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SENATE BILL 5697

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State of Washington

58th Legislature

2003 Regular Session

By Senators Hewitt, T. Sheldon, Hale, Mulliken, Rasmussen, Parlette, Swecker, Oke, Deccio, Sheahan, Stevens, Honeyford and Morton

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

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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