
HOUSE BILL 1446

State of Washington

64th Legislature

2015 Regular Session

By Representative Manweller

Read first time 01/21/15. Referred to Committee on Labor.

1 AN ACT Relating to creating the youth internship opportunity act;
2 reenacting and amending RCW 49.46.010; adding a new section to
3 chapter 49.12 RCW; adding a new section to chapter 51.16 RCW; adding
4 a new section to chapter 50.04 RCW; creating a new section; and
5 providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12
8 RCW to read as follows:

9 (1)(a) The director shall establish a youth internship pilot
10 program until December 31, 2018, for qualified restaurant employers
11 to employ youth interns under special certificates at wages
12 authorized by the department and subject to limitations in this
13 section. An intern may be paid at wages specified in the certificate
14 only during the effective period of the certificate and for the
15 duration of the internship.

16 (b) The certificates to be issued in the pilot project are
17 limited to restaurant employers located in counties with a population
18 of seven hundred thousand or less.

19 (2) A restaurant employer must apply for a special certificate on
20 a form made available by the director. The application must set
21 forth:

1 (a) The name of the restaurant employer;
2 (b) The type of work to be performed by the youth intern;
3 (c) A description of the internship program;
4 (d) A period of time for which the certificate is sought and the
5 duration of the internship;
6 (e) The wages that will be paid to the intern;
7 (f) The number of interns for which a certificate is sought; and
8 (g) The total number of workers employed at the restaurant.
9 (3) Upon receipt of an application, the department shall review
10 the application and issue a special certificate to the requesting
11 restaurant employer within fifteen days if the department finds that:
12 (a) The applicant qualifies as a restaurant employer;
13 (b) There have been no serious violations of chapter 49.46 RCW or
14 Title 51 RCW that provide reasonable grounds to believe that the
15 terms of an internship agreement may not be complied with;
16 (c) The issuance of a certificate will not create unfair
17 competitive labor cost advantages nor have the effect of impairing or
18 depressing wage or working standards established for experienced
19 workers for work of a like or comparable character in the industry or
20 occupation at which the intern is to be employed;
21 (d) An intern will not displace an experienced worker; and
22 (e) The restaurant employer demonstrates that the intern will
23 perform work under an internship program that: (i) Has a curriculum
24 and supervised participation reasonably designed to provide interns
25 with vocational knowledge and skills in the restaurant industry and
26 culinary arts; and (ii) is based on the bona fide curriculum of an
27 educational or vocational institution. In assessing an internship
28 program, the department may consult with relevant college departments
29 and extension programs and state and local government agencies
30 involved in the regulation of the food industry.
31 (4) If the department denies an application for a special
32 certificate, notice of denial must be mailed to the restaurant
33 employer. The restaurant employer listed on the application may,
34 within fifteen days after notice of such action has been mailed, file
35 with the director a petition for review of the denial, setting forth
36 grounds for seeking such a review. If reasonable grounds exist, the
37 director or the director's authorized representative may grant such a
38 review and, to the extent deemed appropriate, afford all interested
39 persons an opportunity to be heard on such review.

1 (5) Before employing an intern, a restaurant employer must submit
2 a statement on a form made available by the director stating that it
3 understands: The requirements of the industrial welfare act, chapter
4 49.12 RCW, that apply to interns; that the restaurant employer must
5 pay workers' compensation premiums in the assigned intern risk class
6 and must pay workers' compensation premiums for nonintern work hours
7 in the applicable risk class; and that if the restaurant employer
8 does not comply with subsection (6) of this section, the director may
9 revoke the special certificate.

10 (6) The director may revoke a special certificate issued under
11 this section if a restaurant employer fails to: Comply with the
12 requirements of the industrial welfare act, chapter 49.12 RCW, that
13 apply to interns; pay workers' compensation premiums in the assigned
14 intern risk class; or pay workers' compensation premiums in the
15 applicable risk class for nonintern work hours.

16 (7) Before the start of an internship, the restaurant employer
17 and the intern must sign a written agreement and send a copy of the
18 agreement to the department. The written agreement must, at a
19 minimum:

20 (a) Describe the internship program offered by the restaurant
21 employer, including the skills and objectives the program is designed
22 to teach and the manner in which those skills and objectives will be
23 taught;

24 (b) Explicitly state that the intern is not entitled to
25 unemployment benefits or minimum wages for work and activities
26 conducted pursuant to the internship program for the duration of the
27 internship;

28 (c) Describe the responsibilities, expectations, and obligations
29 of the intern and the restaurant employer, including the anticipated
30 number of hours of activities to be performed by and the anticipated
31 number of hours of curriculum instruction provided to the intern per
32 week;

33 (d) Describe the activities of the restaurant employer and the
34 type of work to be performed by the intern; and

35 (e) Describe any wages or other remuneration the restaurant
36 employer will provide to the intern.

37 (8) The department must limit the administrative costs of
38 implementing the internship pilot program by relying on restaurant
39 organizations and other stakeholders to perform outreach and inform
40 the food service community of the program and by limiting employee

1 travel to the investigation of allegations of noncompliance with
2 program requirements.

3 (9) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "Intern" means an individual who is under the age of eighteen
6 and provides services to a restaurant employer under a written
7 agreement and primarily as a means of learning about the restaurant
8 industry and culinary arts.

9 (b) "Internship program" means an internship program described
10 under subsection (3)(e) of this section.

