

# WASHINGTON STATE ATTORNEY GENERAL'S OFFICE



## 2019 LABOR DAY REPORT

Report on the AGO's Worker Protection Initiative



“

**Working Washingtonians can always  
count on the Attorney General's  
Office to fight for them.**

”

---

*Attorney General Bob Ferguson*



# CONTENTS

**EXECUTIVE SUMMARY.....3**

**ENFORCING WASHINGTON’S LAWS TO PROTECT WORKERS.....4**

- [No-Poach](#): Protecting Economic Opportunity for All Workers
- [Hanford](#): Protecting Workers from Unique Hazards
- [Chlorpyrifos](#): Protecting Agricultural Workers from Dangerous Chemicals
- [GEO Group](#): Fighting for Fair Wages
- [Sandoval Construction](#): Fighting Wage Theft
- [Horning Brothers](#): Protecting Workers from Sexual Harassment
- [Matheson](#): Protecting Workers from Pregnancy Discrimination
- [Air Transit Association v. Sacks](#): Protecting Worker - and Public - Health
- [Coordinated Enforcement](#)

**ADVOCACY FOR WORKERS.....16**

**WORKERS IN WASHINGTON STATE**

- [Strengthening Prevailing Wage Laws](#)
- [Keep Washington Working](#)

**NATIONAL ADVOCACY**

- [Protecting Tipped Workers](#)
- [Overtime Exemptions](#)
- [Joint Employer](#)

**RECOMMENDATIONS.....21**

**RESOURCES FOR WORKERS.....23**

# Executive Summary

**The Washington Attorney General's Office's** Worker Protection Initiative unites multiple legal divisions as part of a multifaceted effort to protect Washington workers. The challenges facing our workers include labor issues, antitrust, civil rights, consumer protection, criminal justice, or environmental issues. The Worker Protection Initiative utilizes the diverse expertise of staff in all of these areas to stand up for Washington workers and ensure they:

- Receive fair and full wages for their work.
- Are afforded all possible protections to ensure their safety on the job.
- Are free from discriminatory, harassing, retaliatory or otherwise unfair treatment at their workplace.

**The Attorney General's Office is invested with the power** to protect workers through:

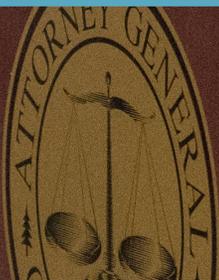
- Legal action, including enforcement actions to hold bad actors accountable.
- Legislation and advocacy to strengthen Washington's laws to better protect workers and address emerging issues, and to weigh in on federal policy or rulemaking processes that could impact Washingtonians.

**This report highlights the efforts** made by the Attorney General's Office over the past year to support, protect, and defend workers in Washington from unfair, unsafe, and unlawful practices.

# Enforcement Highlights



The workforce in Washington allows our communities to thrive, and the Attorney General's Office is committed to keeping workers across the state safe on the job.



# NO-POACH AGREEMENTS

Protecting economic opportunity for all workers

NO-POACH PROVISIONS appear in lengthy franchise agreements that owners of fast-food franchises sign with corporate headquarters. Employees are often unaware the provisions exist. These provisions prohibit employees from moving among restaurants of the same corporate chain and prohibits them from accepting employment from another franchise location for higher pay. By eradicating No-Poach Clauses, Washington workers are free to pursue higher wages and better benefits.

## NO POACH AGREEMENTS

- ↓ Decrease Competition
- ↓ Reduce Opportunity
- ⌘ Stagnate Wages
- ⊘ Violate the Consumer Protection Act

In 2018, Ferguson's Antitrust Division launched an investigation into no-poach clauses in fast-food chains. When employees are forbidden from moving to another location within their corporate brand, their current location may have less incentive to pay them fairly. This practice harms workers not just in Washington State, but nationally.

Attorney General Bob Ferguson is leading the nation in eradicating non-compete agreements nationwide among corporate franchisees. Ferguson negotiated legally binding agreements, known as assurances of discontinuance, under which these corporations agree to end these restrictions on workers rather than face a lawsuit from the Washington State Attorney General's Office.

