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HOUSE BILL 2845

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State of Washington                      52nd Legislature                      1992 Regular Session

By Representatives Heavey, Lisk and Ludwig

Read first time 01/29/92. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to overtime work by automobile salespersons; and  
2 amending RCW 49.46.130.

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

4            **Sec. 1.** RCW 49.46.130 and 1989 c 104 s 1 are each amended to read  
5 as follows:

6            (1) No employer shall employ any of his employees for a work week  
7 longer than forty hours unless such employee receives compensation for  
8 his employment in excess of the hours above specified at a rate not  
9 less than one and one-half times the regular rate at which he is  
10 employed, except that the provisions of this subsection (1) shall not  
11 apply to any person exempted pursuant to RCW 49.46.010(5) as now or  
12 hereafter amended and the provision of this subsection shall not apply  
13 to employees who request compensating time off in lieu of overtime pay  
14 nor to any individual employed as a seaman whether or not the seaman is

1 employed on a vessel other than an American vessel, nor to seasonal  
2 employees who are employed at concessions and recreational  
3 establishments at agricultural fairs, including those seasonal  
4 employees employed by agricultural fairs, within the state provided  
5 that the period of employment for any seasonal employee at any or all  
6 agricultural fairs does not exceed fourteen working days a year, nor to  
7 any individual employed as a motion picture projectionist if that  
8 employee is covered by a contract or collective bargaining agreement  
9 which regulates hours of work and overtime pay, nor to an individual  
10 employed as a truck or bus driver who is subject to the provisions of  
11 the Federal Motor Carrier Act (49 U.S.C. Sec. 3101 et seq. and 49  
12 U.S.C. Sec. 10101 et seq.), if the compensation system under which the  
13 truck or bus driver is paid includes overtime pay, reasonably  
14 equivalent to that required by this subsection, for working longer than  
15 forty hours per week, nor to a salesperson primarily engaged in selling  
16 automobiles or trucks if the person is employed by a nonmanufacturing  
17 establishment primarily engaged in the business of selling the vehicles  
18 to ultimate purchasers.

19 (2) No public agency shall be deemed to have violated subsection  
20 (1) of this section with respect to the employment of any employee in  
21 fire protection activities or any employee in law enforcement  
22 activities (including security personnel in correctional institutions)  
23 if: (a) In a work period of twenty-eight consecutive days the employee  
24 receives for tours of duty which in the aggregate exceed two hundred  
25 and forty hours; or (b) in the case of such an employee to whom a work  
26 period of at least seven but less than twenty-eight days applies, in  
27 his work period the employee receives for tours of duty which in the  
28 aggregate exceed a number of hours which bears the same ratio to the  
29 number of consecutive days in his work period as two hundred forty  
30 hours bears to twenty-eight days; compensation at a rate not less than

1 one and one-half times the regular rate at which he is employed:  
2 PROVIDED, That this section shall not apply to any individual employed  
3 (i) on a farm, in the employ of any person, in connection with the  
4 cultivation of the soil, or in connection with raising or harvesting  
5 any agricultural or horticultural commodity, including raising,  
6 shearing, feeding, caring for, training, and management of livestock,  
7 bees, poultry, and furbearing animals and wildlife, or in the employ of  
8 the owner or tenant or other operator of a farm in connection with the  
9 operation, management, conservation, improvement, or maintenance of  
10 such farm and its tools and equipment; or (ii) in packing, packaging,  
11 grading, storing or delivering to storage, or to market or to a carrier  
12 for transportation to market, any agricultural or horticultural  
13 commodity; or (iii) commercial canning, commercial freezing, or any  
14 other commercial processing, or with respect to services performed in  
15 connection with the cultivation, raising, harvesting, and processing of  
16 oysters or in connection with any agricultural or horticultural  
17 commodity after its delivery to a terminal market for distribution for  
18 consumption: PROVIDED FURTHER, That in any industry in which federal  
19 law provides for an overtime payment based on a work week other than  
20 forty hours then provisions of this section shall not apply; however  
21 the provisions of the federal law regarding overtime payment based on  
22 a work week other than forty hours shall nevertheless apply to  
23 employees covered by this section without regard to the existence of  
24 actual federal jurisdiction over the industrial activity of the  
25 particular employer within this state: PROVIDED FURTHER, That  
26 "industry" as that term is used in this section shall mean a trade,  
27 business, industry, or other activity, or branch, or group thereof, in  
28 which individuals are gainfully employed (section 3(h) of the Fair  
29 Labor Standards Act of 1938, as amended (Public Law 93-259)).