
HOUSE BILL 1789

State of Washington

59th Legislature

2005 Regular Session

By Representatives Condotta, Armstrong, Holmquist, Newhouse, Sump, Clements, Kretz, Crouse, Kristiansen, Schindler, Talcott, Shabro, Rodne, Buri, Haler, Dunn, Nixon, Hinkle, Woods, Strow, Bailey and Ahern

Read first time 02/07/2005. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to modifying the inflationary adjustment to the
2 minimum wage; amending RCW 49.46.010 and 49.46.020; creating a new
3 section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares:

6 It is in the interest of Washington citizens to improve the state
7 economy as expeditiously as possible. Washington has one of the
8 highest unemployment rates in the nation. In addition to the dire
9 economic situation in the state, Washington businesses are experiencing
10 increases in mandatory minimum wage payments, workers' compensation
11 costs, and unemployment insurance rates. The cumulative impact of
12 these factors forces businesses to eliminate jobs and hire fewer
13 employees. Immediate legislative action to reform the method for
14 calculating the state's minimum wage rate is necessary for the economic
15 vitality of the state.

16 These facts and findings are a declaration of facts constituting an
17 emergency, and the reforms provided by this act are necessary for
18 immediate preservation of the public health, safety, and welfare of the
19 state.

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

3 As used in this chapter:

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

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

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

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

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

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

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

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

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

1 receives a nominal amount of compensation per unit of voluntary service
2 rendered, an employer-employee relationship is deemed not to exist for
3 the purpose of this section or for purposes of membership or
4 qualification in any state, local government or publicly supported
5 retirement system other than that provided under chapter 41.24 RCW;

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

13 (f) Any newspaper vendor or carrier;

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

16 (h) Any individual engaged in forest protection and fire prevention
17 activities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 States department of labor. Each adjusted minimum wage rate calculated
2 under this subsection (~~(4)~~) (2)(b) takes effect on the following
3 January 1st.

4 ~~((5))~~ (c) Beginning September 30, 2005, and each September 30th
5 thereafter, the current year's minimum wage rate shall be increased by
6 the rate of inflation as provided under (b) of this subsection only for
7 the months the state of Washington had full employment during the
8 twelve months prior to each September 30th. Only the inflationary
9 increases during the months of full employment shall be used for the
10 purposes of the calculation under (b) of this subsection.

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

13 NEW SECTION. Sec. 4. This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately.

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