“ **NO-POACH CLAUSES CREATE A RIGGED SYSTEM WHERE WORKERS LOSE.**  
My goal is straightforward – help workers by eliminating no-poach clauses nationwide.

*Attorney General Bob Ferguson*

We are concerned that restrictions like these on worker mobility, including through no-poaching clauses and non-compete agreements, are keeping workers stuck and wages down...If employees are limited in their ability to switch jobs - say, for a better-paying position or for more reliable hours - they are unable to maximize their compensation for the value they bring to a current or prospective firm.

*Senators Cory Booker & Elizabeth Warren*



# BEGINNING IN JANUARY 2018

**67** NATIONAL CHAINS HAVE AGREED TO ELIMINATE NO-POACH AGREEMENTS FROM THEIR FRANCHISE CONTRACTS.

**2,992** BUSINESS LOCATIONS IN WASHINGTON STATE NO LONGER HOLD EMPLOYEES TO NO-POACH AGREEMENTS.

**136,917** ESTIMATED BUSINESS LOCATIONS ACROSS THE NATION NO LONGER HOLD EMPLOYEES TO NO-POACH AGREEMENTS.

**“NO-POACH POLICIES ARE WRONG – AND ILLEGAL. Corporations that refuse to eliminate no-poach clauses can expect a lawsuit from my office.”**

*Attorney General Ferguson*

**MILLIONS** of workers have experienced increased job mobility and economic opportunity.

“

What [a no-poach agreement] actually looks like is suppressed pay and limited mobility within the company.

This is a giant step for those of us who want to use our skills in job training, for those that are first time workers or those that are fine-tuning their skills in the food industry.

I want to share my skills with those coming into the food industry and I can't do that if I can't put food on the table.

Merlee Sherman,  
Jimmy John's employee

”

**In October 2018, Attorney General Ferguson filed a lawsuit** against Jersey Mike's following their refusal to remove no-poach clauses from franchise contracts. This was the first lawsuit by a state attorney general against a company for its use of no-poach clauses.

**On August 23, 2019, Jersey Mike's agreed to pay \$150,000** and end the use of no-poach agreements to resolve the lawsuit.

**The Antitrust Division of the Attorney General's Office continues to investigate** hotels, car repair, gyms, home healthcare, cleaning, convenience stores, tax preparation, parcel services, electronics repair, child care, custom window covering, travel and insurance adjustor services for use of no-poach clauses.

# HANFORD

## Protecting Workers from Unique Hazards

In 2015, Attorney General Ferguson filed a lawsuit to hold the Federal Government accountable for the risks to health and safety of workers at the U.S. Department of Energy's Hanford Nuclear Reservation after King 5 investigators documented more than 50 cases of worker exposure to harmful chemical vapors over the previous year.

Workers facing health issues as a result of the harmful working conditions were unable to access earned benefits due to Hanford's complex workers' compensation protocols. Their claims were rejected at a rate 52% higher than the state average.

In September 2018, the AGO reached an [historic agreement](#) compelling the Department of Energy to:



Test technology to capture and destroy vapors.



Install a vapor monitoring, detection and alarming system in several tank farms.



Keep safety measures - which require the use of supplied air - in place to keep workers safe while testing is ongoing.



Improve sharing of information regarding vapor events, worker protections, worker health monitoring and medical surveillance.



Pay Washington and Hanford Challenge \$925,000 to reimburse for costs and fees.

Hanford is the most contaminated nuclear site in the United States and one of the nation's most dangerous worksites. Originally operated as part of the Manhattan Project, the Hanford Nuclear Site near Richland was established during WWII to manufacture plutonium for the first atomic bombs.

The site currently has over 56 million gallons of radioactive chemical waste contained in 177 underground tanks. At least 68 of these tanks have ruptured and leaked over 1 million gallons into the ground.

Hanford employees work tirelessly in hazardous conditions to safely dispose of waste left behind decades ago.



