

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2071**

56th Legislature  
1999 Regular Session

Passed by the House March 9, 1999  
Yeas 91 Nays 0

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**Speaker of the House of Representatives**

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**Speaker of the House of Representatives**

Passed by the Senate April 6, 1999  
Yeas 43 Nays 0

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**President of the Senate**

Approved

\_\_\_\_\_  
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2071** as passed by the House of Representatives and the Senate on the dates hereon set forth.

\_\_\_\_\_  
**Chief Clerk**

\_\_\_\_\_  
**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2071**

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Passed Legislature - 1999 Regular Session

**State of Washington                      56th Legislature                      1999 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives B. Chandler, Conway, McMorris and Koster)

Read first time 03/01/1999.

1            AN ACT Relating to workers' compensation coverage for a member or  
2 manager of a limited liability company; and amending RCW 51.12.020.

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

4            **Sec. 1.** RCW 51.12.020 and 1997 c 314 s 18 are each amended to read  
5 as follows:

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

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

11            (2) Any person employed to do gardening, maintenance, or repair, in  
12 or about the private home of the employer. For the purposes of this  
13 subsection, "maintenance" means the work of keeping in proper  
14 condition, "repair" means to restore to sound condition after damage,  
15 and "private home" means a person's place of residence.

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

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

3 (5) Sole proprietors or partners.

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

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

9 (8)(a) Except as otherwise provided in (b) of this subsection, any  
10 bona fide officer of a corporation voluntarily elected or voluntarily  
11 appointed in accordance with the articles of incorporation or bylaws of  
12 the corporation, who at all times during the period involved is also a  
13 bona fide director, and who is also a shareholder of the corporation.  
14 Only such officers who exercise substantial control in the daily  
15 management of the corporation and whose primary responsibilities do not  
16 include the performance of manual labor are included within this  
17 subsection.

18 (b) Alternatively, a corporation that is not a "public company" as  
19 defined in RCW 23B.01.400(~~(+20)~~) (21) may exempt eight or fewer bona  
20 fide officers, who are voluntarily elected or voluntarily appointed in  
21 accordance with the articles of incorporation or bylaws of the  
22 corporation and who exercise substantial control in the daily  
23 management of the corporation, from coverage under this title without  
24 regard to the officers' performance of manual labor if the exempted  
25 officer is a shareholder of the corporation, or may exempt any number  
26 of officers if all the exempted officers are related by blood within  
27 the third degree or marriage. If a corporation that is not a "public  
28 company" elects to be covered under subsection (8)(a) of this section,  
29 the corporation's election must be made on a form prescribed by the  
30 department and under such reasonable rules as the department may adopt.

31 (c) Determinations respecting the status of persons performing  
32 services for a corporation shall be made, in part, by reference to  
33 Title 23B RCW and to compliance by the corporation with its own  
34 articles of incorporation and bylaws. For the purpose of determining  
35 coverage under this title, substance shall control over form, and  
36 mandatory coverage under this title shall extend to all workers of this  
37 state, regardless of honorary titles conferred upon those actually  
38 serving as workers.

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

3 (9) Services rendered by a musician or entertainer under a contract  
4 with a purchaser of the services, for a specific engagement or  
5 engagements when such musician or entertainer performs no other duties  
6 for the purchaser and is not regularly and continuously employed by the  
7 purchaser. A purchaser does not include the leader of a group or  
8 recognized entity who employs other than on a casual basis musicians or  
9 entertainers.

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

12 (11) Services performed by an insurance agent, insurance broker, or  
13 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and  
14 48.17.030, respectively.

15 (12) Services performed by a booth renter as defined in RCW  
16 18.16.020. However, a person exempted under this subsection may elect  
17 coverage under RCW 51.32.030.

18 (13) Members of a limited liability company, if either:

19 (a) Management of the company is vested in its members, and the  
20 members for whom exemption is sought would qualify for exemption under  
21 subsection (5) of this section were the company a sole proprietorship  
22 or partnership; or

23 (b) Management of the company is vested in one or more managers,  
24 and the members for whom the exemption is sought are managers who would  
25 qualify for exemption under subsection (8) of this section were the  
26 company a corporation.

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