
SENATE BILL 5681

State of Washington 58th Legislature 2003 Regular Session

By Senators Sheahan, T. Sheldon, Honeyford, Hale and Mulliken

Read first time 02/06/2003. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to minimum wages; amending RCW 49.46.010,
2 49.46.010, and 49.46.020; adding new sections to chapter 49.46 RCW;
3 providing effective dates; and providing an expiration date.

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

5 **Sec. 1.** RCW 49.46.010 and 1997 c 203 s 3 are each amended to read
6 as follows:

7 As used in this chapter:

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

9 (2) "Wage" means compensation due to an employee by reason of
10 employment, payable in legal tender of the United States or checks on
11 banks convertible into cash on demand at full face value, subject to
12 such deductions, charges, or allowances as may be permitted by rules of
13 the director, including a deduction for the reasonable cost of the
14 employer providing the employee with board, lodging, or other
15 facilities in accordance with the federal fair labor standards act (29
16 U.S.C. Sec. 3(m));

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

18 (4) "Employer" includes any individual, partnership, association,

1 corporation, business trust, or any person or group of persons acting
2 directly or indirectly in the interest of an employer in relation to an
3 employee;

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

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

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

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

21 (d) Any individual engaged in the activities of an educational,
22 charitable, religious, state or local governmental body or agency, or
23 nonprofit organization where the employer-employee relationship does
24 not in fact exist or where the services are rendered to such
25 organizations gratuitously. If the individual receives reimbursement
26 in lieu of compensation for normally incurred out-of-pocket expenses or
27 receives a nominal amount of compensation per unit of voluntary service
28 rendered, an employer-employee relationship is deemed not to exist for
29 the purpose of this section or for purposes of membership or
30 qualification in any state, local government or publicly supported
31 retirement system other than that provided under chapter 41.24 RCW;

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

- 1 (f) Any newspaper vendor or carrier;
- 2 (g) Any carrier subject to regulation by Part 1 of the Interstate
3 Commerce Act;
- 4 (h) Any individual engaged in forest protection and fire prevention
5 activities;
- 6 (i) Any individual employed by any charitable institution charged
7 with child care responsibilities engaged primarily in the development
8 of character or citizenship or promoting health or physical fitness or
9 providing or sponsoring recreational opportunities or facilities for
10 young people or members of the armed forces of the United States;
- 11 (j) Any individual whose duties require that he or she reside or
12 sleep at the place of his or her employment or who otherwise spends a
13 substantial portion of his or her work time subject to call, and not
14 engaged in the performance of active duties;
- 15 (k) Any resident, inmate, or patient of a state, county, or
16 municipal correctional, detention, treatment or rehabilitative
17 institution;
- 18 (l) Any individual who holds a public elective or appointive office
19 of the state, any county, city, town, municipal corporation or quasi
20 municipal corporation, political subdivision, or any instrumentality
21 thereof, or any employee of the state legislature;
- 22 (m) All vessel operating crews of the Washington state ferries
23 operated by the department of transportation;
- 24 (n) Any individual employed as a seaman on a vessel other than an
25 American vessel;
- 26 (6) "Occupation" means any occupation, service, trade, business,
27 industry, or branch or group of industries or employment or class of
28 employment in which employees are gainfully employed;
- 29 (7) "Retail or service establishment" means an establishment
30 seventy-five percent of whose annual dollar volume of sales of goods or
31 services, or both, is not for resale and is recognized as retail sales
32 or services in the particular industry;
- 33 (8) "Full employment" means a total, not seasonally adjusted,
34 unemployment rate in the state of Washington that is less than the
35 total, not seasonally adjusted, national unemployment rate as
36 determined by the United States department of labor.

1 **Sec. 2.** RCW 49.46.010 and 2002 c 354 s 231 are each amended to
2 read as follows:

3 As used in this chapter:

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

5 (2) "Wage" means compensation due to an employee by reason of
6 employment, payable in legal tender of the United States or checks on
7 banks convertible into cash on demand at full face value, subject to
8 such deductions, charges, or allowances as may be permitted by rules of
9 the director, including a deduction for the reasonable cost of the
10 employer providing the employee with board, lodging, or other
11 facilities in accordance with the federal fair labor standards act (29
12 U.S.C. Sec. 3(m));

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

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

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

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

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

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

36 (d) Any individual engaged in the activities of an educational,
37 charitable, religious, state or local governmental body or agency, or
38 nonprofit organization where the employer-employee relationship does

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

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

16 (f) Any newspaper vendor or carrier;

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

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

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

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

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

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

37 (m) All vessel operating crews of the Washington state ferries
38 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 49.46.020 and 1999 c 1 s 1 are each amended to read as
15 follows:

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

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

23 ~~(3))~~ Beginning January 1, 2000, and until January 1, 2001, every
24 employer shall pay to each of his or her employees who has reached the
25 age of eighteen years wages at a rate of not less than six dollars and
26 fifty cents per hour.

27 ~~((4))~~ (2)(a) Beginning on January 1, 2001, and each following
28 January 1st as set forth under (b) of this subsection, every employer
29 shall pay to each of his or her employees who has reached the age of
30 eighteen years wages at a rate of not less than the amount established
31 under (b) of this subsection.

32 (b) Subject to (c) of this subsection, on September 30, 2000, and
33 on each following September 30th, the department of labor and
34 industries shall calculate an adjusted minimum wage rate to maintain
35 employee purchasing power by increasing the current year's minimum wage
36 rate by the rate of inflation. The adjusted minimum wage rate shall be
37 calculated to the nearest cent using the consumer price index for urban

1 wage earners and clerical workers, CPI-W, or a successor index, for the
2 twelve months prior to each September 1st as calculated by the United
3 States department of labor. Each adjusted minimum wage rate calculated
4 under this subsection (~~((4))~~) (2)(b) takes effect on the following
5 January 1st.

6 ~~((5))~~ (c) Beginning September 30, 2003, and each September 30th
7 thereafter, the current year's minimum wage rate shall be increased by
8 the rate of inflation as provided under (b) of this subsection only for
9 the months the state of Washington had full employment during the
10 twelve months prior to each September 30th. Only the inflationary
11 increases during the months of full employment shall be used for the
12 purposes of the calculation under (b) of this subsection.

13 (3) The director shall by regulation establish the minimum wage for
14 employees under the age of eighteen years.

15 NEW SECTION. Sec. 4. A new section is added to chapter 49.46 RCW
16 to read as follows:

17 (1) An employer may pay a new employee an initial wage rate equal
18 to the greater of seventy-five percent of the rate required under RCW
19 49.46.020 or the federal minimum wage rate for the first ninety days of
20 employment by the employee.

21 (2) An employer shall not terminate the employment of employees
22 after the ninety-day period for the primary purpose of obtaining the
23 reduced wage rate under subsection (1) of this section. If the
24 department determines that an employer has engaged in this practice,
25 the employer must remit the entire amount of wages for all employees
26 that would have been paid under this chapter without regard to
27 subsection (1) of this section.

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

30 An employer may pay a new employee, who is not an emancipated minor
31 under chapter 13.64 RCW, an initial wage rate equal to the greater of
32 seventy-five percent of the rate required under RCW 49.46.020 or the
33 federal minimum wage rate.

34 NEW SECTION. Sec. 6. A new section is added to chapter 49.46 RCW
35 to read as follows:

1 (1) No political subdivision shall modify, in any respect, the
2 minimum wage requirements of this chapter through ordinance,
3 resolution, or other legislative action.

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

7 NEW SECTION. **Sec. 7.** (1) Sections 1 and 3 of this act take effect
8 September 1, 2003.

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

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

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