
HOUSE BILL 1515

State of Washington

66th Legislature

2019 Regular Session

By Representatives Riccelli, Doglio, Frame, Ormsby, Valdez, Stonier, Robinson, Cody, Pellicciotti, Peterson, Tharinger, Fitzgibbon, Sells, Reeves, Pollet, and Macri

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1 AN ACT Relating to simplifying, clarifying, and making consistent
2 employee status under industrial insurance laws, prevailing wage
3 laws, wage deduction laws, wage payment laws, minimum wage laws, and
4 unemployment compensation laws, and creating the employee fair
5 classification act; amending RCW 39.12.010, 49.46.010, 49.46.010,
6 50.04.100, 50.04.298, 50.12.070, 51.08.070, 51.08.180, and 51.12.020;
7 reenacting and amending RCW 49.48.082; adding a new section to
8 chapter 39.12 RCW; adding new sections to chapter 49.52 RCW; adding a
9 new section to chapter 49.48 RCW; adding a new section to chapter
10 49.46 RCW; adding a new section to chapter 50.04 RCW; adding a new
11 section to chapter 51.12 RCW; adding a new chapter to Title 49 RCW;
12 creating new sections; repealing RCW 39.12.100, 50.04.140, 50.04.145,
13 51.08.181, and 51.08.195; prescribing penalties; providing effective
14 dates; and providing expiration dates.

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

16 NEW SECTION. **Sec. 1.** The legislature finds that the current
17 employee tests determining which workers can access wage standards
18 and important elements of the public safety net can be confusing for
19 both workers and employers. By establishing a definition of
20 "independent contractor" and applying it consistently for various
21 wage, benefit, and social insurance programs, the legislature will

1 clarify for employers what elements of a working relationship
2 constitute an "employee" and ensure that those working as independent
3 contractors are doing so in a truly independent manner. Further, this
4 clarity will help level the playing field for employers who pay for
5 workers' living wages and benefits, and ensure that more workers have
6 access to the wage and social insurance protections that have
7 underpinned the middle class for decades. The legislature intends to
8 promote consistency and clarity with respect to independent
9 contractor definitions, and to provide a fair and accessible process
10 for workers and for the state to enforce these standards.

11 NEW SECTION. **Sec. 2.** This chapter may be known and cited as the
12 employee fair classification act.

13 NEW SECTION. **Sec. 3.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires
15 otherwise.

16 (1) "Department" means the department of labor and industries.

17 (2) "Director" means the director of the department of labor and
18 industries or the director's authorized representative.

19 (3) "Employ" means to suffer or permit to work.

20 (4) (a) "Employee" means a person, including a helper, who
21 performs labor or services for an employer, and includes workers,
22 laborers, and mechanics under RCW 39.12.010. A person may be an
23 employee of two or more employers at the same time.

24 (b) "Employee" does not include an independent contractor as
25 defined by subsection (8) of this section.

26 (c) "Employee" also does not include, for purposes of sections 5,
27 6, 7, and 8 of this act only:

28 (i) Any individual employed in casual labor in or about a private
29 home, unless performed in the course of the employer's trade,
30 business, or profession;

31 (ii) Any individual employed in the capacity of an outside
32 salesperson paid solely by way of commission, as defined and
33 delimited by the director.

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

1 in lieu of compensation for normally incurred out-of-pocket expenses
2 or receives a nominal amount of compensation per unit of voluntary
3 service rendered, an employer-employee relationship is deemed not to
4 exist for the purpose of this section or for purposes of membership
5 or qualification in any state, local government, or publicly
6 supported retirement system other than that provided under chapter
7 41.24 RCW;

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

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

21 (vi) Any carrier subject to regulation by part 1 of the
22 interstate commerce act;

23 (vii) Any individual engaged in forest protection and fire
24 prevention activities;

25 (viii) Any individual employed by any charitable institution
26 charged with child care responsibilities engaged primarily in the
27 development of character or citizenship or promoting health or
28 physical fitness or providing or sponsoring recreational
29 opportunities or facilities for young people or members of the armed
30 forces of the United States;

31 (ix) Any resident, inmate, or patient of a state, county, or
32 municipal correctional, detention, treatment, or rehabilitative
33 institution;

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

38 (xi) All vessel operating crews of the Washington state ferries
39 operated by the department of transportation;

1 (xii) Any individual employed as a seaman on a vessel other than
2 an American vessel; or

3 (xiii) Any farm intern providing his or her services to a small
4 farm that has a special certificate issued under RCW 49.12.470.

