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**SENATE BILL 5539**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senator Braun

AN ACT Relating to family and medical leave program coverage for bona fide corporate officers and members of limited liability companies; and adding a new section to chapter 50A.04 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 50A.04 RCW to read as follows:

(1) The following employments are not included within the coverage of this title:

(a)(i) Except as otherwise provided in (a)(ii) of this subsection, any bona fide officer of a corporation voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation, who at all times during the period involved is also a bona fide director, and who is also a shareholder of the corporation. Only such officers who exercise substantial control in the daily management of the corporation and whose primary responsibilities do not include the performance of manual labor are included within this subsection.

(ii) Alternatively, a corporation that is not a "public company" as defined in RCW 23B.01.400 may exempt eight or fewer bona fide officers, who are voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation and who exercise substantial control in the daily management of the corporation, from coverage under this title if the exempted officer is a shareholder of the corporation, or may exempt any number of officers if all the exempted officers are related by blood within the third degree or marriage. If a corporation that is not a "public company" elects to be covered under subsection (2) of this section, the corporation's election must be made on a form prescribed by the department and under such reasonable rules as the department may adopt.

(iii) Determinations respecting the status of persons performing services for a corporation shall be made, in part, by reference to Title 23B RCW and to compliance by the corporation with its own articles of incorporation and bylaws. For the purpose of determining coverage under this title, substance shall control over form, and coverage under this title shall extend to all employees, regardless of honorary titles conferred upon those actually serving as employees.

(b) Members of a limited liability company, if the management of the company is vested in one or more managers, and the members for whom the exemption is sought are managers who would qualify for exemption under (a) of this subsection if the company was a corporation.

(2) A corporation or limited liability company may elect to cover individuals who are exempted by this section.

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