
HOUSE BILL 2292

State of Washington 58th Legislature 2003 1st Special
Session

By Representative Chandler

Read first time . Referred to .

1 AN ACT Relating to modifying the inflationary adjustment to the
2 minimum wage; amending RCW 49.46.010, 49.46.010, and 49.46.020;
3 providing effective dates; and providing an expiration date.

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

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

7 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

36 (f) Any newspaper vendor or carrier;

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

1 (h) Any individual engaged in forest protection and fire prevention
2 activities;

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

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

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

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

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

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

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

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

30 (8) "Full employment" means a total, not seasonally adjusted,
31 unemployment rate in the state of Washington that is less than the
32 total, not seasonally adjusted, national unemployment rate as
33 determined by the United States department of labor.

34 **Sec. 2.** RCW 49.46.010 and 2002 c 354 s 231 are each amended to
35 read as follows:

36 As used in this chapter:

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

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

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

7 (4) "Employer" includes any individual, partnership, association,
8 corporation, business trust, or any person or group of persons acting
9 directly or indirectly in the interest of an employer in relation to an
10 employee;

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

13 (a) Any individual (i) employed as a hand harvest laborer and paid
14 on a piece rate basis in an operation which has been, and is generally
15 and customarily recognized as having been, paid on a piece rate basis
16 in the region of employment; (ii) who commutes daily from his or her
17 permanent residence to the farm on which he or she is employed; and
18 (iii) who has been employed in agriculture less than thirteen weeks
19 during the preceding calendar year;

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

23 (c) Any individual employed in a bona fide executive,
24 administrative, or professional capacity or in the capacity of outside
25 salesman as those terms are defined and delimited by rules of the
26 director. However, those terms shall be defined and delimited by the
27 director of personnel pursuant to chapter 41.06 RCW for employees
28 employed under the director of personnel's jurisdiction;

29 (d) Any individual engaged in the activities of an educational,
30 charitable, religious, state or local governmental body or agency, or
31 nonprofit organization where the employer-employee relationship does
32 not in fact exist or where the services are rendered to such
33 organizations gratuitously. If the individual receives reimbursement
34 in lieu of compensation for normally incurred out-of-pocket expenses or
35 receives a nominal amount of compensation per unit of voluntary service
36 rendered, an employer-employee relationship is deemed not to exist for
37 the purpose of this section or for purposes of membership or

1 qualification in any state, local government or publicly supported
2 retirement system other than that provided under chapter 41.24 RCW;

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

10 (f) Any newspaper vendor or carrier;

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

13 (h) Any individual engaged in forest protection and fire prevention
14 activities;

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

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

24 (k) Any resident, inmate, or patient of a state, county, or
25 municipal correctional, detention, treatment or rehabilitative
26 institution;

27 (l) Any individual who holds a public elective or appointive office
28 of the state, any county, city, town, municipal corporation or quasi
29 municipal corporation, political subdivision, or any instrumentality
30 thereof, or any employee of the state legislature;

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

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

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

1 (7) "Retail or service establishment" means an establishment
2 seventy-five percent of whose annual dollar volume of sales of goods or
3 services, or both, is not for resale and is recognized as retail sales
4 or services in the particular industry;

5 (8) "Full employment" means a total, not seasonally adjusted,
6 unemployment rate in the state of Washington that is less than the
7 total, not seasonally adjusted, national unemployment rate as
8 determined by the United States department of labor.

9 **Sec. 3.** RCW 49.46.020 and 1999 c 1 s 1 are each amended to read as
10 follows:

11 ~~(1) ((Until January 1, 1999, every employer shall pay to each of~~
12 ~~his or her employees who has reached the age of eighteen years wages at~~
13 ~~a rate of not less than four dollars and ninety cents per hour.~~

14 ~~(2) Beginning January 1, 1999, and until January 1, 2000, every~~
15 ~~employer shall pay to each of his or her employees who has reached the~~
16 ~~age of eighteen years wages at a rate of not less than five dollars and~~
17 ~~seventy cents per hour.~~

18 ~~(3))~~ Beginning January 1, 2000, and until January 1, 2001, every
19 employer shall pay to each of his or her employees who has reached the
20 age of eighteen years wages at a rate of not less than six dollars and
21 fifty cents per hour.

22 ~~((4))~~ (2)(a) Beginning on January 1, 2001, and each following
23 January 1st as set forth under (b) of this subsection, every employer
24 shall pay to each of his or her employees who has reached the age of
25 eighteen years wages at a rate of not less than the amount established
26 under (b) of this subsection.

27 (b) Subject to (c) of this subsection, on September 30, 2000, and
28 on each following September 30th, the department of labor and
29 industries shall calculate an adjusted minimum wage rate to maintain
30 employee purchasing power by increasing the current year's minimum wage
31 rate by the rate of inflation. The adjusted minimum wage rate shall be
32 calculated to the nearest cent using the consumer price index for urban
33 wage earners and clerical workers, CPI-W, or a successor index, for the
34 twelve months prior to each September 1st as calculated by the United
35 States department of labor. Each adjusted minimum wage rate calculated
36 under this subsection ~~((4))~~ (2)(b) takes effect on the following
37 January 1st.

1 ~~((5))~~ (c) Beginning September 30, 2003, and each September 30th
2 thereafter, the current year's minimum wage rate shall be increased by
3 the rate of inflation as provided under (b) of this subsection only for
4 the months the state of Washington had full employment during the
5 twelve months prior to each September 30th. Only the inflationary
6 increases during the months of full employment shall be used for the
7 purposes of the calculation under (b) of this subsection.

8 (3) The director shall by regulation establish the minimum wage for
9 employees under the age of eighteen years.

10 NEW SECTION. Sec. 4. (1) Sections 1 and 3 of this act take effect
11 September 1, 2003.

12 (2) Section 2 of this act takes effect July 1, 2004.

13 (3) Section 1 of this act expires July 1, 2004.

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