**5172-S AMS VAND S2024.2 - NOT FOR FLOOR USE**

**SSB 5172** - S AMD TO S AMD (S-1988.1/21) **469**

By Senator Van De Wege

**ADOPTED 03/09/2021**

Beginning on page 9, line 12, strike all of sections 5 through 8 and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 49.48 RCW to read as follows:

(1) No damages, statutory or civil penalties, attorneys' fees and costs, or other type of relief may be granted against an employer to an agricultural employee seeking unpaid overtime due to the agricultural employee's historical exclusion from overtime under RCW 49.46.130(2)(g), as it existed on November 4, 2020.

(2) This section applies retroactively to claims filed after November 5, 2020, and before the effective date of this section.

(3) This section does not apply to agricultural employees entitled to backpay or other relief as a result of being a member in the class of plaintiffs in *Martinez-Cuevas v. DeRuyter Bros. Dairy*, 196 Wn.2d 506 (2020).

(4)(a) For the purposes of this section, "agricultural employee" means any individual employed: (i) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; or (iii) in commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(b) For the purposes of this section, "agricultural employee" does not include any employee exempt under RCW 49.46.010(3)(c)."

Renumber the remaining sections consecutively and correct any internal references accordingly.

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By Senator Van De Wege

**ADOPTED 03/09/2021**

On page 12, beginning on line 25, after "49.46 RCW;" strike "adding new sections to chapter 49.48 RCW;" and insert "adding a new section to chapter 49.48 RCW;"

EFFECT: Provides that the safe harbor provision applies to all dairy employers, except members in the class of plaintiffs in *Martinez-Cuevas v. DeRuyter Bros. Dairy*, 196 Wn.2d 506 (2020). Removes provisions creating an agricultural overtime transition account and related provisions on eligibility and payments.