**We are acting today to protect the Hanford workforce and end exposures to toxic chemical vapors at Hanford.**

**Too many workers have already gotten sick and even disabled by brain and lung diseases.**

**Hanford's cleanup mission will last decades, and workers deserve a safe workplace now and into the future.**



**Tom Carpenter**  
Executive Director of Hanford Challenge

# HANFORD

## Protecting Worker Access to Benefits

Cleanup of the Hanford site is a project “unprecedented in scale and complexity” that exposes workers to many hazardous chemicals and radioactive substances. Hanford workers are often subjected to hazardous exposures with no one, including their employers, knowing the chemicals to which a particular worker was exposed.

In recognition of this danger, in 2018 the Washington Legislature passed a bill making it easier for Hanford workers to access the benefits they deserve if they become ill due to their work. Before this bill, Hanford workers suffering from an illness related to their job had the burden of proving their illness wasn't caused by another factor, -----. Much like protections already in place for firefighters and first responders, when a worker at Hanford becomes ill, the assumption is that it was due to exposure at work.

In 2018, the U.S. Department of Justice sued the State of Washington challenging the validity of the law. The Attorney General's Office is defending the law. **In June, the court sided with Washington and rejected the federal government's challenge to the law.** The ruling noted that the State may legislate to address specific risks to workers, including Hanford workers. The Department of Justice has appealed the decision.

“ Hanford workers do incredibly important work cleaning up the federal government's nuclear program.

If they get sick as a result, they deserve the ability to access the benefits they have earned.

*Attorney General Ferguson*



# CHLORPYRIFOS

## Protecting Agricultural Workers from Dangerous Chemicals

**Chlorpyrifos is an ingredient** in numerous pesticide products, used on more than 80 food crops nationwide, including some of Washington's apples, strawberries and cherries. When companies use this chemical, individuals who harvest or who buy these foods may be exposed to or ingest residue of chlorpyrifos.

**The Environmental Protection Agency has not deemed any level of chlorpyrifos in drinking water to be safe.** Most home uses of this chemical were banned in 2001. Agricultural workers in fields where chlorpyrifos are used come into direct contact with the harmful chemical, often bringing residue home to their families. Individuals living near treated lands also face disproportionately high exposure to the chemical.

**In 2017, the EPA** abruptly halted an ongoing review of the neurotoxic pesticide's effects on health and safety – paving the way for unfettered continued use of the chemical. **In July 2017**, Attorney General Ferguson joined a federal lawsuit demanding that the EPA put workers and consumers first and allow the scientific safety review of the chemical to be completed.

In August 2018, the 9th Circuit Court of Appeals ruled that by abandoning the scientific safety review of chlorpyrifos, the EPA was allowing continued use of the chemical at levels potentially dangerous to both workers and consumers.

**The court reversed the EPA's decision** to halt the scientific investigation, and mandated that all uses of the chemical on food to stop within 60 days to allow for full scientific review of the effects of chlorpyrifos and stop an unnecessary gamble with the health and safety of our workforce.



*“ President Trump’s EPA is willfully ignoring scientific evidence that chlorpyrifos is harmful to human health. Washington consumers, farmworkers and farm operators deserve an administration that respects science and cares about the risks to their health.*

In July 2019, EPA announced that it would not take action to end the use of chlorpyrifos. Instead EPA said it plans to continue to monitor the safety of the pesticide in food until as late as 2022.

On August 7, 2019, Washington was part of a coalition of six states that filed a lawsuit requesting that EPA act to end the use of chlorpyrifos, and asserting that by delaying action EPA is allowing use of the chemical without ensuring no harm will result.

# GEO GROUP

## Fighting for Fair Wages

The GEO Group, Inc. (GEO) is the second largest private prison provider in the country. GEO operates the Northwest Detention Center in Tacoma, where people are held while undergoing immigration proceedings – and potentially facing deportation. Detainees perform most of the work necessary to run the facility. Typical jobs held by detainees include: preparing and serving food, running laundry services, performing facility maintenance, and cleaning common areas and restrooms. Detainees report wages of \$1 per day for their labor, or at times receiving only snack food as compensation for their labor.