5 (5) (a) "Employer" means any of the following that employ a
6 person: (i) An individual; (ii) any form of business entity, or the
7 receiver, trustee, or successor of a business entity; (iii) an
8 administrator or executor of an estate; or (iv) the state or any
9 agency, instrumentality, or political subdivision of the state.

10 "Employer" includes an individual or entity that acts directly or
11 indirectly in the interest of an employer in relation to employing a
12 person. More than one entity may be the "employer," including in
13 circumstances where one entity controls, is controlled by, or is
14 under common control with another employer, or where one entity
15 exerts control over the operations of another employer.

16 (b) "Employer" does not include agencies, authorities, or
17 instrumentalities of the United States, its possessions and
18 territories, the commonwealth of Puerto Rico, or the District of
19 Columbia.

20 (6) "Front pay" means the compensation the employee would earn if
21 reinstated to his or her former position.

22 (7) "Helper" means an individual engaged by an employee to
23 perform work in the employer's usual course of business. The employer
24 of the employee is the employer of the "helper."

25 (8) (a) "Independent contractor" means an individual who performs
26 labor or services for a party when all of the following elements are
27 established:

28 (i) The individual is and will continue to be free from control
29 or direction over the performance of the labor or services by the
30 party for whom the labor or services are performed, both under the
31 contract of labor or service and in fact. Control or direction
32 includes the right to control or direct as well as general control or
33 direction over the individual's physical activities; and

34 (ii) The labor or service is outside the usual course of business
35 for which the labor or service is performed; and

36 (iii) The individual is customarily engaged in an independently
37 established trade, occupation, business, or profession of the same
38 nature as that involved in the contract of labor or service, for
39 which the individual independently establishes the price of the
40 individual's labor or service; and

1 (iv) On the effective date of service, the individual is
2 responsible for filing at the next applicable filing period, both
3 under the contract of service and in fact, a schedule of expenses
4 with the internal revenue service for the type of business the
5 individual is conducting; and

6 (v) On the effective date of service, or within a reasonable
7 period after the effective date of service, the individual has an
8 active and valid account with the department of revenue and other
9 state agencies as required by the particular case, for the business
10 the individual is conducting, for the payment of all state taxes
11 normally paid by employers and businesses and has registered for and
12 received a unified business identifier number from the state of
13 Washington; and

14 (vi) On the effective date of service, the individual is
15 maintaining a separate set of books or records that reflect all items
16 of income and expenses of the business that the individual is
17 conducting; and

18 (vii) If the individual is performing services that require
19 registration under chapter 18.27 RCW or licensing under chapter 19.28
20 RCW for remuneration under an independent contract, on the effective
21 date of the contract for services the individual has a valid
22 contractor registration under chapter 18.27 RCW or an electrical
23 contractor license under chapter 19.28 RCW.

24 (b) In determining whether an individual is an independent
25 contractor, acts taken by an employer to comply with local, state, or
26 federal laws or regulations may not be considered as proof of
27 independent contractor status.

28 (9) "Misclassification" means designating an employee as a
29 nonemployee of the employer.

