
SENATE BILL 5758

State of Washington 63rd Legislature 2013 Regular Session

By Senators Holmquist Newbry, Braun, and King

Read first time 02/13/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to making coverage of certain maritime service
2 elective for purposes of unemployment compensation; amending RCW
3 50.24.160 and 50.04.170; and creating a new section.

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

5 **Sec. 1.** RCW 50.24.160 and 2007 c 146 s 6 are each amended to read
6 as follows:

7 Except as provided in RCW 50.04.165, any employing unit for which
8 services that do not constitute employment as defined in this title are
9 performed may file with the commissioner a written election that all
10 such services performed by any distinct class or group of individuals
11 or by all individuals in its employment in one or more distinct
12 establishments or places of business shall be deemed to constitute
13 employment for all the purposes of this title for at least two calendar
14 years. Upon the written approval of such election by the commissioner,
15 such services shall be deemed to constitute employment subject to this
16 title on and after the date stated in the approval. Services covered
17 under this section shall cease to be deemed employment as of January
18 1st of any calendar year subsequent to the two-calendar year period,
19 only if the employing unit files with the commissioner before January

1 15th of that year a written application for termination of coverage.
2 Services for which an employing unit may elect coverage include, but
3 are not limited to, maritime service as described in RCW 50.04.170.

4 **Sec. 2.** RCW 50.04.170 and 1949 c 214 s 3 are each amended to read
5 as follows:

6 (1)(a) Except for services subject to RCW 50.44.010, 50.44.020,
7 50.44.030, or 50.50.010, the term "employment" (~~shall~~) includes an
8 individual's entire service as an officer or member of a crew of an
9 American vessel wherever performed and whether in intrastate or
10 interstate or foreign commerce, if the employer maintains within this
11 state at the beginning of the pay period an operating office from which
12 the operations of the vessel are ordinarily and regularly supervised,
13 managed, directed, and controlled.

14 (b) The term "employment" (~~shall~~) does not include:

15 (i) Services performed by an individual on a boat engaged in
16 catching fish or other forms of aquatic animal life under an
17 arrangement with the owner or operator of the boat under which:

18 (A) The individual does not receive any cash remuneration except as
19 provided in (b)(i)(B) and (C) of this subsection;

20 (B) The individual receives a share of the boat's, or the boats' in
21 the case of a fishing operation involving more than one boat, catch of
22 fish or other forms of aquatic animal life or a share of the proceeds
23 from the sale of the catch; and

24 (C) The amount of the individual's share depends on the amount of
25 the boat's, or the boats' in the case of a fishing operation involving
26 more than one boat, catch of fish or other forms of aquatic animal
27 life, but only if the operating crew of the boat, or each boat from
28 which the individual receives a share in the case of a fishing
29 operation involving more than one boat, is normally made up of fewer
30 than ten individuals.

31 (ii) Services performed as an officer or member of the crew of a
32 vessel not an American vessel and services on or in connection with an
33 American vessel under a contract of service which is not entered into
34 within the United States and during the performance of which the vessel
35 does not touch at a port of the United States.

36 (2) For the purposes of this section, "American vessel"(~~is~~) means
37 any vessel documented or numbered under the laws of the United

1 States((+)) and includes any vessel which is neither documented or
2 numbered under the laws of the United States nor documented under the
3 laws of any foreign country if its crew is employed solely by one or
4 more citizens or residents of the United States or corporations
5 organized under the laws of the United States or of any state.

6 NEW SECTION. **Sec. 3.** If any part of this act is found to be in
7 conflict with federal requirements that are a prescribed condition to
8 the allocation of federal funds to the state or the eligibility of
9 employers in this state for federal unemployment tax credits, the
10 conflicting part of this act is inoperative solely to the extent of the
11 conflict, and the finding or determination does not affect the
12 operation of the remainder of this act. Rules adopted under this act
13 must meet federal requirements that are a necessary condition to the
14 receipt of federal funds by the state or the granting of federal
15 unemployment tax credits to employers in this state.

16 NEW SECTION. **Sec. 4.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

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