In September 2017, Attorney General Bob Ferguson [announced a lawsuit](#) against GEO, for failing to pay its workers the minimum wage, therefore netting the company millions in ill-gotten profits. The lawsuit accused GEO of violating state minimum wage laws as well as unjustly enriching itself through the illegal practice of exploiting vulnerable workers.

In April 2018, a federal judge [rejected GEO's attempt](#) to dismiss the case. In August 2019, the court rejected GEO's argument that federal law preempts Washington's minimum wage law.



“ If we don't allow people to be exploited in our state, then everybody benefits. Because when corporations are able to exploit a particular set of workers that actually has impacts across the board - for all workers in our communities.

*Jorge Barón, Executive Director  
Northwest Immigrant Rights Project*

“ A multi-billion dollar corporation is trying to get away with paying its workers \$1 per day. That shouldn't happen in America, and I will not tolerate it happening in Washington.

*For-profit companies cannot exploit Washington workers.*

*Attorney General Ferguson*

# SANDOVAL CONSTRUCTION

## Fighting Wage Theft

The Attorney General's Office began a criminal investigation of Sandoval Construction in 2016 after L&I received complaints from a dozen workers, alleging Alejandro Sandoval and his company Sandoval Construction had not paid them \$25,620 in wages that they were owed.

The investigation also found that Sandoval had underreported his workers' compensation payments to the state, despite deducting them from employee paychecks. False reporting like this increases company profits at the expense of higher premiums for law-abiding businesses. [Following his 2018 guilty plea](#), Sandoval was sentenced to 30 days electronic home monitoring and required to pay back more than \$25,000 in unpaid wages in addition to unreported workers' compensation insurance after a joint investigation by the Attorney General's Office and the Washington State Department of Labor & Industries (L&I).

Attorney General Ferguson is the first AG in the nation to bring multiple wage theft prosecutions against employers who cheat their employees out of the wages they have earned. All workers in Washington should receive full compensation for work done. If you have been a victim of wage theft, resources at the end of this report can help.

“ Wage theft is a crime, and as long as I'm Attorney General, those that steal from their workers will be prosecuted.

Attorney General Ferguson

“ People work hard and deserve to be paid fully and on time.

Teaming up with the Attorney General gives us the extra hammer of criminal prosecution to collect wages for workers and reduce workers' comp costs for employers.

Joel Sacks  
L&I Director

”



# HORNING BROTHERS

## Protecting Workers from Sexual Harassment

All workers in Washington State should be free from sexual harassment and discrimination.

In 2016, the Office of the Attorney General launched an investigation of Horning Brothers, LLC. Since at least 2012, the company had exclusively hired women to sort onions on the packing line, several of whom experienced unwelcome, severe and/or pervasive sexual advances by their foreman, Hermilo Cruz. Women who complained about Cruz were reprimanded, discharged, or not rehired the following season.

In October 2018, Horning Brothers, LLC, agreed to pay \$525,000 in a civil rights enforcement action claiming sexual harassment of multiple female agricultural workers, discriminatory hiring and sex-segregated employment practices and retaliation against workers who reported the improper conduct. The settlement requires Horning Brothers to implement policies and practices to prevent sexual harassment and discrimination of workers.



As of 2015, there were nearly 100,000 agricultural workers in Washington state, with women comprising about 28 percent of them.

Sexual harassment in the agricultural industry is “an occupational hazard” that has a profound impact on women’s ability to work safely and productively in the industry.

University of Washington School of Public Health’s Pacific Northwest Agricultural Safety & Health Center.

“Horning Brothers received, and ignored, multiple notices over several years that sexual harassment was a problem at its company.

Today’s result forces a culture change at Horning Brothers by bringing justice to the women who were harassed and protecting future employees.