30 (10)(a) "Pattern or practice" means that, in addition to the
31 current violation, within the previous ten years the employer was:

32 (i) Convicted of a criminal violation of a state or local law
33 concerning nonpayment of wages;

34 (ii) Subject to a court order entering final judgment for a
35 violation of this chapter or chapter 39.12, 49.46, 49.48, or 49.52
36 RCW, and the judgment was not satisfied or current within thirty days
37 of the later of: (A) The expiration of the time for appealing the
38 order; or (B) if a timely appeal was made, the date of the final
39 resolution of the appeal; or

1 (iii) Due to a previous violation, subject to a final and binding
2 citation and notice of assessment from the department for a violation
3 of this chapter or chapter 39.12 or 49.48 RCW, or a final
4 determination of violation of chapter 39.12 RCW, and the citation,
5 determination, and penalty was not satisfied or current within thirty
6 days of the date the citation or determination became final and
7 binding.

8 (b) For purposes of this subsection (10), an employer includes a
9 successor employer, as defined in RCW 49.48.082.

10 (11) "Person" means a natural person, firm, partnership,
11 corporation, association, or organization.

12 (12) "Willful" means a knowing and intentional action that is
13 neither accidental nor the result of a bona fide dispute.

14 NEW SECTION. **Sec. 4.** (1) An employer-employee relationship
15 exists when an individual performs labor or services for another
16 individual or entity. The party asserting that an individual is not
17 an employee must establish by a preponderance of the evidence that
18 the individual is an independent contractor or is otherwise not an
19 employee under this chapter.

20 (2) A general contractor is not responsible for violations of an
21 independent contractor or subcontractor under this chapter unless the
22 general contractor exerts substantial control over the day-to-day
23 work of the independent contractor or subcontractor. For purposes of
24 this subsection:

25 (a) "General contractor" means the contractor required to be
26 registered under chapter 18.27 RCW or licensed under chapter 19.28
27 RCW whose business operations for a project require the use of more
28 than one building trade or craft upon a single job or project, under
29 a single building permit, and who has responsibility to superintend
30 the project as a whole.

31 (b) "Subcontractor" means a contractor who engages in a business
32 that is required to be registered under chapter 18.27 RCW or licensed
33 under chapter 19.28 RCW and who is not a general contractor.

34 NEW SECTION. **Sec. 5.** (1) An employer may not willfully
35 misclassify an employee as an independent contractor.

36 (2) A person may not charge an employee who has been
37 misclassified as an independent contractor a fee, or make any
38 deductions from compensation for any purpose, including for goods,

1 materials, space rental, services, government licenses, repair,
2 equipment maintenance, or fines arising from the employment where any
3 of the acts would have violated the law if the individual had not
4 been misclassified.

5 (3) A person may not require or request an employee to enter into
6 an agreement or sign a document that results in the misclassification
7 of the employee as an independent contractor or otherwise does not
8 accurately reflect the employee's relationship with the employer.

9 (4) A person may not perform the following acts for the purpose
10 of facilitating or evading detection of a violation of this chapter:

11 (a) Form, assist in, or induce the formation of a corporation,
12 partnership, limited liability company, or other business entity; or

13 (b) Pay or collect a fee for use of a foreign or domestic
14 corporation, partnership, limited liability company, or other
15 business entity.

16 (5) A person may not, for remuneration, conspire with, aid and
17 abet, assist, or advise an employer with the intent of violating this
18 chapter.

19 NEW SECTION. **Sec. 6.** (1) The department may conduct an
20 investigation if it obtains information indicating a person may have
21 violated this chapter, but the department may not investigate a
22 violation of this chapter that occurred more than three years before
23 the date of the violation. For the purposes of this section, a
24 violation occurs from the initial date of misclassification and for
25 as long as the employee continues to be misclassified. The three-year
26 period is tolled during any period of time that an employer, any of
27 its agents, or any person acting on behalf of the employer, deters an
28 individual from filing a complaint under this section.

