
HOUSE BILL 2725

State of Washington 59th Legislature 2006 Regular Session

By Representatives Conway, Kenney, Cody, Ormsby, Miloscia, Green, McCoy, Simpson, Moeller and Morrell

Read first time 01/12/2006. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to compensating on-call workers for active duty
2 hours under the state minimum wage act; and amending RCW 49.46.010.

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

4 **Sec. 1.** RCW 49.46.010 and 2002 c 354 s 231 are each amended to
5 read 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;

13 (3) "Employ" includes to engage, suffer, or permit to work.
14 However, for any individual whose duties require that he or she spend
15 a substantial portion of work time subject to call, including those who
16 reside or sleep at the place of employment, "employ" refers only to
17 time spent in the performance of active duties;

18 (4) "Employer" includes any individual, partnership, association,

1 corporation, business trust, or any person or group of persons acting
2 directly or indirectly in the interest of an employer in relation to an
3 employee;

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

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

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

16 (c) Any individual employed in a bona fide executive,
17 administrative, or professional capacity or in the capacity of outside
18 salesman as those terms are defined and delimited by rules of the
19 director. However, those terms shall be defined and delimited by the
20 director of personnel pursuant to chapter 41.06 RCW for employees
21 employed under the director of personnel's jurisdiction;

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

33 (e) Any individual employed full time by any state or local
34 governmental body or agency who provides voluntary services but only
35 with regard to the provision of the voluntary services. The voluntary
36 services and any compensation therefor shall not affect or add to
37 qualification, entitlement or benefit rights under any state, local

1 government, or publicly supported retirement system other than that
2 provided under chapter 41.24 RCW;

3 (f) Any newspaper vendor or carrier;

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

6 (h) Any individual engaged in forest protection and fire prevention
7 activities;

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

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

17 ~~(k))~~ Any resident, inmate, or patient of a state, county, or
18 municipal correctional, detention, treatment or rehabilitative
19 institution;

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

24 ~~((m))~~ (l) All vessel operating crews of the Washington state
25 ferries operated by the department of transportation;

26 ~~((n))~~ (m) Any individual employed as a seaman on a vessel other
27 than an American vessel;

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

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

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