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HOUSE BILL 2275

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Eslick, Van Werven, Young, and Lovick

Prefiled 12/13/17. Read first time 01/08/18. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to creating the youth internship opportunity act;  
2 amending RCW 49.46.010 and 49.46.010; adding a new section to chapter  
3 49.12 RCW; adding a new section to chapter 51.16 RCW; adding a new  
4 section to chapter 50.04 RCW; creating a new section; providing an  
5 effective date; and providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12  
8 RCW to read as follows:

9 (1)(a) The director shall establish a youth internship pilot  
10 program until December 31, 2021, for qualified restaurant and grocery  
11 store employers to employ youth interns under special certificates at  
12 wages authorized by the department and subject to limitations in this  
13 section. An intern may be paid at wages specified in the certificate  
14 only during the effective period of the certificate and for the  
15 duration of the internship.

16 (b) The certificates to be issued in the pilot project are  
17 limited to restaurant and grocery store employers located in cities  
18 with a population of seventy-five thousand or less.

19 (2) A restaurant or grocery store employer must apply for a  
20 special certificate on a form made available by the director. The  
21 application must set forth:

- 1 (a) The name of the restaurant or grocery store employer;
- 2 (b) The type of work to be performed by the youth intern;
- 3 (c) A description of the internship program;
- 4 (d) A period of time for which the certificate is sought and the
- 5 duration of the internship;
- 6 (e) The wages that will be paid to the intern;
- 7 (f) The number of interns for which a certificate is sought; and
- 8 (g) The total number of workers employed at the restaurant or
- 9 grocery store.

10 (3) Upon receipt of an application, the department shall review  
11 the application and issue a special certificate to the requesting  
12 restaurant or grocery store employer within fifteen days if the  
13 department finds that:

14 (a) The applicant qualifies as a restaurant or grocery store  
15 employer;

16 (b) There have been no serious violations of chapter 49.46 RCW or  
17 Title 51 RCW that provide reasonable grounds to believe that the  
18 terms of an internship agreement may not be complied with;

19 (c) The issuance of a certificate will not create unfair  
20 competitive labor cost advantages nor have the effect of impairing or  
21 depressing wage or working standards established for experienced  
22 workers for work of a like or comparable character in the industry or  
23 occupation at which the intern is to be employed;

24 (d) An intern will not displace an experienced worker; and

25 (e) The restaurant or grocery store employer demonstrates that  
26 the intern will perform work under an internship program that: (i)  
27 Has a curriculum and supervised participation reasonably designed to  
28 provide interns with vocational knowledge and skills in the  
29 restaurant industry and culinary arts or grocery store industry, as  
30 appropriate; and (ii) is based on the bona fide curriculum of an  
31 educational or vocational institution. In assessing an internship  
32 program, the department may consult with relevant college departments  
33 and extension programs and state and local government agencies  
34 involved in the regulation of the food industry.

35 (4) If the department denies an application for a special  
36 certificate, notice of denial must be mailed to the restaurant or  
37 grocery store employer. The employer listed on the application may,  
38 within fifteen days after notice of such action has been mailed, file  
39 with the director a petition for review of the denial, setting forth  
40 grounds for seeking such a review. If reasonable grounds exist, the

1 director or the director's authorized representative may grant such a  
2 review and, to the extent deemed appropriate, afford all interested  
3 persons an opportunity to be heard on such review.

4 (5) Before employing an intern, a restaurant or grocery store  
5 employer must submit a statement on a form made available by the  
6 director stating that it understands: The requirements of this  
7 chapter, the industrial welfare act, that apply to interns; that the  
8 employer must pay workers' compensation premiums in the assigned  
9 intern risk class and must pay workers' compensation premiums for  
10 nonintern work hours in the applicable risk class; and that if the  
11 employer does not comply with subsection (6) of this section, the  
12 director may revoke the special certificate.

13 (6) The director may revoke a special certificate issued under  
14 this section if a restaurant or grocery store employer fails  
15 to: Comply with the requirements of this chapter, the industrial  
16 welfare act, that apply to interns; pay workers' compensation  
17 premiums in the assigned intern risk class; or pay workers'  
18 compensation premiums in the applicable risk class for nonintern work  
19 hours.

20 (7) Before the start of an internship, the restaurant or grocery  
21 store employer and the intern must sign a written agreement and send  
22 a copy of the agreement to the department. The written agreement  
23 must, at a minimum:

24 (a) Describe the internship program offered by the restaurant or  
25 grocery store employer, including the skills and objectives the  
26 program is designed to teach and the manner in which those skills and  
27 objectives will be taught;

28 (b) Explicitly state that the intern is not entitled to  
29 unemployment benefits or minimum wages for work and activities  
30 conducted pursuant to the internship program for the duration of the  
31 internship;

32 (c) Describe the responsibilities, expectations, and obligations  
33 of the intern and the restaurant or grocery store employer, including  
34 the anticipated number of hours of activities to be performed by and  
35 the anticipated number of hours of curriculum instruction provided to  
36 the intern per week;

37 (d) Describe the activities of the restaurant or grocery store  
38 employer and the type of work to be performed by the intern; and

39 (e) Describe any wages or other remuneration the employer will  
40 provide to the intern.

1 (8) The department must limit the administrative costs of  
2 implementing the internship pilot program by relying on restaurant  
3 and grocery store organizations and other stakeholders to perform  
4 outreach and inform the restaurant and grocery community of the  
5 program and by limiting employee travel to the investigation of  
6 allegations of noncompliance with program requirements.

7 (9) The definitions in this subsection apply throughout this  
8 section unless the context clearly requires otherwise.

