
HOUSE BILL 1328

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Heavey, Riley and King

Read first time 01/22/93. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the minimum rate of compensation for salespeople
2 of recreational vessels and trailers, recreational vehicle trailers and
3 campers, and manufactured housing; and 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, recreational vessel trailers, recreational vehicle trailers,
4 recreational campers, or manufactured housing to ultimate purchasers
5 shall violate subsection (1) of this section with respect to such
6 commissioned salespeople if the commissioned salespeople are paid the
7 greater of:

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

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

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

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