29 (2) If the department determines that a person violated this
30 chapter, it may:

31 (a) For a violation of section 9 of this act, order the employer
32 to pay a civil penalty of not less than one thousand dollars and not
33 more than ten thousand dollars;

34 (b) For a violation of section 5 of this act, order the person to
35 pay a civil penalty of: (i) Not less than one thousand dollars and
36 not more than ten thousand dollars per employee; or (ii) if the
37 person has engaged in a pattern or practice of violations, not less
38 than ten thousand dollars and not more than twenty-five thousand
39 dollars per employee;

1 (c) For a violation of section 5 of this act, order persons,
2 including employers, to jointly and severally pay the following: (i)
3 Three times the amount of wages, salary, and employment benefits
4 denied or withheld, except benefits under Title 50 or 51 RCW; and
5 (ii) reimbursement for payroll taxes under Title 50 or 51 RCW and the
6 value of any other state payroll taxes paid or state benefits lost by
7 the employee;

8 (d) In addition, for a violation of section 5 of this act, order
9 the employer to reinstate and properly classify the employee. The
10 director may award front pay in lieu of reinstatement; and

11 (e) Determine whether to initiate collection procedures pursuant
12 to RCW 51.16.150 through 51.16.190 to enforce its orders under (c)
13 and (d) of this subsection, and send a copy of its determination,
14 including any supporting documentation, to the employment security
15 department.

16 (3) The department must consider referrals based on a court
17 finding of a violation of section 5 of this act to determine whether
18 to initiate collection procedures.

19 (4)(a) The department must adjust the penalty amounts in
20 subsection (2) of this section beginning January 1, 2021, and on each
21 January 1st thereafter, to reflect the percentage change in the
22 consumer price index, calculated as follows: The index for the
23 calendar year preceding the year in which the January 1st calculation
24 is made, to be known as "calendar year A," is divided by the index
25 for the calendar year preceding calendar year A, and the resulting
26 ratio is multiplied by the penalty amount in effect on December 31st
27 immediately preceding the January 1st on which the respective
28 calculation is made.

29 (b) For the purposes of this subsection, "index" means the same
30 as the definition in RCW 2.12.037(1).

31 (5) An employer may appeal the department's determination
32 pursuant to RCW 49.48.084.

33 (6) The department must deposit civil penalties collected under
34 this chapter into the employee fair classification act account
35 created in section 10 of this act.

36 (7) This section expires January 2, 2021.

37 NEW SECTION. **Sec. 7.** (1) The department may conduct an
38 investigation if it obtains information indicating a person may have
39 violated this chapter, but the department may not investigate a

1 violation of this chapter that occurred more than three years before
2 the date of the violation. For the purposes of this section, a
3 violation occurs from the initial date of misclassification and for
4 as long as the employee continues to be misclassified. The three-year
5 period is tolled during any period of time that an employer, any of
6 its agents, or any person acting on behalf of the employer, deters an
7 individual from filing a complaint under this section.

8 (2) If the department determines that a person violated this
9 chapter, it must:

10 (a) For a violation of section 9 of this act, order the employer
11 to pay a civil penalty of not less than one thousand dollars and not
12 more than ten thousand dollars;

13 (b) For a violation of section 5 of this act, order the person to
14 pay a civil penalty of: (i) Not less than one thousand dollars and
15 not more than ten thousand dollars per employee; or (ii) if the
16 person has engaged in a pattern or practice of violations, not less
17 than ten thousand dollars and not more than twenty-five thousand
18 dollars per employee;

19 (c) For a violation of section 5 of this act, order persons,
20 including employers, to jointly and severally pay the following: (i)
21 Three times the amount of wages, salary, and employment benefits
22 denied or withheld, except benefits under Title 50 or 51 RCW; and
23 (ii) reimbursement for payroll taxes under Title 50 or 51 RCW and the
24 value of any payroll taxes paid or benefits lost by the employee;

25 (d) In addition, for a violation of section 5 of this act, order
26 the employer to reinstate and properly classify the employee. The
27 director may award front pay in lieu of reinstatement;

28 (e) Determine whether to initiate collection procedures pursuant
29 to RCW 51.16.150 through 51.16.190 to enforce its orders under (c)
30 and (d) of this subsection, and send a copy of its determination,
31 including any supporting documentation, to the employment security
32 department; and

33 (f) Consider referrals based on a court finding of a violation of
34 section 5 of this act to determine whether to initiate collection
35 procedures.

