
SUBSTITUTE SENATE BILL 5681

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Commerce & Trade (originally sponsored by Senators Sheahan, T. Sheldon, Honeyford, Hale and Mulliken)

READ FIRST TIME 02/27/03.

1 AN ACT Relating to minimum wages; amending RCW 49.46.010,
2 49.46.010, and 49.46.020; adding a new section to chapter 49.46 RCW;
3 creating a new section; providing an effective date; providing an
4 expiration date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds and declares:

7 It is in the interest of Washington citizens to improve the state
8 economy as expeditiously as possible. Washington has the highest
9 unemployment rate in the nation. In addition to the dire economic
10 situation in the state, Washington businesses are experiencing
11 increases in mandatory minimum wage payments, workers' compensation
12 costs, and unemployment insurance rates. The cumulative impact of
13 these factors forces businesses to eliminate jobs and hire fewer
14 employees. Immediate legislative action to reform the method for
15 calculating the state's minimum wage rate is necessary for the economic
16 vitality of the state.

17 These facts and findings are a declaration of facts constituting an
18 emergency, and the reforms provided by this act are necessary for

1 immediate preservation of the public health, safety, and welfare of the
2 state.

3 **Sec. 2.** RCW 49.46.010 and 1997 c 203 s 3 are each amended to read
4 as follows:

5 As used in this chapter:

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

7 (2) "Wage" means compensation due to an employee by reason of
8 employment, payable in legal tender of the United States or checks on
9 banks convertible into cash on demand at full face value, subject to
10 such deductions, charges, or allowances as may be permitted by rules of
11 the director;

12 (3) "Employ" includes to permit to work;

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

17 (5) "Employee" includes any individual employed by an employer but
18 shall not include:

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

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

29 (c) Any individual employed in a bona fide executive,
30 administrative, or professional capacity or in the capacity of outside
31 salesman as those terms are defined and delimited by rules of the
32 director. However, those terms shall be defined and delimited by the
33 Washington personnel resources board pursuant to chapter 41.06 RCW;

34 (d) Any individual engaged in the activities of an educational,
35 charitable, religious, state or local governmental body or agency, or
36 nonprofit organization where the employer-employee relationship does
37 not in fact exist or where the services are rendered to such

1 organizations gratuitously. If the individual receives reimbursement
2 in lieu of compensation for normally incurred out-of-pocket expenses or
3 receives a nominal amount of compensation per unit of voluntary service
4 rendered, an employer-employee relationship is deemed not to exist for
5 the purpose of this section or for purposes of membership or
6 qualification in any state, local government or publicly supported
7 retirement system other than that provided under chapter 41.24 RCW;

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

15 (f) Any newspaper vendor or carrier;

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

18 (h) Any individual engaged in forest protection and fire prevention
19 activities;

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

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

29 (k) Any resident, inmate, or patient of a state, county, or
30 municipal correctional, detention, treatment or rehabilitative
31 institution;

32 (l) Any individual who holds a public elective or appointive office
33 of the state, any county, city, town, municipal corporation or quasi
34 municipal corporation, political subdivision, or any instrumentality
35 thereof, or any employee of the state legislature;

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

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

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

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

10 (8) "Full employment" means a total, not seasonally adjusted,
11 unemployment rate in the state of Washington that is less than the
12 total, not seasonally adjusted, national unemployment rate as
13 determined by the United States department of labor.

14 **Sec. 3.** RCW 49.46.010 and 2002 c 354 s 231 are each amended to
15 read as follows:

16 As used in this chapter:

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

18 (2) "Wage" means compensation due to an employee by reason of
19 employment, payable in legal tender of the United States or checks on
20 banks convertible into cash on demand at full face value, subject to
21 such deductions, charges, or allowances as may be permitted by rules of
22 the director;

23 (3) "Employ" includes to permit to work;

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

28 (5) "Employee" includes any individual employed by an employer but
29 shall not include:

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

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

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

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

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

28 (f) Any newspaper vendor or carrier;

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

31 (h) Any individual engaged in forest protection and fire prevention
32 activities;

