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SENATE BILL 5684

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State of Washington

58th Legislature

2003 Regular Session

By Senators Honeyford, T. Sheldon and Mulliken

Read first time 02/06/2003. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to minimum wages; amending RCW 49.46.010 and  
2 49.46.010; providing effective dates; and providing an expiration date.

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, including a deduction for the reasonable cost of the  
13 employer providing the employee with board, lodging, or other  
14 facilities in accordance with the federal fair labor standards act (29  
15 U.S.C. Sec. 3(m));

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

17 (4) "Employer" includes any individual, partnership, association,  
18 corporation, business trust, or any person or group of persons acting

1 directly or indirectly in the interest of an employer in relation to an  
2 employee;

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

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

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

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

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

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

38 (f) Any newspaper vendor or carrier;

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

3 (h) Any individual engaged in forest protection and fire prevention  
4 activities;

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

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

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

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

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

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

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

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

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

34 As used in this chapter:

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

36 (2) "Wage" means compensation due to an employee by reason of  
37 employment, payable in legal tender of the United States or checks on

1 banks convertible into cash on demand at full face value, subject to  
2 such deductions, charges, or allowances as may be permitted by rules of  
3 the director, including a deduction for the reasonable cost of the  
4 employer providing the employee with board, lodging, or other  
5 facilities in accordance with the federal fair labor standards act (29  
6 U.S.C. Sec. 3(m));

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

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

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

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

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

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

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

1 the purpose of this section or for purposes of membership or  
2 qualification in any state, local government or publicly supported  
3 retirement system other than that provided under chapter 41.24 RCW;

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

11 (f) Any newspaper vendor or carrier;

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

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

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

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

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

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

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

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

36 (6) "Occupation" means any occupation, service, trade, business,  
37 industry, or branch or group of industries or employment or class of  
38 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           NEW SECTION.   **Sec. 3.** (1) Section 1 of this act takes effect  
6   September 1, 2003.

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

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

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