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HOUSE BILL 1386

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Stambaugh, Manweller, Pettigrew, Rodne, Springer, and Orwall

Read first time 01/18/17. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to the employee status of language translators  
2 and interpreters; amending RCW 51.12.020; and adding a new section to  
3 chapter 50.04 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.04  
6 RCW to read as follows:

7 Except for agents or brokers subject to RCW 50.44.010, 50.44.020,  
8 50.44.030, and 50.50.010, the term "employment" shall not include  
9 services performed by a language translator or interpreter that are  
10 provided for others through an agent or broker.

11 **Sec. 2.** RCW 51.12.020 and 2015 c 236 s 4 are each amended to  
12 read as follows:

13 The following are the only employments which shall not be  
14 included within the mandatory coverage of this title:

15 (1) Any person employed as a domestic servant in a private home  
16 by an employer who has less than two employees regularly employed  
17 forty or more hours a week in such employment.

18 (2) Any person employed to do gardening, maintenance, or repair,  
19 in or about the private home of the employer. For the purposes of  
20 this subsection, "maintenance" means the work of keeping in proper

1 condition, "repair" means to restore to sound condition after damage,  
2 and "private home" means a person's place of residence.

3 (3) A person whose employment is not in the course of the trade,  
4 business, or profession of his or her employer and is not in or about  
5 the private home of the employer.

6 (4) Any person performing services in return for aid or  
7 sustenance only, received from any religious or charitable  
8 organization.

9 (5) Sole proprietors or partners.

10 (6) Any child under eighteen years of age employed by his or her  
11 parent or parents in agricultural activities on the family farm.

12 (7) Jockeys while participating in or preparing horses for race  
13 meets licensed by the Washington horse racing commission pursuant to  
14 chapter 67.16 RCW.

15 (8)(a) Except as otherwise provided in (b) of this subsection,  
16 any bona fide officer of a corporation voluntarily elected or  
17 voluntarily appointed in accordance with the articles of  
18 incorporation or bylaws of the corporation, who at all times during  
19 the period involved is also a bona fide director, and who is also a  
20 shareholder of the corporation. Only such officers who exercise  
21 substantial control in the daily management of the corporation and  
22 whose primary responsibilities do not include the performance of  
23 manual labor are included within this subsection.

24 (b) Alternatively, a corporation that is not a "public company"  
25 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide  
26 officers, who are voluntarily elected or voluntarily appointed in  
27 accordance with the articles of incorporation or bylaws of the  
28 corporation and who exercise substantial control in the daily  
29 management of the corporation, from coverage under this title without  
30 regard to the officers' performance of manual labor if the exempted  
31 officer is a shareholder of the corporation, or may exempt any number  
32 of officers if all the exempted officers are related by blood within  
33 the third degree or marriage. If a corporation that is not a "public  
34 company" elects to be covered under subsection (8)(a) of this  
35 section, the corporation's election must be made on a form prescribed  
36 by the department and under such reasonable rules as the department  
37 may adopt.

38 (c) Determinations respecting the status of persons performing  
39 services for a corporation shall be made, in part, by reference to  
40 Title 23B RCW and to compliance by the corporation with its own

1 articles of incorporation and bylaws. For the purpose of determining  
2 coverage under this title, substance shall control over form, and  
3 mandatory coverage under this title shall extend to all workers of  
4 this state, regardless of honorary titles conferred upon those  
5 actually serving as workers.

6 (d) A corporation may elect to cover officers who are exempted by  
7 this subsection in the manner provided by RCW 51.12.110.

8 (9) Services rendered by a musician or entertainer under a  
9 contract with a purchaser of the services, for a specific engagement  
10 or engagements when such musician or entertainer performs no other  
11 duties for the purchaser and is not regularly and continuously  
12 employed by the purchaser. A purchaser does not include the leader of  
13 a group or recognized entity who employs other than on a casual basis  
14 musicians or entertainers.

15 (10) Services performed by a newspaper vendor, carrier, or  
16 delivery person selling or distributing newspapers on the street, to  
17 offices, to businesses, or from house to house and any freelance news  
18 correspondent or "stringer" who, using his or her own equipment,  
19 chooses to submit material for publication for free or a fee when  
20 such material is published.

21 (11) Services performed by an insurance producer, as defined in  
22 RCW 48.17.010, or a surplus line broker licensed under chapter 48.15  
23 RCW.

24 (12) Services performed by a booth renter. However, a person  
25 exempted under this subsection may elect coverage under RCW  
26 51.32.030.

27 (13) Members of a limited liability company, if either:

28 (a) Management of the company is vested in its members, and the  
29 members for whom exemption is sought would qualify for exemption  
30 under subsection (5) of this section were the company a sole  
31 proprietorship or partnership; or

32 (b) Management of the company is vested in one or more managers,  
33 and the members for whom the exemption is sought are managers who  
34 would qualify for exemption under subsection (8) of this section were  
35 the company a corporation.

36 (14) A driver providing commercial transportation services as  
37 defined in RCW 48.177.005. The driver may elect coverage in the  
38 manner provided by RCW 51.32.030.

39 (15) For hire vehicle operators under chapter 46.72 RCW who own  
40 or lease the for hire vehicle, chauffeurs under chapter 46.72A RCW

1 who own or lease the limousine, and operators of taxicabs under  
2 chapter 81.72 RCW who own or lease the taxicab. An owner or lessee  
3 may elect coverage in the manner provided by RCW 51.32.030.

4 (16) Services performed by language translators or interpreters  
5 that are provided for others through an agent or broker.

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