11 (c) "Restaurant employer" means an establishment that: (i) Is not
12 a franchise; (ii) has as its main purpose the routine preparing and
13 serving of food to the public in consideration for payment; and (iii)
14 has designated space and accommodations within its establishment for
15 the public to be seated while being served.

16 **Sec. 2.** RCW 49.46.010 and 2013 c 141 s 1 are each reenacted and
17 amended to read as follows:

18 As used in this chapter:

19 (1) "Director" means the director of labor and industries;

20 (2) "Employ" includes to permit to work;

21 (3) "Employee" includes any individual employed by an employer
22 but shall not include:

23 (a) Any individual (i) employed as a hand harvest laborer and
24 paid on a piece rate basis in an operation which has been, and is
25 generally and customarily recognized as having been, paid on a piece
26 rate basis in the region of employment; (ii) who commutes daily from
27 his or her permanent residence to the farm on which he or she is
28 employed; and (iii) who has been employed in agriculture less than
29 thirteen weeks during the preceding calendar year;

30 (b) Any individual employed in casual labor in or about a private
31 home, unless performed in the course of the employer's trade,
32 business, or profession;

33 (c) Any individual employed in a bona fide executive,
34 administrative, or professional capacity or in the capacity of
35 outside salesperson as those terms are defined and delimited by rules
36 of the director. However, those terms shall be defined and delimited
37 by the human resources director pursuant to chapter 41.06 RCW for
38 employees employed under the director of personnel's jurisdiction;

1 (d) Any individual engaged in the activities of an educational,
2 charitable, religious, state or local governmental body or agency, or
3 nonprofit organization where the employer-employee relationship does
4 not in fact exist or where the services are rendered to such
5 organizations gratuitously. If the individual receives reimbursement
6 in lieu of compensation for normally incurred out-of-pocket expenses
7 or receives a nominal amount of compensation per unit of voluntary
8 service rendered, an employer-employee relationship is deemed not to
9 exist for the purpose of this section or for purposes of membership
10 or qualification in any state, local government, or publicly
11 supported retirement system other than that provided under chapter
12 41.24 RCW;

13 (e) Any individual employed full time by any state or local
14 governmental body or agency who provides voluntary services but only
15 with regard to the provision of the voluntary services. The voluntary
16 services and any compensation therefor shall not affect or add to
17 qualification, entitlement, or benefit rights under any state, local
18 government, or publicly supported retirement system other than that
19 provided under chapter 41.24 RCW;

20 (f) Any newspaper vendor, carrier, or delivery person selling or
21 distributing newspapers on the street, to offices, to businesses, or
22 from house to house and any freelance news correspondent or
23 "stringer" who, using his or her own equipment, chooses to submit
24 material for publication for free or a fee when such material is
25 published;

26 (g) Any carrier subject to regulation by Part 1 of the Interstate
27 Commerce Act;

28 (h) Any individual engaged in forest protection and fire
29 prevention activities;

30 (i) Any individual employed by any charitable institution charged
31 with child care responsibilities engaged primarily in the development
32 of character or citizenship or promoting health or physical fitness
33 or providing or sponsoring recreational opportunities or facilities
34 for young people or members of the armed forces of the United States;

35 (j) Any individual whose duties require that he or she reside or
36 sleep at the place of his or her employment or who otherwise spends a
37 substantial portion of his or her work time subject to call, and not
38 engaged in the performance of active duties;

1 (k) Any resident, inmate, or patient of a state, county, or
2 municipal correctional, detention, treatment or rehabilitative
3 institution;

4 (l) Any individual who holds a public elective or appointive
5 office of the state, any county, city, town, municipal corporation or
6 quasi municipal corporation, political subdivision, or any
7 instrumentality thereof, or any employee of the state legislature;

8 (m) All vessel operating crews of the Washington state ferries
9 operated by the department of transportation;

10 (n) Any individual employed as a seaman on a vessel other than an
11 American vessel; or

12 (o) Any intern providing his or her services to a restaurant
13 employer that has a special certificate issued under section 1 of
14 this act;

15 (4) "Employer" includes any individual, partnership, association,
16 corporation, business trust, or any person or group of persons acting
17 directly or indirectly in the interest of an employer in relation to
18 an employee;

19 (5) "Occupation" means any occupation, service, trade, business,
20 industry, or branch or group of industries or employment or class of
21 employment in which employees are gainfully employed;

22 (6) "Retail or service establishment" means an establishment
23 seventy-five percent of whose annual dollar volume of sales of goods
24 or services, or both, is not for resale and is recognized as retail
25 sales or services in the particular industry;

26 (7) "Wage" means compensation due to an employee by reason of
27 employment, payable in legal tender of the United States or checks on
28 banks convertible into cash on demand at full face value, subject to
29 such deductions, charges, or allowances as may be permitted by rules
30 of the director.

31 NEW SECTION. Sec. 3. A new section is added to chapter 51.16
32 RCW to read as follows:

33 The department shall adopt rules to provide special workers'
34 compensation risk class or classes for interns providing services
35 under an internship program under section 1 of this act.

36 NEW SECTION. Sec. 4. A new section is added to chapter 50.04
37 RCW to read as follows:

1 Except for services subject to RCW 50.44.010, 50.44.020,
2 50.44.030, or 50.50.010, the term "employment" does not include
3 service performed for a restaurant employer by an intern providing
4 his or her services under an internship program as established in
5 section 1 of this act.

6 NEW SECTION. **Sec. 5.** This act may be known and cited as the
7 youth internship opportunity act.

8 NEW SECTION. **Sec. 6.** This act expires December 31, 2018.

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