36 (3) (a) The department must adjust the penalty amounts in
37 subsection (2) of this section beginning January 1, 2021, and on each
38 January 1st thereafter, to reflect the percentage change in the
39 consumer price index, calculated as follows: The index for the
40 calendar year preceding the year in which the January 1st calculation

1 is made, to be known as "calendar year A," is divided by the index
2 for the calendar year preceding calendar year A, and the resulting
3 ratio is multiplied by the penalty amount in effect on December 31st
4 immediately preceding the January 1st on which the respective
5 calculation is made.

6 (b) For the purposes of this subsection, "index" means the same
7 as the definition in RCW 2.12.037(1).

8 (4) An employer may appeal the department's determination
9 pursuant to RCW 49.48.084.

10 (5) The department must deposit civil penalties collected under
11 this chapter into the employee fair classification act account
12 created in section 10 of this act.

13 NEW SECTION. **Sec. 8.** (1) An individual aggrieved by a violation
14 of section 5 of this act may bring suit on behalf of himself or
15 herself or on behalf of any other individual who is similarly
16 situated.

17 (2) If a court determines that a person or persons, including
18 employers, violated section 5 of this act, it:

19 (a) Shall order persons, including employers, to jointly and
20 severally pay the greater of:

21 (i) Three times the amount of any wages including overtime,
22 salary, and employment benefits unlawfully denied or withheld except
23 benefits under Titles 50 and 51 RCW; or

24 (ii) Statutory damages for each employee aggrieved by the
25 violation. Statutory damages must not be less than one thousand
26 dollars and not more than ten thousand dollars per employee, unless
27 the person engaged in a pattern or practice of violations, in which
28 case the statutory damages must be not less than ten thousand dollars
29 and not more than twenty-five thousand dollars per employee;

30 (b) May order persons, including employers, to jointly and
31 severally pay the employee reimbursement for any taxes and the value
32 of any benefits paid by the employee; and

33 (c) Shall order persons, including employers, to jointly and
34 severally pay attorneys' fees and costs.

35 (3) If a court determines that an employer violated section 5 of
36 this act, it may order the employer to pay any taxes owed and award
37 injunctive or other equitable relief, including reinstatement and
38 reclassification of the employee with terms and conditions at least
39 as favorable as those that applied when the employee was

1 misclassified, including rate of compensation, value of any benefits,
2 and hours of work. The court may award front pay in lieu of
3 reinstatement.

4 (4) A civil action under this section must be brought no later
5 than three years after the violation occurred. For the purposes of
6 this section, a violation occurs from the initial date of
7 misclassification and for as long as the employee continues to be
8 misclassified. The three-year period is tolled during any period of
9 time that an employer, any of its agents, or any person acting on
10 behalf of the employer deters an individual from bringing an action
11 under this section.

12 NEW SECTION. **Sec. 9.** (1) If an employer engages an individual
13 to perform labor or services for remuneration and considers the
14 individual to be an independent contractor, the employer shall
15 provide that individual with the following notice:

16 "Every worker has the right to be properly classified as an
17 employee rather than an independent contractor if the
18 individual does not meet the requirements of an independent
19 contractor under the law known as the employee fair
20 classification act.

21 If you believe you or someone else has been improperly
22 classified as an independent contractor under the employee
23 fair classification act, you have the right to challenge this
24 classification by filing a complaint with the department of
25 labor and industries or by bringing an action in state
26 court."

27 (2) The notice required by this section must be in English,
28 Spanish, and any other language or languages primarily spoken by the
29 majority of the workforce. The notice must also be posted in a
30 conspicuous place in each of the employer's offices in the state and
31 at each job site where a worker classified as an independent
32 contractor performs labor or services.