Attorney General Ferguson

# MATHESON

## Protecting Workers from Pregnancy Discrimination

**The State of Washington alleges** that a freight terminal handling services company, Matheson Flight Extenders, Inc., located near SeaTac Airport violated the Washington Law Against Discrimination when it failed to accommodate and then terminated a pregnant employee who requested modified duty. Despite having the ability to accommodate others with disabilities resulting from workplace injuries and pregnant employees with light duty, they refused to do so.

**The State further alleges that Matheson fails** to provide reasonable accommodations for its employees with injuries or disabling conditions that do not result from a workplace injury. The State filed its complaint in King County Superior Court, and Matheson removed the matter to federal court in Seattle.



**In 2017, the Washington Legislature added protections for pregnant workers** to state law. The law provides authority to investigate and enforce this law to the Attorney General's Office.

**The Attorney General's Office has received and responded** to more than 150 inquiries and complaints from employees and employer about their rights and responsibilities under the Healthy Starts Act. Many of these have resulted in education to pregnant employees about their rights, or education to employers about their responsibilities under the law.

**26 have resulted in the Civil Rights Division opening inquiries** or full investigations into an employer's practices with respect to pregnancy accommodation and/or sex discrimination. We have been able to resolve several of those favorably without litigation. Others are ongoing. [The Matheson case](#) is the only case alleging pregnancy and disability discrimination currently in litigation.



**Individuals with complaints about potential violations of this law can contact the Attorney General's Office Civil Rights Division:**  
**[pregnancy@atg.wa.gov](mailto:pregnancy@atg.wa.gov)**  
**or by leaving a message on our toll-free line: (833) 660-4877**

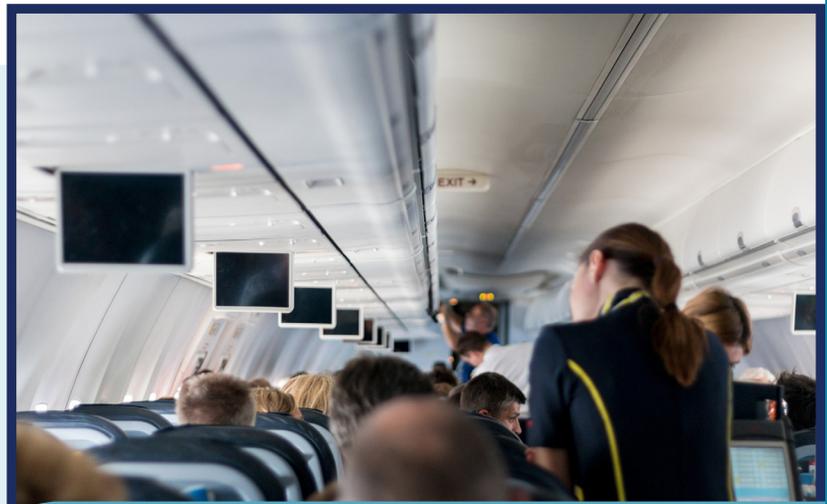
# AIR TRANSIT ASSOCIATION V. SACKS

## Protecting Worker- and Public- Health

Flight crews based in Washington should benefit from Washington's paid and protected sick leave, which went into effect on January 1, 2018. Unfortunately, the Air Transport Association, a trade group representing airlines, challenged the application of Washington's law to any of their members' flight crews based on claims of federal preemption.

The Attorney General's Office and the Department of Labor & Industries recognize the need to protect sick leave for flight crews because of the large amount of personal contact with co-workers and travelers, will continue to defend the rights of Washington-based flight crew to receive Washington's paid and protected sick leave.

**Because of the high degree of personal contact during flights, a recent study has calculated that a sick flight attendant is 6.6 times more likely than a sick passenger to infect someone else on a flight.**



**Alaska Airlines**, the primary airline in Washington involved in the lawsuit, gives its flight attendants generous sick leave, but assesses disciplinary points that could lead to termination if the flight attendants take the leave they are entitled to.

**This practice discourages flight attendants from taking sick leave** when they have an illness and flight attendants have reported flying sick because they feared disciplinary points.

Under Washington law, employers may not discipline employees for taking protected sick leave.

