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HOUSE BILL 1054

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives King, Heavey, Lisk, R. Meyers, Springer, Chandler,  
G. Cole, Horn, Dyer, Basich and Thomas

Read first time 01/13/93. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the minimum rate of compensation for  
2 recreational vessel and recreational vessel trailer salespeople; and  
3 amending RCW 49.46.130.

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

5 **Sec. 1.** RCW 49.46.130 and 1992 c 94 s 1 are each amended to read  
6 as follows:

7 (1) Except as otherwise provided in this section, no employer shall  
8 employ any of his employees for a work week longer than forty hours  
9 unless such employee receives compensation for his employment in excess  
10 of the hours above specified at a rate not less than one and one-half  
11 times the regular rate at which he is employed.

12 (2) This section does not apply to:

13 (a) Any person exempted pursuant to RCW 49.46.010(5);

14 (b) Employees who request compensating time off in lieu of overtime  
15 pay;

16 (c) Any individual employed as a seaman whether or not the seaman  
17 is employed on a vessel other than an American vessel;

18 (d) Seasonal employees who are employed at concessions and  
19 recreational establishments at agricultural fairs, including those

1 seasonal employees employed by agricultural fairs, within the state  
2 provided that the period of employment for any seasonal employee at any  
3 or all agricultural fairs does not exceed fourteen working days a year;

4 (e) Any individual employed as a motion picture projectionist if  
5 that employee is covered by a contract or collective bargaining  
6 agreement which regulates hours of work and overtime pay;

7 (f) An individual employed as a truck or bus driver who is subject  
8 to the provisions of the Federal Motor Carrier Act (49 U.S.C. Sec. 3101  
9 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the compensation system  
10 under which the truck or bus driver is paid includes overtime pay,  
11 reasonably equivalent to that required by this subsection, for working  
12 longer than forty hours per week;

13 (g) Any individual employed (i) on a farm, in the employ of any  
14 person, in connection with the cultivation of the soil, or in  
15 connection with raising or harvesting any agricultural or horticultural  
16 commodity, including raising, shearing, feeding, caring for, training,  
17 and management of livestock, bees, poultry, and furbearing animals and  
18 wildlife, or in the employ of the owner or tenant or other operator of  
19 a farm in connection with the operation, management, conservation,  
20 improvement, or maintenance of such farm and its tools and equipment;  
21 or (ii) in packing, packaging, grading, storing or delivering to  
22 storage, or to market or to a carrier for transportation to market, any  
23 agricultural or horticultural commodity; or (iii) commercial canning,  
24 commercial freezing, or any other commercial processing, or with  
25 respect to services performed in connection with the cultivation,  
26 raising, harvesting, and processing of oysters or in connection with  
27 any agricultural or horticultural commodity after its delivery to a  
28 terminal market for distribution for consumption;

29 (h) Any industry in which federal law provides for an overtime  
30 payment based on a work week other than forty hours. However, the  
31 provisions of the federal law regarding overtime payment based on a  
32 work week other than forty hours shall nevertheless apply to employees  
33 covered by this section without regard to the existence of actual  
34 federal jurisdiction over the industrial activity of the particular  
35 employer within this state. For the purposes of this subsection,  
36 "industry" means a trade, business, industry, or other activity, or  
37 branch, or group thereof, in which individuals are gainfully employed  
38 (section 3(h) of the Fair Labor Standards Act of 1938, as amended  
39 (Public Law 93-259)).

1 (3) No employer of commissioned salespeople primarily engaged in  
2 the business of selling automobiles (~~and~~), trucks, recreational  
3 vessels, or recreational vessel trailers to ultimate purchasers shall  
4 violate subsection (1) of this section with respect to such  
5 commissioned salespeople if the commissioned salespeople are paid the  
6 greater of:

7 (a) Compensation at the hourly rate, which may not be less than the  
8 rate required under RCW 49.46.020, for each hour worked up to forty  
9 hours per week, and compensation of one and one-half times that hourly  
10 rate for all hours worked over forty hours in one week; or

11 (b) A straight commission, a salary plus commission, or a salary  
12 plus bonus applied to gross salary.

13 (4) No public agency shall be deemed to have violated subsection  
14 (1) of this section with respect to the employment of any employee in  
15 fire protection activities or any employee in law enforcement  
16 activities (including security personnel in correctional institutions)  
17 if: (a) In a work period of twenty-eight consecutive days the employee  
18 receives for tours of duty which in the aggregate exceed two hundred  
19 forty hours; or (b) in the case of such an employee to whom a work  
20 period of at least seven but less than twenty-eight days applies, in  
21 his or her work period the employee receives for tours of duty which in  
22 the aggregate exceed a number of hours which bears the same ratio to  
23 the number of consecutive days in his or her work period as two hundred  
24 forty hours bears to twenty-eight days; compensation at a rate not less  
25 than one and one-half times the regular rate at which he or she is  
26 employed.

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