

SHB 1930 - H AMD 107

By Representative MacEwen

1 Strike everything after the enacting clause and insert the
2 following:

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4 "Sec. 1. RCW 49.12.005 and 2003 c 401 s 2 are each amended to
5 read as follows:

6 For the purposes of this chapter:

7 (1) "Athlete" means a person who meets the eligibility standards
8 established by the national governing body or Paralympic sports
9 organization for the sport in which the athlete competes.

10 (2) "Amateur sports league, club, or association" means a
11 corporation, limited liability company, association, or other group
12 that sponsors or arranges amateur athletic contests, games, meets,
13 matches, tournaments, regattas, or other events in which amateur
14 athletes compete, and which supports or develops amateur athletes
15 for national or international competition in sports. "Amateur sports
16 league, club, or association" does not include private or public
17 educational institutions.

18 (3) "Department" means the department of labor and industries.

19 ~~((2))~~(4) "Director" means the director of the department of
20 labor and industries, or the director's designated representative.

21 ~~((3))~~(5)(a) Before May 20, 2003, "employer" means any person,
22 firm, corporation, partnership, business trust, legal
23 representative, or other business entity which engages in any
24 business, industry, profession, or activity in this state and
25 employs one or more employees but does not include the state, any
26 state institution, any state agency, political subdivision of the
27 state, or any municipal corporation or quasi-municipal corporation.

1 However, for the purposes of RCW 49.12.265 through 49.12.295,
2 49.12.350 through 49.12.370, 49.12.450, and 49.12.460 only,
3 "employer" also includes the state, any state institution, any state
4 agency, political subdivisions of the state, and any municipal
5 corporation or quasi-municipal corporation.

6 (b) On and after May 20, 2003, "employer" means any person,
7 firm, corporation, partnership, business trust, legal
8 representative, or other business entity which engages in any
9 business, industry, profession, or activity in this state and
10 employs one or more employees, and includes the state, any state
11 institution, state agency, political subdivisions of the state, and
12 any municipal corporation or quasi-municipal corporation. However,
13 this chapter and the rules adopted thereunder apply to these public
14 employers only to the extent that this chapter and the rules adopted
15 thereunder do not conflict with: (i) Any state statute or rule; and
16 (ii) respect to political subdivisions of the state and any
17 municipal or quasi-municipal corporation, any local resolution,
18 ordinance, or rule adopted under the authority of the local
19 legislative authority before April 1, 2003.

20 ~~((4))~~(6) "Employee" means an employee who is employed in the
21 business of the employee's employer whether by way of manual labor
22 or otherwise. "Employee" does not include an individual who is an
23 athlete playing in an amateur sports league, club, or association,
24 whether or not the individual receives a stipend, educational
25 scholarship, or other benefits for playing.

26 ~~((5))~~(7) "Conditions of labor" means and includes the
27 conditions of rest and meal periods for employees including
28 provisions for personal privacy, practices, methods and means by or
29 through which labor or services are performed by employees and
30 includes bona fide physical qualifications in employment, but shall
31 not include conditions of labor otherwise governed by statutes and
32 rules and regulations relating to industrial safety and health
33 administered by the department.

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1 ~~((6))~~(8) For the purpose of chapter 16, Laws of 1973 2nd ex.
2 sess. a minor is defined to be a person of either sex under the age
3 of eighteen years.

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5 **Sec. 2.** RCW 49.17.020 and 2010 c 8 s 12005 are each amended to
6 read as follows:

7 For the purposes of this chapter:

8 (1) The term "agriculture" means farming and includes, but is
9 not limited to:

10 (a) The cultivation and tillage of the soil;

11 (b) Dairying;

12 (c) The production, cultivation, growing, and harvesting of any
13 agricultural or horticultural commodity;

14 (d) The raising of livestock, bees, fur-bearing animals, or
15 poultry; and

16 (e) Any practices performed by a farmer or on a farm, incident
17 to or in connection with such farming operations, including but not
18 limited to preparation for market and delivery to:

19 (i) Storage;

20 (ii) Market; or

21 (iii) Carriers for transportation to market.

22 The term "agriculture" does not mean a farmer's processing for
23 sale or handling for sale a commodity or product grown or produced
24 by a person other than the farmer or the farmer's employees.

25 (2) The term "director" means the director of the department of
26 labor and industries, or his or her designated representative.

27 (3) The term "department" means the department of labor and
28 industries.

29 (4) The term "employer" means any person, firm, corporation,
30 partnership, business trust, legal representative, or other business
31 entity which engages in any business, industry, profession, or
32 activity in this state and employs one or more employees or who
33 contracts with one or more persons, the essence of which is the
34 personal labor of such person or persons and includes the state,

1 counties, cities, and all municipal corporations, public
2 corporations, political subdivisions of the state, and charitable
3 organizations: PROVIDED, That any person, partnership, or business
4 entity not having employees, and who is covered by the industrial
5 insurance act shall be considered both an employer and an employee.

6 (5) The term "employee" means an employee of an employer who is
7 employed in the business of his or her employer whether by way of
8 manual labor or otherwise and every person in this state who is
9 engaged in the employment of or who is working under an independent
10 contract the essence of which is his or her personal labor for an
11 employer under this chapter whether by way of manual labor or
12 otherwise. "Employee" does not include an individual who is an
13 athlete playing in an amateur sports league, club, or association,
14 whether or not the individual receives a stipend, educational
15 scholarship, or other benefits for playing.

