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**SENATE BILL 5284**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**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 01/19/21. Referred to Committee on Labor, Commerce & Tribal Affairs.

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) The contact information for the division of the department of  
13 social and health services that provides services to individuals with  
14 developmental disabilities, and a statement that provides the  
15 supportive services available to the individual upon request.

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

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

25 (1) The department must continue supportive services, technical  
26 assistance, and other programs under chapter 71A.12 RCW.

27 (2) The department must prioritize individuals, utilizing the  
28 expiration dates of the special certificates, for the provision of  
29 individual technical assistance to an individual, prior to the  
30 expiration date of the individual's special certificate, and may  
31 utilize the individual technical assistance to allow for an effective  
32 transition into at least minimum wage employment or other services.

33 NEW SECTION. Sec. 5. (1) By October 1, 2021, the department of  
34 labor and industries and the department of social and health services  
35 must submit a report to the appropriate committees of the legislature  
36 with the following information:

37 (a) The number of special certificates remaining;

1 (b) The number of individuals who were employed under a special  
2 certificate who have contacted the department of social and health  
3 services to receive individual technical assistance and services and  
4 the assistance and services that were provided;

5 (c) The number of individuals who continued to be employed after  
6 the expiration of the individual's special certificate, a description  
7 of alternative employment or other services, including services under  
8 chapter 71A.12 RCW, if any, that were provided to those individuals;  
9 and

10 (d) Any recommendations on providing employment services or other  
11 assistance to persons with disabilities.

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

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

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