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**SENATE BILL 5327**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Keiser, Saldaña, Nobles, C. Wilson, Conway, Lias, Hasegawa, Hunt, Kuderer, Lovick, Nguyen, Randall, Stanford, and Valdez

Read first time 01/12/23. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to paying interns; amending RCW 49.46.010; and  
2 adding new sections to chapter 49.46 RCW.

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

4 **Sec. 1.** RCW 49.46.010 and 2020 c 212 s 3 are each amended to  
5 read as follows:

6 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

34 (h) Any individual engaged in forest protection and fire  
35 prevention activities;

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

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

5 (k) Any resident, inmate, or patient of a state, county, or  
6 municipal correctional, detention, treatment or rehabilitative  
7 institution;

8 (l) Any individual who holds a public elective or appointive  
9 office of the state, any county, city, town, municipal corporation or  
10 quasi municipal corporation, political subdivision, or any  
11 instrumentality thereof, or any employee of the state legislature;

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

14 (n) Any individual employed as a seaman on a vessel other than an  
15 American vessel;

16 (o) Until December 31, 2025, any farm intern providing his or her  
17 services to a small farm which has a special certificate issued under  
18 RCW 49.12.471;

19 (p) An individual who is at least sixteen years old but under  
20 twenty-one years old, in his or her capacity as a player for a junior  
21 ice hockey team that is a member of a regional, national, or  
22 international league and that contracts with an arena owned,  
23 operated, or managed by a public facilities district created under  
24 chapter 36.100 RCW;

25 (4) "Employer" includes any individual, partnership, association,  
26 corporation, business trust, or any person or group of persons acting  
27 directly or indirectly in the interest of an employer in relation to  
28 an employee;

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

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

36 (7) "Wage" means compensation due to an employee by reason of  
37 employment or to an intern engaged in an internship under section 2  
38 of this act, payable in legal tender of the United States or checks  
39 on banks convertible into cash on demand at full face value, subject

1 to such deductions, charges, or allowances as may be permitted by  
2 rules of the director.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.46  
4 RCW to read as follows:

5 (1) Notwithstanding RCW 49.46.010(3)(d), any state or local  
6 governmental body or agency, or educational, charitable, or nonprofit  
7 organization receiving public funds who provides an internship must  
8 pay to the intern wages at a rate of not less than the amount  
9 established in RCW 49.46.020(1) for the hours of the internship.

10 (2) All enforcement provisions under chapter 49.48 RCW that apply  
11 to employees also apply to interns under this section.

12 (3) RCW 49.46.090 through 49.46.110 also apply to payment of  
13 intern wages in this section.

14 (4) This section applies whether or not the intern may earn  
15 academic credit for the internship.

16 (5)(a) For purposes of this section, "intern" means a person who  
17 is:

18 (i) Enrolled in an in-state or out-of-state institution of higher  
19 education;

20 (ii) Participating in an internship to gain job experience or  
21 clinical or other hands-on training, that is for the intern's primary  
22 benefit; and

23 (iii) Not displacing employees.

24 (b) For purpose of this section, "intern" does not include a farm  
25 intern under a farm internship program as established in RCW  
26 49.12.471.

27 (c) For the purposes of this section, an internship is a planned,  
28 structured engagement of limited duration for the intern to gain job  
29 experience or clinical or other hands-on training with a state or  
30 local governmental body or agency, or an educational, charitable, or  
31 nonprofit organization receiving public funds.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.46  
33 RCW to read as follows:

34 The department of labor and industries may adopt rules to  
35 implement this act.

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