If the Attorney General's Office is successful in the lawsuit, airlines will no longer be able to discipline its flight crew for taking protected sick leave.

The case is ongoing, and a federal district court decision is expected by the end of 2019.

# COORDINATED ENFORCEMENT

**The Attorney General's Office and the Department of Labor and Industries (L&I) work together** to enforce laws protecting the safety, health, and security of workers in Washington.

The two agencies jointly enforce laws and share information to target companies that violate multiple laws related to workers; including wage and workers' compensation insurance violations, worker safety and health, and contractor compliance.

Information about potential violations comes from a variety of sources, including complaints, tips, inspections, and more.

LNI takes complaints related to workplace safety hazards, wage and hour violations including wage theft, workers compensation violations, discrimination in the workplace, protected leave, child labor, and potential employer or contractor fraud.

If you have questions or complaints about any of these issues, please contact L&I.

Phone: 360-902-5316

Toll-free phone: 1-866-219-7321



Employers with questions about their responsibilities under the law can always contact L&I for assistance.

Information for employers about a variety of topics is available at:  
[www.lni.wa.gov/main/ForBusiness.asp](http://www.lni.wa.gov/main/ForBusiness.asp)

# Advocacy & Policy Changes



Over the past few years, the Office of the Attorney General has played a central role in the passage of legislation that puts workers first. Attorney General Ferguson is committed to continuing to fight for Washington workers.

# STATE-LEVEL ADVOCACY

## STRENGTHENING PREVAILING WAGE LAWS

### In 2019, the Washington Legislature passed

Attorney General request legislation providing the state the authority to issue sanctions or penalties against employers who cheat their workers, and to collect interest on wages not lawfully paid to ensure workers are protected and employers and contractors are held accountable.

### This New Law:

- Increased the maximum penalty for prevailing wage violations from \$1,000 or 20% of the violation, whichever is greater, to \$5,000 or 50% of the violation, whichever is greater. These penalties had not increased since 1985.
- Ensured that workers who experience wage theft receive at least 1% monthly interest in addition to their stolen wages.
- Closed a major loophole in Washington's prevailing wage laws that allowed repeat and willful violators to avoid a penalty or sanction by returning the stolen pay to the worker before the state could take legal action.
- Provided \$2.4 million dollars for additional enforcement of our prevailing wage laws.



The prevailing wage is the hourly wage, usual benefits, and overtime paid in the largest city in the county to the majority of individuals in the same trade or occupation.

Each contractor on a public works project must file with the Department of Labor and Industries a statement of intent to pay prevailing wages after a project is accepted, but before work begins.



Wage theft or delay of pay cause real harm to workers and their families who are often just trying to get by. This bill will protect workers, support the businesses who pay quality wages to workers on time, and hold accountable the bad actors who fail to do so.

*Senator Rebecca Saldaña, Prime Sponsor*



This bill is about holding those responsible for wage theft accountable. We give too many violators an escape route. This beefs up the enforcement so people can expect to get the pay for which they worked.

*Representative Mike Sells, Prime Sponsor*

Both labor and employers will now know that there will be consequences and a real deterrence from violating our prevailing wage laws.

*Mark Riker, Executive Secretary  
Washington State Building and Construction Trades Council*

Wage theft costs workers an estimated \$50 billion a year nationally.

# STATE-LEVEL ADVOCACY

## KEEP WASHINGTON WORKING

In 2019, the State Legislature passed the **Keep Washington Working Act**, which establishes a statewide policy supporting Washington’s economy and the critical role of immigrants in our workforce.

The legislation created a **workgroup** to develop strategies and policies that will “strengthen immigrants’ career pathways, support organizations to provide workforce stability for the agriculture industry, and recommend approaches to attract immigrant-owned business providing new business and trade opportunities.”



The Attorney General’s Office is **working with stakeholders** to develop model policies that will limit immigration enforcement in public schools, state-operated health facilities, courthouses and shelters to ensure that individuals can go to work and can receive vital services regardless of their immigration or citizenship status.

Through creation of pathways to secure employment and protect the ability to access vital services without fear, Washington embraces our immigrant community to participate in civic life and our economy.