16 (6) The term "person" means one or more individuals,
17 partnerships, associations, corporations, business trusts, legal
18 representatives, or any organized group of persons.

19 (7) The term "safety and health standard" means a standard which
20 requires the adoption or use of one or more practices, means,
21 methods, operations, or processes reasonably necessary or
22 appropriate to provide safe or healthful employment and places of
23 employment.

24 (8) The term "workplace" means any plant, yard, premises, room,
25 or other place where an employee or employees are employed for the
26 performance of labor or service over which the employer has the
27 right of access or control, and includes, but is not limited to, all
28 workplaces covered by industrial insurance under Title 51 RCW, as
29 now or hereafter amended.

30 (9) The term "working day" means a calendar day, except
31 Saturdays, Sundays, and all legal holidays as set forth in RCW
32 1.16.050, as now or hereafter amended, and for the purposes of the
33 computation of time within which an act is to be done under the

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1 provisions of this chapter, shall be computed by excluding the first
2 working day and including the last working day.

3 (10) "Athlete" means a person who meets the eligibility
4 standards established by the national governing body or Paralympic
5 sports organization for the sport in which the athlete competes.

6 (11) "Amateur sports league, club, or association" means a
7 corporation, limited liability company, association, or other group
8 that sponsors or arranges amateur athletic contests, games, meets,
9 matches, tournaments, regattas, or other events in which amateur
10 athletes compete, and which supports or develops amateur athletes
11 for national or international competition in sports. "Amateur sports
12 league, club, or association" does not include private or public
13 educational institutions.

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15 **Sec. 3.** RCW 49.46.010 and 2014 c 131 s 2 and 2013 c 141 s 1 are
16 each reenacted amended to read as follows:

17 As used in this chapter:

18 (1) "Athlete" means a person who meets the eligibility standards
19 established by the national governing body or Paralympic sports
20 organization for the sport in which the athlete competes;

21 (2) "Amateur sports league, club, or association" means a
22 corporation, limited liability company, association, or other group
23 that sponsors or arranges amateur athletic contests, games, meets,
24 matches, tournaments, regattas, or other events in which amateur
25 athletes compete, and which supports or develops amateur athletes
26 for national or international competition in sports. "Amateur sports
27 league, club, or association" does not include private or public
28 educational institutions;

29 (3) "Director" means the director of labor and industries;

30 ~~((+2))~~(4) "Employ" includes to permit to work;

31 ~~((+3))~~(5) "Employee" includes any individual employed by an
32 employer but shall not include:

33 (a) Any individual (i) employed as a hand harvest laborer and
34 paid on a piece rate basis in an operation which has been, and is

1 generally and customarily recognized as having been, paid on a piece
2 rate basis in the region of employment; (ii) who commutes daily from
3 his or her permanent residence to the farm on which he or she is
4 employed; and (iii) who has been employed in agriculture less than
5 thirteen weeks during the preceding calendar year;

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

9 (c) Any individual employed in a bona fide executive,
10 administrative, or professional capacity or in the capacity of
11 outside salesperson as those terms are defined and delimited by
12 rules of the director. However, those terms shall be defined and
13 delimited by the human resources director pursuant to chapter 41.06
14 RCW for employees employed under the director of personnel's
15 jurisdiction;

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

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

1 (f) Any newspaper vendor, carrier, or delivery person selling or
2 distributing newspapers on the street, to offices, to businesses, or
3 from house to house and any freelance news correspondent or
4 "stringer" who, using his or her own equipment, chooses to submit
5 material for publication for free or a fee when such material is
6 published;

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

9 (h) Any individual engaged in forest protection and fire
10 prevention activities;

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

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

21 (k) Any resident, inmate, or patient of a state, county, or
22 municipal correctional, detention, treatment or rehabilitative
23 institution;

24 (l) Any individual who holds a public elective or appointive
25 office of the state, any county, city, town, municipal corporation
26 or quasi municipal corporation, political subdivision, or any
27 instrumentality thereof, or any employee of the state legislature;

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

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

32 (o) Any farm intern providing his or her services to a small
33 farm which has a special certificate issued under RCW 49.12.470;

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1 (p) Any individual who is an athlete playing in an amateur
2 sports league, club, or association, whether or not the individual
3 receives a stipend, educational scholarship, or other benefits for
4 playing;

5 ~~((4))~~(6) "Employer" includes any individual, partnership,
6 association, corporation, business trust, or any person or group of
7 persons acting directly or indirectly in the interest of an employer
8 in relation to an employee;

9 ~~((5))~~(7) "Occupation" means any occupation, service, trade,
10 business, industry, or branch or group of industries or employment
11 or class of employment in which employees are gainfully employed;

12 ~~((6))~~(8) "Retail or service establishment" means an
13 establishment seventy-five percent of whose annual dollar volume of
14 sales of goods or services, or both, is not for resale and is
15 recognized as retail sales or services in the particular industry;

16 ~~((7))~~(9) "Wage" means compensation due to an employee by
17 reason of employment, payable in legal tender of the United States
18 or checks on banks convertible into cash on demand at full face
19 value, subject to such deductions, charges, or allowances as may be
20 permitted by rules of the director."

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EFFECT: Strikes the language stating that an "employee" does not include an individual training or playing for a team affiliated with the Western Hockey League, and instead provides that "employee" does not include an athlete playing in an amateur sports league, club, or association (using language from original bill). Defines "athlete" and "amateur sports league, club, or association."

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