9 (a) "Grocery store employer" means an establishment that: (i)  
10 Sells food to the public primarily for off-premises consumption that  
11 is within 2017 North American industry classification system code 445  
12 except for beer, wine, and liquor stores within code 4453; and (ii)  
13 has one hundred or fewer employees.

14 (b) "Intern" means an individual who is under the age of eighteen  
15 and provides services to a restaurant or grocery store employer under  
16 a written agreement and primarily as a means of learning about the  
17 restaurant industry and culinary arts or the grocery store industry,  
18 as appropriate.

19 (c) "Internship program" means an internship program described  
20 under subsection (3)(e) of this section.

21 (d) "Restaurant employer" means an establishment that: (i) Sells  
22 food to the public primarily for on-premises consumption that is  
23 within 2017 North American industry classification codes 7225, 72231,  
24 or 72233; and (ii) has fifty or fewer employees.

25 **Sec. 2.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to  
26 read as follows:

27 As used in this chapter:

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

29 (2) "Employ" includes to permit to work;

30 (3) "Employee" includes any individual employed by an employer  
31 but shall not include:

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

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

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

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

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

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

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

37 (h) Any individual engaged in forest protection and fire  
38 prevention activities;

39 (i) Any individual employed by any charitable institution charged  
40 with child care responsibilities engaged primarily in the development

1 of character or citizenship or promoting health or physical fitness  
2 or providing or sponsoring recreational opportunities or facilities  
3 for young people or members of the armed forces of the United States;

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

8 (k) Any resident, inmate, or patient of a state, county, or  
9 municipal correctional, detention, treatment or rehabilitative  
10 institution;

11 (l) Any individual who holds a public elective or appointive  
12 office of the state, any county, city, town, municipal corporation or  
13 quasi municipal corporation, political subdivision, or any  
14 instrumentality thereof, or any employee of the state legislature;

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

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

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

21 (p) An individual who is at least sixteen years old but under  
22 twenty-one years old, in his or her capacity as a player for a junior  
23 ice hockey team that is a member of a regional, national, or  
24 international league and that contracts with an arena owned,  
25 operated, or managed by a public facilities district created under  
26 chapter 36.100 RCW;

27 (q) Any intern providing his or her services to a restaurant or  
28 grocery store employer that has a special certificate issued under  
29 section 1 of this act;

30 (4) "Employer" includes any individual, partnership, association,  
31 corporation, business trust, or any person or group of persons acting  
32 directly or indirectly in the interest of an employer in relation to  
33 an employee;

34 (5) "Occupation" means any occupation, service, trade, business,  
35 industry, or branch or group of industries or employment or class of  
36 employment in which employees are gainfully employed;

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

1 (7) "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  
5 of the director.

6 **Sec. 3.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to  
7 read as follows:

8 As used in this chapter:

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

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

11 (3) "Employee" includes any individual employed by an employer  
12 but shall not include:

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

23 (c) Any individual employed in a bona fide executive,  
24 administrative, or professional capacity or in the capacity of  
25 outside salesperson as those terms are defined and delimited by rules  
26 of the director. However, those terms shall be defined and delimited  
27 by the human resources director pursuant to chapter 41.06 RCW for  
28 employees 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  
35 or receives a nominal amount of compensation per unit of voluntary  
36 service rendered, an employer-employee relationship is deemed not to  
37 exist for the purpose of this section or for purposes of membership  
38 or qualification in any state, local government, or publicly

1 supported retirement system other than that provided under chapter  
2 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, carrier, or delivery person selling or  
11 distributing newspapers on the street, to offices, to businesses, or  
12 from house to house and any freelance news correspondent or  
13 "stringer" who, using his or her own equipment, chooses to submit  
14 material for publication for free or a fee when such material is  
15 published;

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

18 (h) Any individual engaged in forest protection and fire  
19 prevention activities;

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

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

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

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

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

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



1 (o) An individual who is at least sixteen years old but under  
2 twenty-one years old, in his or her capacity as a player for a junior  
3 ice hockey team that is a member of a regional, national, or  
4 international league and that contracts with an arena owned,  
5 operated, or managed by a public facilities district created under  
6 chapter 36.100 RCW;

7 (p) Any intern providing his or her services to a restaurant or  
8 grocery store employer that has a special certificate issued under  
9 section 1 of this act;

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

14 (5) "Occupation" means any occupation, service, trade, business,  
15 industry, or branch or group of industries or employment or class of  
16 employment in which employees are gainfully employed;

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

21 (7) "Wage" means compensation due to an employee by reason of  
22 employment, payable in legal tender of the United States or checks on  
23 banks convertible into cash on demand at full face value, subject to  
24 such deductions, charges, or allowances as may be permitted by rules  
25 of the director.

26 NEW SECTION. Sec. 4. A new section is added to chapter 51.16  
27 RCW to read as follows:

28 The department shall adopt rules to provide special workers'  
29 compensation risk class or classes for interns providing services  
30 under an internship program under section 1 of this act.

31 NEW SECTION. Sec. 5. A new section is added to chapter 50.04  
32 RCW to read as follows:

33 Except for services subject to RCW 50.44.010, 50.44.020,  
34 50.44.030, or 50.50.010, the term "employment" does not include  
35 service performed for a restaurant or grocery store employer by an  
36 intern providing his or her services under an internship program as  
37 established in section 1 of this act.

1        NEW SECTION.    **Sec. 6.**    This act may be known and cited as the  
2 youth internship opportunity act.

3        NEW SECTION.    **Sec. 7.**    (1) Section 2 of this act expires December  
4 31, 2018.

5        (2) Section 3 of this act takes effect December 31, 2018.

6        NEW SECTION.    **Sec. 8.**    With the exception of section 2 of this  
7 act, this act expires December 31, 2021.

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