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ENGROSSED SUBSTITUTE SENATE BILL 5017

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State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Commerce & Trade (originally sponsored by Senators Hewitt, Mulliken, Morton, Stevens, Zarelli, Hale, Deccio and Parlette)

READ FIRST TIME 02/03/03.

1 AN ACT Relating to excluding minors working in family businesses  
2 from industrial insurance provisions; 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 1999 c 68 s 1 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,

1 business, or profession of his or her employer and is not in or about  
2 the private home of the employer.

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

5 (5) Sole proprietors or partners.

6 (6) Any child, except foster children, under eighteen years of age  
7 employed by his or her parent or parents (~~(in agricultural activities~~  
8 ~~on the family farm)~~), upon providing written evidence to the department  
9 that the child is covered by health insurance.

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

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

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

35 (c) Determinations respecting the status of persons performing  
36 services for a corporation shall be made, in part, by reference to  
37 Title 23B RCW and to compliance by the corporation with its own  
38 articles of incorporation and bylaws. For the purpose of determining

1 coverage under this title, substance shall control over form, and  
2 mandatory coverage under this title shall extend to all workers of this  
3 state, regardless of honorary titles conferred upon those actually  
4 serving as workers.

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

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

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

16 (11) Services performed by an insurance agent, insurance broker, or  
17 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and  
18 48.17.030, respectively.

19 (12) Services performed by a (~~booth-renter~~) person licensed as a  
20 salon/shop as defined in RCW 18.16.020. However, a person exempted  
21 under this subsection may elect coverage under RCW 51.32.030.

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

23 (a) Management of the company is vested in its members, and the  
24 members for whom exemption is sought would qualify for exemption under  
25 subsection (5) of this section were the company a sole proprietorship  
26 or partnership; or

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

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