
HOUSE BILL 2752

State of Washington

57th Legislature

2002 Regular Session

By Representatives Grant, Schoesler, Clements, Hatfield, Chandler, Doumit, Edwards, O'Brien, McMorris and Lisk

Read first time 01/25/2002. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to agricultural laborers who are paid on a piece
2 rate basis; and amending RCW 49.46.010.

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

4 **Sec. 1.** RCW 49.46.010 and 1997 c 203 s 3 are each amended to read
5 as follows:

6 As used in this chapter:

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

8 (2) "Wage" means compensation due to an employee by reason of
9 employment, payable in legal tender of the United States or checks on
10 banks convertible into cash on demand at full face value, subject to
11 such deductions, charges, or allowances as may be permitted by rules of
12 the director;

13 (3) "Employ" includes to permit to work;

14 (4) "Employer" includes any individual, partnership, association,
15 corporation, business trust, or any person or group of persons acting
16 directly or indirectly in the interest of an employer in relation to an
17 employee;

18 (5) "Employee" includes any individual employed by an employer but
19 shall not include:

1 (a) Any individual (~~(i)~~) who is employed as a hand harvest
2 laborer and paid on a piece rate basis in an operation which has been,
3 and is generally and customarily recognized as having been, paid on a
4 piece rate basis in the region of employment(~~(; (ii) who commutes daily~~
5 ~~from his or her permanent residence to the farm on which he or she is~~
6 ~~employed; and (iii) who has been employed in agriculture less than~~
7 ~~thirteen weeks during the preceding calendar year)~~);

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

11 (c) Any individual employed in a bona fide executive,
12 administrative, or professional capacity or in the capacity of outside
13 salesman as those terms are defined and delimited by rules of the
14 director. However, those terms shall be defined and delimited by the
15 Washington personnel resources board pursuant to chapter 41.06 RCW;

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

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

34 (f) Any newspaper vendor or carrier;

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

37 (h) Any individual engaged in forest protection and fire prevention
38 activities;

1 (i) Any individual employed by any charitable institution charged
2 with child care responsibilities engaged primarily in the development
3 of character or citizenship or promoting health or physical fitness or
4 providing or sponsoring recreational opportunities or facilities for
5 young people or members of the armed forces of the United States;

6 (j) Any individual whose duties require that he or she reside or
7 sleep at the place of his or her employment or who otherwise spends a
8 substantial portion of his or her work time subject to call, and not
9 engaged in the performance of active duties;

10 (k) Any resident, inmate, or patient of a state, county, or
11 municipal correctional, detention, treatment or rehabilitative
12 institution;

13 (l) Any individual who holds a public elective or appointive office
14 of the state, any county, city, town, municipal corporation or quasi
15 municipal corporation, political subdivision, or any instrumentality
16 thereof, or any employee of the state legislature;

17 (m) All vessel operating crews of the Washington state ferries
18 operated by the department of transportation;

19 (n) Any individual employed as a seaman on a vessel other than an
20 American vessel;

21 (6) "Occupation" means any occupation, service, trade, business,
22 industry, or branch or group of industries or employment or class of
23 employment in which employees are gainfully employed;

24 (7) "Retail or service establishment" means an establishment
25 seventy-five percent of whose annual dollar volume of sales of goods or
26 services, or both, is not for resale and is recognized as retail sales
27 or services in the particular industry.

--- END ---