
HOUSE BILL 2103

State of Washington 55th Legislature 1997 Regular Session

By Representatives Koster, McMorris, L. Thomas and Boldt

Read first time 02/20/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to exclusions from industrial insurance coverage
2 for beneficiaries of irrevocable trusts; and reenacting and amending
3 RCW 51.12.020.

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

5 **Sec. 1.** RCW 51.12.020 and 1991 c 324 s 18 and 1991 c 246 s 4 are
6 each reenacted and amended to read as follows:

7 The following are the only employments which shall not be included
8 within the mandatory coverage of this title:

9 (1) Any person employed as a domestic servant in a private home by
10 an employer who has less than two employees regularly employed forty or
11 more hours a week in such employment.

12 (2) Any person employed to do gardening, maintenance, repair,
13 remodeling, or similar work in or about the private home of the
14 employer.

15 (3) A person whose employment is not in the course of the trade,
16 business, or profession of his or her employer and is not in or about
17 the private home of the employer.

18 (4) Any person performing services in return for aid or sustenance
19 only, received from any religious or charitable organization.

1 (5) Sole proprietors ((or)), partners, or beneficiaries of profit-
2 sharing business trusts holding certificates representing a minimum of
3 five percent of the beneficial interest in the trust and receiving all
4 of their compensation from the trust in the form of distributions of
5 profits to beneficiaries. As used in this section:

6 (a) "Profit-sharing business trust" means an irrevocable business
7 trust in which workers may be given the opportunity by the trustee or
8 trustees of the trust to elect to become beneficiaries of the trust and
9 to receive all or part of their compensation from the trust in the form
10 of distributions of profits to beneficiaries.

11 (b) "Beneficiary of a profit-sharing business trust" means the
12 holder of a transferrable certificate evidencing a beneficial interest
13 in a profit-sharing business trust, which certificate is valid and
14 irrevocable until the death of the beneficiary, unless: (i) The
15 beneficiary voluntarily transfers the certificate to another person or
16 to the trustee or trustees of the trust for redistribution; (ii) the
17 beneficiary fails, without notice, to contact the trustee or trustees,
18 or managers, of the trust for at least one hundred eighty days; (iii)
19 the beneficiary initiates legal action against the trust, or the
20 trustee or trustees of the trust, that the court having jurisdiction
21 over the action finds to be frivolous and advanced without reasonable
22 cause; or (iv) the beneficiary engages in criminal behavior that harms
23 the trust.

24 (6) Any child under eighteen years of age employed by his or her
25 parent or parents in agricultural activities on the family farm.

26 (7) Jockeys while participating in or preparing horses for race
27 meets licensed by the Washington horse racing commission pursuant to
28 chapter 67.16 RCW.

29 (8)(a) Except as otherwise provided in (b) of this subsection, any
30 bona fide officer of a corporation voluntarily elected or voluntarily
31 appointed in accordance with the articles of incorporation or bylaws of
32 the corporation, who at all times during the period involved is also a
33 bona fide director, and who is also a shareholder of the corporation.
34 Only such officers who exercise substantial control in the daily
35 management of the corporation and whose primary responsibilities do not
36 include the performance of manual labor are included within this
37 subsection.

38 (b) Alternatively, a corporation that is not a "public company" as
39 defined in RCW 23B.01.400(~~(+19)~~) (21) may exempt eight or fewer bona

1 fide officers, who are voluntarily elected or voluntarily appointed in
2 accordance with the articles of incorporation or bylaws of the
3 corporation and who exercise substantial control in the daily
4 management of the corporation, from coverage under this title without
5 regard to the officers' performance of manual labor if the exempted
6 officer is a shareholder of the corporation, or may exempt any number
7 of officers if all the exempted officers are related by blood within
8 the third degree or marriage. If a corporation that is not a "public
9 company" elects to be covered under subsection (8)(a) of this section,
10 the corporation's election must be made on a form prescribed by the
11 department and under such reasonable rules as the department may adopt.

12 (c) Determinations respecting the status of persons performing
13 services for a corporation shall be made, in part, by reference to
14 Title 23B RCW and to compliance by the corporation with its own
15 articles of incorporation and bylaws. For the purpose of determining
16 coverage under this title, substance shall control over form, and
17 mandatory coverage under this title shall extend to all workers of this
18 state, regardless of honorary titles conferred upon those actually
19 serving as workers.

20 (d) A corporation may elect to cover officers who are exempted by
21 this subsection in the manner provided by RCW 51.12.110.

22 (9) Services rendered by a musician or entertainer under a contract
23 with a purchaser of the services, for a specific engagement or
24 engagements when such musician or entertainer performs no other duties
25 for the purchaser and is not regularly and continuously employed by the
26 purchaser. A purchaser does not include the leader of a group or
27 recognized entity who employs other than on a casual basis musicians or
28 entertainers.

29 (10) Services performed by a newspaper carrier selling or
30 distributing newspapers on the street or from house to house.

31 (11) Services performed by an insurance agent, insurance broker, or
32 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and
33 48.17.030, respectively.

34 (12) Services performed by a booth renter as defined in RCW
35 18.16.020. However, a person exempted under this subsection may elect
36 coverage under RCW 51.32.030.

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