
SENATE BILL 6516

State of Washington

66th Legislature

2020 Regular Session

By Senators Nguyen, Hasegawa, Stanford, and Saldaña

1 AN ACT Relating to reducing the workweek to thirty-two hours
2 unless the employee receives compensation for employment in excess of
3 these hours at a rate not less than one and one-half times their
4 regular rate; and amending RCW 49.46.130.

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

6 **Sec. 1.** RCW 49.46.130 and 2013 c 207 s 1 are each amended to
7 read as follows:

8 (1) Except as otherwise provided in this section, no employer
9 shall employ any of his or her employees for a workweek longer than
10 (~~forty~~) thirty-two hours unless such employee receives compensation
11 for his or her employment in excess of the hours above specified at a
12 rate not less than one and one-half times the regular rate at which
13 he or she is employed.

14 (2) This section does not apply to:

15 (a) Any person exempted pursuant to RCW 49.46.010(3). The payment
16 of compensation or provision of compensatory time off in addition to
17 a salary shall not be a factor in determining whether a person is
18 exempted under RCW 49.46.010(3)(c);

19 (b) Employees who request compensating time off in lieu of
20 overtime pay;

1 (c) Any individual employed as a seaman whether or not the seaman
2 is employed on a vessel other than an American vessel;

3 (d) Seasonal employees who are employed at concessions and
4 recreational establishments at agricultural fairs, including those
5 seasonal employees employed by agricultural fairs, within the state
6 provided that the period of employment for any seasonal employee at
7 any or all agricultural fairs does not exceed fourteen working days a
8 year;

9 (e) Any individual employed as a motion picture projectionist if
10 that employee is covered by a contract or collective bargaining
11 agreement which regulates hours of work and overtime pay;

12 (f) An individual employed as a truck or bus driver who is
13 subject to the provisions of the Federal Motor Carrier Act (49 U.S.C.
14 Sec. 3101 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the
15 compensation system under which the truck or bus driver is paid
16 includes overtime pay, reasonably equivalent to that required by this
17 subsection, for working longer than forty hours per week;

18 (g) Any individual employed (i) on a farm, in the employ of any
19 person, in connection with the cultivation of the soil, or in
20 connection with raising or harvesting any agricultural or
21 horticultural commodity, including raising, shearing, feeding, caring
22 for, training, and management of livestock, bees, poultry, and
23 furbearing animals and wildlife, or in the employ of the owner or
24 tenant or other operator of a farm in connection with the operation,
25 management, conservation, improvement, or maintenance of such farm
26 and its tools and equipment; or (ii) in packing, packaging, grading,
27 storing or delivering to storage, or to market or to a carrier for
28 transportation to market, any agricultural or horticultural
29 commodity; or (iii) commercial canning, commercial freezing, or any
30 other commercial processing, or with respect to services performed in
31 connection with the cultivation, raising, harvesting, and processing
32 of oysters or in connection with any agricultural or horticultural
33 commodity after its delivery to a terminal market for distribution
34 for consumption;

35 (h) Any industry in which federal law provides for an overtime
36 payment based on a workweek other than forty hours. However, the
37 provisions of the federal law regarding overtime payment based on a
38 workweek other than forty hours shall nevertheless apply to employees
39 covered by this section without regard to the existence of actual
40 federal jurisdiction over the industrial activity of the particular

1 employer within this state. For the purposes of this subsection,
2 "industry" means a trade, business, industry, or other activity, or
3 branch, or group thereof, in which individuals are gainfully employed
4 (section 3(h) of the Fair Labor Standards Act of 1938, as amended
5 (Public Law 93-259));

6 (i) Any hours worked by an employee of a carrier by air subject
7 to the provisions of subchapter II of the Railway Labor Act (45
8 U.S.C. Sec. 181 et seq.), when such hours are voluntarily worked by
9 the employee pursuant to a shift-trading practice under which the
10 employee has the opportunity in the same or in other workweeks to
11 reduce hours worked by voluntarily offering a shift for trade or
12 reassignment; and

13 (j) Any individual licensed under chapter 18.85 RCW unless the
14 individual is providing real estate brokerage services under a
15 written contract with a real estate firm which provides that the
16 individual is an employee. For purposes of this subsection (2)(j),
17 "real estate brokerage services" and "real estate firm" mean the same
18 as defined in RCW 18.85.011.

19 (3) No employer shall be deemed to have violated subsection (1)
20 of this section by employing any employee of a retail or service
21 establishment for a workweek in excess of the applicable workweek
22 specified in subsection (1) of this section if:

23 (a) The regular rate of pay of the employee is in excess of one
24 and one-half times the minimum hourly rate required under RCW
25 49.46.020; and

26 (b) More than half of the employee's compensation for a
27 representative period, of not less than one month, represents
28 commissions on goods or services.

29 In determining the proportion of compensation representing
30 commissions, all earnings resulting from the application of a bona
31 fide commission rate is to be deemed commissions on goods or services
32 without regard to whether the computed commissions exceed the draw or
33 guarantee.

34 (4) No employer of commissioned salespeople primarily engaged in
35 the business of selling automobiles, trucks, recreational vessels,
36 recreational vessel trailers, recreational vehicle trailers,
37 recreational campers, manufactured housing, or farm implements to
38 ultimate purchasers shall violate subsection (1) of this section with
39 respect to such commissioned salespeople if the commissioned
40 salespeople are paid the greater of:

1 (a) Compensation at the hourly rate, which may not be less than
2 the rate required under RCW 49.46.020, for each hour worked up to
3 (~~forty~~) thirty-two hours per week, and compensation of one and one-
4 half times that hourly rate for all hours worked over (~~forty~~)
5 thirty-two hours in one week; or

6 (b) A straight commission, a salary plus commission, or a salary
7 plus bonus applied to gross salary.

8 (5) No public agency shall be deemed to have violated subsection
9 (1) of this section with respect to the employment of any employee in
10 fire protection activities or any employee in law enforcement
11 activities (including security personnel in correctional
12 institutions) if: (a) In a work period of twenty-eight consecutive
13 days the employee receives for tours of duty which in the aggregate
14 exceed two hundred forty hours; or (b) in the case of such an
15 employee to whom a work period of at least seven but less than
16 twenty-eight days applies, in his or her work period the employee
17 receives for tours of duty which in the aggregate exceed a number of
18 hours which bears the same ratio to the number of consecutive days in
19 his or her work period as two hundred forty hours bears to twenty-
20 eight days; compensation at a rate not less than one and one-half
21 times the regular rate at which he or she is employed.

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