# NATIONAL ADVOCACY

## PROTECTING TIPPED WORKERS

**In early 2018, the Trump Administration** announced a proposal to rescind a regulation that prevented businesses that pay the full minimum wage instead of the tipped minimum from keeping their employees tips. Even in Washington, where tipped workers receive minimum wage, tips are a crucial supplement to income. Individuals should have the right to keep their tips, or to share them with their fellow tipped workers if they choose.

After Attorney General Ferguson joined a coalition of 17 states to oppose this change, the Trump Administration abandoned its plan to rescind the regulation.



## OVERTIME EXEMPTIONS

**The Trump Administration has taken steps to weaken regulations** exempting certain workers from the minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA). Misclassification of employees as exempt from minimum wage and overtime protections persistently results in wage theft.

**In May 2019, Attorney General Ferguson joined 15 state attorneys general** opposing the Proposed Rule. The Attorney General's Office continues to monitor the Department of Labor's rulemaking process.

## JOINT EMPLOYER

**When more than one person or business** is liable with the employer for an employee's wages, they have joint employer status. This commonly occurs when a company subcontracts with another company. The regulations defining joint employer status have not been updated since 1958.

**The Trump Administration is considering a proposal** that significantly restricts the longstanding conditions defining joint employer status. The proposed rule would make it easier for businesses to evade liability for an employee's wages by narrowing the definition of joint employer and thus reducing the number of businesses liable for a worker's wages.

In June 2019, Attorney General Ferguson joined a multistate comment letter asserting that the Proposed Rule would make it easier for businesses to evade liability for employees' wages and make labor law enforcement more difficult. The Attorney General's Office will continue to be vigilant on the Trump Administration's efforts to undermine this and other worker protections.

# Recommendations and Resources



Protections for worker safety and fair pay exist to ensure a fair deal for workers. As Attorney General, I take seriously my responsibility to hold powerful interests accountable when they do not play by the rules, and that includes using all of the tools available to protect Washington's workers.

*Attorney General Bob Ferguson*

# RECOMMENDATIONS

## STATE LEVEL RECOMMENDATIONS

### ADOPT QUI TAM (WHISTLEBLOWER) LEGISLATION

The Washington State Legislature should pass legislation allowing whistleblowers to bring qui tam actions on behalf of state agencies for violations of workplace laws. While providing no new explicit protections, a qui tam law would broadly enhance the ability of employees to seek, in court, any relief a specified state agency may seek—including back pay, costs, fees, and civil penalties for violations of the Minimum Wage Act, protected leave laws, equal pay, overtime, meal and rest break regulations, and others.

Upon initiation of a qui tam action, the state, through its agency, or the Attorney General's Office, is afforded the opportunity to intervene. Any damages must be awarded to the agency for equitable distribution to all harmed employees—not only those who launched the action.

Qui tam actions are important because of the growing use of forced arbitration clauses in employment contracts. These clauses require employees to resolve disputes arising during the course of employment in arbitration, rather than in court. The state is not bound by these clauses, which allows whistleblowers to pursue qui tam actions on behalf of the state.



### ADOPT CONTRACTOR LIABILITY LEGISLATION

Passage of this legislation would allow the Department of Labor & Industries to exercise enforcement against a direct contractor when a sub-contractor fails to pay its employees. It would also allow for an employee or their representative to bring a civil action against a direct contractor or sub-contractor for wages owed or other employment benefits if they fail to come into compliance after a 30 day notice. This would improve employee protection by encouraging self-policing in the contractor, sub-contractor relationship.

### PASS A DOMESTIC WORKER BILL OF RIGHTS

Domestic workers, those who care for children and the elderly, clean homes, and support the independence of people with disabilities, are one of the fastest growing jobs in our economy.

Troublingly, they are generally not covered by basic protections available to most other workers, and due to the isolated nature of their work, are particularly vulnerable to harmful and abusive practices. A Domestic Workers Bill of Rights would expand important protections, including the Minimum Wage Act, anti-discrimination and safety laws, to these workers, who are disproportionately women and people of color.