33 (i) Any individual employed by any charitable institution charged
34 with child care responsibilities engaged primarily in the development
35 of character or citizenship or promoting health or physical fitness or
36 providing or sponsoring recreational opportunities or facilities for
37 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 office
9 of the state, any county, city, town, municipal corporation or quasi
10 municipal corporation, political subdivision, or any instrumentality
11 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 (6) "Occupation" means any occupation, service, trade, business,
17 industry, or branch or group of industries or employment or class of
18 employment in which employees are gainfully employed;

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

23 (8) "Full employment" means a total, not seasonally adjusted,
24 unemployment rate in the state of Washington that is less than the
25 total, not seasonally adjusted, national unemployment rate as
26 determined by the United States department of labor.

27 **Sec. 4.** RCW 49.46.020 and 1999 c 1 s 1 are each amended to read as
28 follows:

29 ~~(1) ((Until January 1, 1999, every employer shall pay to each of~~
30 ~~his or her employees who has reached the age of eighteen years wages at~~
31 ~~a rate of not less than four dollars and ninety cents per hour.~~

32 ~~(2) Beginning January 1, 1999, and until January 1, 2000, every~~
33 ~~employer shall pay to each of his or her employees who has reached the~~
34 ~~age of eighteen years wages at a rate of not less than five dollars and~~
35 ~~seventy cents per hour.~~

36 ~~(3))~~ Beginning January 1, 2000, and until January 1, 2001, every

1 employer shall pay to each of his or her employees who has reached the
2 age of eighteen years wages at a rate of not less than six dollars and
3 fifty cents per hour.

4 ~~((4))~~ (2)(a) Beginning on January 1, 2001, and each following
5 January 1st as set forth under (b) of this subsection, every employer
6 shall pay to each of his or her employees who has reached the age of
7 eighteen years wages at a rate of not less than the amount established
8 under (b) of this subsection.

9 (b) Subject to (c) of this subsection, on September 30, 2000, and
10 on each following September 30th, the department of labor and
11 industries shall calculate an adjusted minimum wage rate to maintain
12 employee purchasing power by increasing the current year's minimum wage
13 rate by the rate of inflation. The adjusted minimum wage rate shall be
14 calculated to the nearest cent using the consumer price index for urban
15 wage earners and clerical workers, CPI-W, or a successor index, for the
16 twelve months prior to each September 1st as calculated by the United
17 States department of labor. Each adjusted minimum wage rate calculated
18 under this subsection ~~((4))~~ (2)(b) takes effect on the following
19 January 1st.

20 ~~((5) The director shall by regulation establish the minimum wage~~
21 ~~for employees under the age of eighteen years.))~~ (c) Beginning
22 September 30, 2003, and each September 30th thereafter, the current
23 year's minimum wage rate shall be increased by the rate of inflation as
24 provided under (b) of this subsection only for the months the state of
25 Washington had full employment during the twelve months prior to each
26 September 30th. Only the inflationary increases during the months of
27 full employment shall be used for the purposes of the calculation under
28 (b) of this subsection.

29 (3) An employer may pay an employee under the age of eighteen, who
30 is not an emancipated minor under chapter 13.64 RCW, an initial wage
31 rate equal to the greater of seventy-five percent of the rate required
32 under subsection (2)(c) of this section or the federal minimum wage
33 rate.

34 NEW SECTION. Sec. 5. A new section is added to chapter 49.46 RCW
35 to read as follows:

36 (1) No political subdivision shall modify, in any respect, the

1 minimum wage requirements of this chapter through ordinance,
2 resolution, or other legislative action.

3 (2) For the purposes of this section, "political subdivision" means
4 a county, city, special purpose district, agency of the state, or any
5 other municipality or public body created under state law.

6 NEW SECTION. **Sec. 6.** (1) Sections 2, 4, and 5 of this act are
7 necessary for the immediate preservation of the public peace, health,
8 or safety, or support of the state government and its existing public
9 institutions, and take effect immediately.

10 (2) Section 3 of this act takes effect July 1, 2004.

11 (3) Section 2 of this act expires July 1, 2004.

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