
SENATE BILL 6133

State of Washington 64th Legislature 2015 2nd Special Session

By Senators Hargrove, Hill, Schoesler, and Rolfes

Read first time 06/15/15. Referred to Committee on Ways & Means.

1 AN ACT Relating to defining employee for sheltered workshops and
2 certain nonprofit organizations; amending RCW 49.46.010; creating a
3 new section; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to
6 read as follows:

7 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

34 (h) Any individual engaged in forest protection and fire
35 prevention activities;

36 (i) Any individual employed by any charitable institution charged
37 with child care responsibilities engaged primarily in the development
38 of character or citizenship or promoting health or physical fitness
39 or providing or sponsoring recreational opportunities or facilities
40 for 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
9 office of the state, any county, city, town, municipal corporation or
10 quasi municipal corporation, political subdivision, or any
11 instrumentality 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 (o) Any farm intern providing his or her services to a small farm
17 which has a special certificate issued under RCW 49.12.470;

18 (p) An individual who is at least sixteen years old but under
19 twenty-one years old, in his or her capacity as a player for a junior
20 ice hockey team that is a member of a regional, national, or
21 international league and that contracts with an arena owned,
22 operated, or managed by a public facilities district created under
23 chapter 36.100 RCW;

24 (q) Any individual whose earning capacity is impaired by physical
25 or mental disabilities engaged in activities with a sheltered
26 workshop or nonprofit organization issued a special certificate under
27 the federal fair labor standards act;

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

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

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

39 (7) "Wage" means compensation due to an employee by reason of
40 employment, payable in legal tender of the United States or checks on

1 banks convertible into cash on demand at full face value, subject to
2 such deductions, charges, or allowances as may be permitted by rules
3 of the director.

4 NEW SECTION. **Sec. 2.** This act applies both prospectively and
5 retroactively.

6 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of
8 the state government and its existing public institutions, and takes
9 effect July 24, 2015.

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