## PASS THE PAYROLL FRAUD PREVENTION ACT

Congress should pass the Payroll Fraud Prevention Act, or similar legislation. Millions of Americans are misclassified as independent contractors every year at significant cost. Contractors don't have access to wage, harassment, or discrimination protections and most do not have benefits.

Meanwhile, companies save thousands of dollars per worker by misclassifying them. The Payroll Fraud Prevention Act would require companies to properly classify workers, increase worker classification transparency, and increase penalties for violators.

## RESTORE THE LONGSTANDING DEFINITION OF JOINT EMPLOYER

Congress should consider and pass legislation that creates a broad definition of joint employer.

The U.S Department of Labor recently issued a proposed rule to limit the definition of joint employer, letting larger corporate entities off the hook for harassment, discrimination, and labor violations committed by contractors or franchises. Congress should codify a broader definition of joint employer so that workers can hold their companies accountable.

## PASS THE FORCED ARBITRATION INJUSTICE REPEAL (FAIR) ACT

Over 60 million Americans have forced arbitration agreements in their employee contracts, which forces them to take any disputes to arbitration instead of to the legal system.

Arbitration is generally more expensive than the legal system and produces worse outcomes for employees.

Congress should pass the Forced Arbitration Injustice Repeal (FAIR) Act. The FAIR Act would prohibit forced arbitration agreements and agreements that limit access to joint litigation, including class action lawsuits. The legislation has over 200 cosponsors.



# RESOURCES FOR WORKERS

**Workers can file a complaint** if the business denies workplace rights regulated by the Department of Labor & Industries (L&I), such as meal and rest breaks, overtime, and family care. If a business does not pay wages owed, workers can file a wage theft complaint.

Find out more about how to file a worker rights complaint at:

[www.lni.wa.gov/WorkplaceRights/ComplainDiscrim/WRComplaint/default.asp](http://www.lni.wa.gov/WorkplaceRights/ComplainDiscrim/WRComplaint/default.asp)



## You have the right to be free from discrimination at work.

If you believe that you have been discriminated against based on protected class status, you may file a charge of discrimination with the Washington State Human Rights Commission (WSHRC): [www.hum.wa.gov/file-complaint](http://www.hum.wa.gov/file-complaint)

You can file a civil rights complaint with the Attorney General's Office at: [www.atg.wa.gov/have-civil-rights-complaint](http://www.atg.wa.gov/have-civil-rights-complaint)



## ALL FORMS OF SEXUAL HARASSMENT ARE ILLEGAL.

Employers may be liable for sexual harassment if they fail to take steps to address it.

Information about the requirements for employers and options for employees who witness or experience sexual harassment are available at:

[www.atg.wa.gov/sexual-harassment-law](http://www.atg.wa.gov/sexual-harassment-law)

## Pregnant employees have specific civil rights protections under the law.

These protections apply to an employee's pregnancy and pregnancy-related health conditions, which include health conditions during pregnancy and after the birth of the baby, such as the need to breastfeed or express milk.

The Attorney General's Office accepts complaints about failure to provide required pregnancy accommodations at [pregnancy@atg.wa.gov](mailto:pregnancy@atg.wa.gov) or (833) 660-4877.

More information is available here: [www.atg.wa.gov/pregnancy-accommodations](http://www.atg.wa.gov/pregnancy-accommodations)



## The law provides specific protections for uniformed servicemembers



to protect the job rights and benefits of individuals who voluntarily or involuntarily leave civilian employment to undertake military service.

More information about the Uniformed Services Employment and Reemployment Rights Act (USERRA), including to file a complaint, is available at: [www.atg.wa.gov/employment-protections-veterans-military-personnel](http://www.atg.wa.gov/employment-protections-veterans-military-personnel)



Washington State Office of the Attorney General

Bob Ferguson

1125 Washington St. SE

PO Box 40100

Olympia, WA 98504

(360) 753-6200

[www.atg.wa.gov](http://www.atg.wa.gov)