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HOUSE BILL 1446

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State of Washington

64th Legislature

2015 Regular Session

By Representative Manweller

Read first time 01/21/15. Referred to Committee on Labor.

1 AN ACT Relating to creating the youth internship opportunity act;  
2 reenacting and amending RCW 49.46.010; adding a new section to  
3 chapter 49.12 RCW; adding a new section to chapter 51.16 RCW; adding  
4 a new section to chapter 50.04 RCW; creating a new section; and  
5 providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12  
8 RCW to read as follows:

9 (1)(a) The director shall establish a youth internship pilot  
10 program until December 31, 2018, for qualified restaurant employers  
11 to employ youth interns under special certificates at wages  
12 authorized by the department and subject to limitations in this  
13 section. An intern may be paid at wages specified in the certificate  
14 only during the effective period of the certificate and for the  
15 duration of the internship.

16 (b) The certificates to be issued in the pilot project are  
17 limited to restaurant employers located in counties with a population  
18 of seven hundred thousand or less.

19 (2) A restaurant employer must apply for a special certificate on  
20 a form made available by the director. The application must set  
21 forth:

1 (a) The name of the restaurant employer;  
2 (b) The type of work to be performed by the youth intern;  
3 (c) A description of the internship program;  
4 (d) A period of time for which the certificate is sought and the  
5 duration of the internship;  
6 (e) The wages that will be paid to the intern;  
7 (f) The number of interns for which a certificate is sought; and  
8 (g) The total number of workers employed at the restaurant.

9 (3) Upon receipt of an application, the department shall review  
10 the application and issue a special certificate to the requesting  
11 restaurant employer within fifteen days if the department finds that:  
12 (a) The applicant qualifies as a restaurant employer;  
13 (b) There have been no serious violations of chapter 49.46 RCW or  
14 Title 51 RCW that provide reasonable grounds to believe that the  
15 terms of an internship agreement may not be complied with;  
16 (c) The issuance of a certificate will not create unfair  
17 competitive labor cost advantages nor have the effect of impairing or  
18 depressing wage or working standards established for experienced  
19 workers for work of a like or comparable character in the industry or  
20 occupation at which the intern is to be employed;  
21 (d) An intern will not displace an experienced worker; and  
22 (e) The restaurant employer demonstrates that the intern will  
23 perform work under an internship program that: (i) Has a curriculum  
24 and supervised participation reasonably designed to provide interns  
25 with vocational knowledge and skills in the restaurant industry and  
26 culinary arts; and (ii) is based on the bona fide curriculum of an  
27 educational or vocational institution. In assessing an internship  
28 program, the department may consult with relevant college departments  
29 and extension programs and state and local government agencies  
30 involved in the regulation of the food industry.

31 (4) If the department denies an application for a special  
32 certificate, notice of denial must be mailed to the restaurant  
33 employer. The restaurant employer listed on the application may,  
34 within fifteen days after notice of such action has been mailed, file  
35 with the director a petition for review of the denial, setting forth  
36 grounds for seeking such a review. If reasonable grounds exist, the  
37 director or the director's authorized representative may grant such a  
38 review and, to the extent deemed appropriate, afford all interested  
39 persons an opportunity to be heard on such review.

1 (5) Before employing an intern, a restaurant employer must submit  
2 a statement on a form made available by the director stating that it  
3 understands: The requirements of the industrial welfare act, chapter  
4 49.12 RCW, that apply to interns; that the restaurant employer must  
5 pay workers' compensation premiums in the assigned intern risk class  
6 and must pay workers' compensation premiums for nonintern work hours  
7 in the applicable risk class; and that if the restaurant employer  
8 does not comply with subsection (6) of this section, the director may  
9 revoke the special certificate.

10 (6) The director may revoke a special certificate issued under  
11 this section if a restaurant employer fails to: Comply with the  
12 requirements of the industrial welfare act, chapter 49.12 RCW, that  
13 apply to interns; pay workers' compensation premiums in the assigned  
14 intern risk class; or pay workers' compensation premiums in the  
15 applicable risk class for nonintern work hours.

16 (7) Before the start of an internship, the restaurant employer  
17 and the intern must sign a written agreement and send a copy of the  
18 agreement to the department. The written agreement must, at a  
19 minimum:

20 (a) Describe the internship program offered by the restaurant  
21 employer, including the skills and objectives the program is designed  
22 to teach and the manner in which those skills and objectives will be  
23 taught;

24 (b) Explicitly state that the intern is not entitled to  
25 unemployment benefits or minimum wages for work and activities  
26 conducted pursuant to the internship program for the duration of the  
27 internship;

28 (c) Describe the responsibilities, expectations, and obligations  
29 of the intern and the restaurant employer, including the anticipated  
30 number of hours of activities to be performed by and the anticipated  
31 number of hours of curriculum instruction provided to the intern per  
32 week;

33 (d) Describe the activities of the restaurant employer and the  
34 type of work to be performed by the intern; and

35 (e) Describe any wages or other remuneration the restaurant  
36 employer will provide to the intern.

37 (8) The department must limit the administrative costs of  
38 implementing the internship pilot program by relying on restaurant  
39 organizations and other stakeholders to perform outreach and inform  
40 the food service community of the program and by limiting employee

1 travel to the investigation of allegations of noncompliance with  
2 program requirements.

3 (9) The definitions in this subsection apply throughout this  
4 section unless the context clearly requires otherwise.

5 (a) "Intern" means an individual who is under the age of eighteen  
6 and provides services to a restaurant employer under a written  
7 agreement and primarily as a means of learning about the restaurant  
8 industry and culinary arts.

9 (b) "Internship program" means an internship program described  
10 under subsection (3)(e) of this section.

11 (c) "Restaurant employer" means an establishment that: (i) Is not  
12 a franchise; (ii) has as its main purpose the routine preparing and  
13 serving of food to the public in consideration for payment; and (iii)  
14 has designated space and accommodations within its establishment for  
15 the public to be seated while being served.

16 **Sec. 2.** RCW 49.46.010 and 2013 c 141 s 1 are each reenacted and  
17 amended to read as follows:

18 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

28 (h) Any individual engaged in forest protection and fire  
29 prevention activities;

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

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

1 (k) Any resident, inmate, or patient of a state, county, or  
2 municipal correctional, detention, treatment or rehabilitative  
3 institution;

4 (l) Any individual who holds a public elective or appointive  
5 office of the state, any county, city, town, municipal corporation or  
6 quasi municipal corporation, political subdivision, or any  
7 instrumentality thereof, or any employee of the state legislature;

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

10 (n) Any individual employed as a seaman on a vessel other than an  
11 American vessel; or

12 (o) Any intern providing his or her services to a restaurant  
13 employer that has a special certificate issued under section 1 of  
14 this act;

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

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

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

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

31 NEW SECTION. Sec. 3. A new section is added to chapter 51.16  
32 RCW to read as follows:

33 The department shall adopt rules to provide special workers'  
34 compensation risk class or classes for interns providing services  
35 under an internship program under section 1 of this act.

36 NEW SECTION. Sec. 4. A new section is added to chapter 50.04  
37 RCW to read as follows:

1        Except for services subject to RCW 50.44.010, 50.44.020,  
2 50.44.030, or 50.50.010, the term "employment" does not include  
3 service performed for a restaurant employer by an intern providing  
4 his or her services under an internship program as established in  
5 section 1 of this act.

6        NEW SECTION.    **Sec. 5.**    This act may be known and cited as the  
7 youth internship opportunity act.

8        NEW SECTION.    **Sec. 6.**    This act expires December 31, 2018.

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