
HOUSE BILL 1790

State of Washington

59th Legislature

2005 Regular Session

By Representatives Condotta, Armstrong, Holmquist, Newhouse, Sump, Kretz, Clements, Crouse, Kristiansen, Schindler, Talcott, Shabro, Rodne, Buri, Haler, Dunn, Nixon, Hinkle, Woods, Bailey and Ahern

Read first time 02/07/2005. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to setting a competitive minimum wage rate;
2 amending RCW 49.46.020 and 49.46.010; and declaring an emergency.

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

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

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

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

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

17 ~~((4))~~ (2)(a) Beginning on January 1, 2001, and each following
18 January 1st as set forth under (b) of this subsection, every employer

1 shall pay to each of his or her employees who has reached the age of
2 eighteen years wages at a rate of not less than the amount established
3 under (b) of this subsection.

4 (b) On September 30, 2000, and on each following September 30th,
5 the department of labor and industries shall calculate an adjusted
6 minimum wage rate to maintain employee purchasing power by increasing
7 the current year's minimum wage rate by the rate of inflation. The
8 adjusted minimum wage rate shall be calculated to the nearest cent
9 using the consumer price index for urban wage earners and clerical
10 workers, CPI-W, or a successor index, for the twelve months prior to
11 each September 1st as calculated by the United States department of
12 labor. The adjusted minimum wage rate may not exceed seven dollars and
13 thirty-five cents or one hundred twenty-five percent of the average
14 state minimum wage rate, whichever is greater. However, in no case
15 shall the adjusted minimum wage rate be less than seven dollars and
16 thirty-five cents. Each adjusted minimum wage rate calculated under
17 this subsection (~~((4))~~) (2)(b) takes effect on the following January
18 1st.

19 (~~((5))~~) (3) The director shall by regulation establish the minimum
20 wage for employees under the age of eighteen years.

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

23 As used in this chapter:

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

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

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

31 (4) "Employer" includes any individual, partnership, association,
32 corporation, business trust, or any person or group of persons acting
33 directly or indirectly in the interest of an employer in relation to an
34 employee;

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

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

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

11 (c) Any individual employed in a bona fide executive,
12 administrative, or professional capacity or in the capacity of outside
13 salesman as those terms are defined and delimited by rules of the
14 director. However, those terms shall be defined and delimited by the
15 director of personnel pursuant to chapter 41.06 RCW for employees
16 employed under the director of personnel's jurisdiction;

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

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

35 (f) Any newspaper vendor or carrier;

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

1 (h) Any individual engaged in forest protection and fire prevention
2 activities;

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

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

12 (k) Any resident, inmate, or patient of a state, county, or
13 municipal correctional, detention, treatment or rehabilitative
14 institution;

15 (l) Any individual who holds a public elective or appointive office
16 of the state, any county, city, town, municipal corporation or quasi
17 municipal corporation, political subdivision, or any instrumentality
18 thereof, or any employee of the state legislature;

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

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

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

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

30 (8) "Average state minimum wage rate" means the sum of the minimum
31 wage rates set pursuant to state law and in effect on each September
32 1st in each of the fifty states divided by fifty. If there is not a
33 minimum wage rate set pursuant to state law in one or more states, the
34 average rate is calculated using the minimum wage rate set pursuant to
35 section (6)(a)(1) of the fair labor standards act of 1938, as amended
36 (29 U.S.C. Sec. 206(a)(1)), in place of a minimum wage rate set
37 pursuant to state law in each of those states.

1 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

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