RCW), Chapter 49.44, contains various prohibited employment practices, such as:

- requiring lie detector tests as a condition of employment;
- public employers misclassifying an employee to avoid providing employment-based benefits;
- requiring genetic screening as a condition of employment;
- requesting, requiring, or coercing an employee to grant access to personal social media accounts;
- age discrimination; and
- obtaining individually identifiable information regarding an employee's participation in an employee assistance program.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Some provisions in RCW 49.44 have prescribed civil or criminal penalties while others do not.

Summary of Bill: A person may bring a civil action for a violation of a provision in RCW 49.44 unless a criminal or civil penalty is otherwise specified.

In a civil action brought under the bill, a court may:

- award any prevailing party bringing an action injunctive relief, actual damages, a penalty of no less than \$500 and no more than \$1,000, and reasonable attorneys' fees; and
- award any prevailing party against whom an action was brought reasonable expenses and attorneys' fees upon final judgment and a finding that the action was frivolous and advanced without reasonable cause.

Appropriation: None.

Fiscal Note: Requested on January 5, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The bill tries to harmonize the prohibited employment practices statutes, where there are statutes without any enforcement mechanism. For example, the prohibition on genetic testing has no remedy in statute. These sections need enforcement provisions. A right that exists without enforcement is not really a right.

CON: 49.44 RCW is a catch-all chapter for employment practices. A one-size-fits-all approach does not work here. Instead, the Legislature should look at the individual statutes.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Kelli Carson, Washington State Association for Justice; John Traynor, Washington State Labor Council, AFL-CIO.

CON: Bob Battles, Association of Washington Business (AWB).

Persons Signed In To Testify But Not Testifying: No one.