
ENGROSSED SUBSTITUTE SENATE BILL 5284

State of Washington

67th Legislature

2021 Regular Session

By Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Randall, Billig, Carlyle, Das, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Nobles, Robinson, Saldaña, Salomon, Stanford, Wellman, and Wilson, C.)

READ FIRST TIME 02/09/21.

1 AN ACT Relating to eliminating subminimum wage certificates for
2 persons with disabilities; amending RCW 49.12.110, 49.46.060, and
3 49.46.170; adding a new section to chapter 71A.10 RCW; creating a new
4 section; and providing an expiration date.

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

6 **Sec. 1.** RCW 49.12.110 and 2020 c 274 s 40 are each amended to
7 read as follows:

8 ((~~For~~)) Subject to RCW 49.46.170, for any occupation in which a
9 minimum wage has been established, the director may issue to an
10 employer, a special certificate or permit for an employee with a
11 disability to such a degree that ((~~he or she~~)) the employee is unable
12 to obtain employment in the competitive labor market, or to a trainee
13 or learner not otherwise subject to the jurisdiction of the
14 apprenticeship council, a special certificate or permit authorizing
15 the employment of such employee for a wage less than the legal
16 minimum wage; and the director shall fix the minimum wage for said
17 person, such special certificate or permit to be issued only in such
18 cases as the director may decide the same is applied for in good
19 faith and that such certificate or permit shall be in force for such
20 length of time as the director shall decide and determine is proper.

1 **Sec. 2.** RCW 49.46.060 and 1959 c 294 s 6 are each amended to
2 read as follows:

3 ((The)) Subject to RCW 49.46.170, the director, to the extent
4 necessary in order to prevent curtailment of opportunities for
5 employment, shall by regulations provide for (1) the employment of
6 learners, of apprentices, and of messengers employed primarily in
7 delivering letters and messages, under special certificates issued
8 pursuant to regulations of the director, at such wages lower than the
9 minimum wage applicable under RCW 49.46.020 and subject to such
10 limitations as to time, number, proportion, and length of service as
11 the director shall prescribe, and (2) the employment of individuals
12 whose earning capacity is impaired by (~~age or physical or mental~~
13 ~~deficiency or injury~~) a disability, under special certificates
14 issued by the director, at such wages lower than the minimum wage
15 applicable under RCW 49.46.020 and for such period as shall be fixed
16 in such certificates.

17 **Sec. 3.** RCW 49.46.170 and 2019 c 374 s 1 are each amended to
18 read as follows:

19 (1) Beginning July 1, 2020, no state agency may employ an
20 individual to work under a special certificate issued under RCW
21 49.12.110 and 49.46.060 for the employment of individuals with
22 disabilities at less than the minimum wage. Any special certificate
23 issued by the director to a state agency for the employment of an
24 individual with a disability at less than minimum wage must expire by
25 June 30, 2020. For the purposes of this section, "state agency" means
26 any office, department, commission, or other unit of state
27 government.

28 (2) After July 31, 2023, the director may not issue any new
29 special certificates under RCW 49.12.110 and 49.46.060 for the
30 employment, at less than the minimum wage, of individuals with
31 disabilities.

32 (3) (a) Special certificates that have not expired as of July 31,
33 2023, remain valid until the certificate expires.

34 (b) The director may extend, no more than once and for no longer
35 than one year, the duration of a special certificate that was valid
36 as of the effective date of this section only under the following
37 circumstances:

38 (i) The individual employed under the special certificate is an
39 "eligible person" as defined under RCW 71A.10.020; and

1 (ii) The employer requests the extension of the special
2 certificate.

3 (4) Ninety days before the expiration of the special certificates
4 under this section, the director shall provide written notice to the
5 employer, the employee, and the employee's legal guardian, legal
6 representative as defined under RCW 71A.10.020, or other individual
7 authorized to receive information on behalf of the employee, of the
8 following:

9 (a) The expiration date of the special certificate;

10 (b) The employer's option to extend the special certificate if
11 the conditions under subsection (3) of this section are met; and

12 (c) Upon request, the contact information for the department of
13 social and health services and a statement that provides the
14 supportive services available to the individual with disabilities.

15 (5) For the purposes of allowing the department of social and
16 health services to prioritize services and existing individualized
17 technical assistance to individuals advancing to at least minimum
18 wage employment, the department of labor and industries may share
19 information, such as individuals' contact information and expiration
20 dates of special certificates with the department of social and
21 health services.

22 NEW SECTION. Sec. 4. A new section is added to chapter 71A.10
23 RCW to read as follows:

24 (1) To the extent consistent with federal law and federal funding
25 requirements, the department must prioritize individuals, utilizing
26 the expiration dates of the special certificates, for the provision
27 of individual technical assistance to an individual, prior to the
28 expiration date of the individual's special certificate, and may
29 utilize the individual technical assistance to allow for an effective
30 transition into at least minimum wage employment or other services.

31 (2) Subject to the availability of amounts appropriated for this
32 specific purpose, the department must work with contracted providers
33 to expand employment and day services to individuals leaving special
34 certificate employment, including but not limited to providing
35 individual technical assistance and individual supported employment
36 services to individuals leaving special certificate employment.

37 (3) Prior to the expiration date of the individual's special
38 certificate, the department must provide written and verbal
39 notification to the individual and their legal representatives

1 informing them of all available waiver services and the processes for
2 the individual to identify, transition to, and request any of the
3 available waiver services.

4 NEW SECTION. **Sec. 5.** (1) By October 1, 2021, the department of
5 labor and industries, in collaboration with the department of social
6 and health services' developmental disabilities administration and
7 division of vocational rehabilitation, must submit a report to the
8 appropriate committees of the legislature with the following
9 information:

10 (a) The number of special certificates remaining;

11 (b) The number of individuals who were employed under a special
12 certificate who have contacted the department of social and health
13 services to receive individual technical assistance and other
14 services provided by the department of social and health services'
15 developmental disabilities administration or division of vocational
16 rehabilitation and the assistance and services that were provided;
17 and

18 (c) The number of individuals who continued to be employed after
19 the expiration of the individual's special certificate, a description
20 of employment or other services, including services under chapter
21 71A.12 RCW, if any, that were provided to those individuals, and
22 other services provided by the department of social and health
23 services' developmental disabilities administration or division of
24 vocational rehabilitation and the assistance and services that were
25 provided.

26 (2) The report must be provided annually until all remaining
27 special certificates have expired.

28 (3) This section expires December 1, 2024.

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