33 NEW SECTION. **Sec. 10.** The employee fair classification act
34 account is created in the state treasury. All receipts from civil
35 penalties issued under section 6 of this act must be deposited in the
36 account. Moneys in the account may be spent only after appropriation.
37 Expenditures from the account may be used only for enforcement of
38 this chapter.

1 defraying costs of apprenticeship or other similar programs, or for
2 other bona fide fringe benefits, but only where the contractor or
3 subcontractor is not required by other federal, state, or local law
4 to provide any of such benefits.

5 (4) "Employee" has the same meaning as "laborers, workers, and
6 mechanics."

7 (5) "Independent contractor" has the same meaning as in section 3
8 of this act.

9 (6) An "interested party" for the purposes of this chapter shall
10 include a contractor, subcontractor, an employee of a contractor or
11 subcontractor, an organization whose members' wages, benefits, and
12 conditions of employment are affected by this chapter, and the
13 director of labor and industries or the director's designee.

14 NEW SECTION. Sec. 13. A new section is added to chapter 39.12
15 RCW to read as follows:

16 An employer-employee relationship exists when a laborer, worker,
17 or mechanic performs labor for another individual or entity. The
18 party asserting that an individual is not an employee must establish
19 by a preponderance of the evidence that the individual is an
20 independent contractor.

21 **WAGE DEDUCTIONS**

22 NEW SECTION. Sec. 14. A new section is added to chapter 49.52
23 RCW to read as follows:

24 (1) "Employ," "employer," and "independent contractor" have the
25 same meanings as in section 3 of this act.

26 (2) "Employee" has the same meaning as in section 3(4) (a) and
27 (b) of this act.

28 NEW SECTION. Sec. 15. A new section is added to chapter 49.52
29 RCW to read as follows:

30 (1) An employer-employee relationship exists when an individual
31 performs labor or services for another individual or entity. The
32 party asserting that an individual is not an employee must establish
33 by a preponderance of the evidence that the individual is an
34 independent contractor.

35 (2) A general contractor is not responsible for violations of an
36 independent contractor or subcontractor under this chapter unless the

1 general contractor exerts substantial control over the day-to-day
2 work of the independent contractor or subcontractor. For purposes of
3 this section, "general contractor" and "subcontractor" have the same
4 meanings as in section 4(2) (a) and (b) of this act.

5 **WAGE PAYMENT ACT**

6 **Sec. 16.** RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and
7 amended to read as follows:

8 The definitions in this section apply throughout this section and
9 RCW 49.48.083 through 49.48.086:

10 (1) "Citation" means a written determination by the department
11 that a wage payment requirement has been violated.

12 (2) "Department" means the department of labor and industries.

13 (3) "Determination of compliance" means a written determination
14 by the department that wage payment requirements have not been
15 violated.

16 (4) "Director" means the director of the department of labor and
17 industries, or the director's authorized representative.

18 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for
19 purposes of a wage payment requirement set forth in RCW 49.46.020 or
20 49.46.130; and (b) (~~RCW 49.12.005~~) section 3(4) (a) and (b) of this
21 act for purposes of a wage payment requirement set forth in RCW
22 49.48.010, 49.52.050, or 49.52.060.

23 (6) "Employ" has the same meaning as in section 3 of this act.

24 (7) "Employer" ((has the meaning provided in RCW 49.46.010 for
25 purposes of a wage payment requirement set forth in RCW 49.46.020,
26 49.46.130, 49.48.010, 49.52.050, or 49.52.060)) and "independent
27 contractor" have the same meanings as in section 3 of this act.

28 ~~((7))~~ (8) "Notice of assessment" means a written notice by the
29 department that, based on a citation, the employer shall pay the
30 amounts assessed under RCW 49.48.083.

31 ~~((8))~~ (9) "Repeat willful violator" means any employer that has
32 been the subject of a final and binding citation and notice of
33 assessment for a willful violation of a wage payment requirement
34 within three years of the date of issue of the most recent citation
35 and notice of assessment for a willful violation of a wage payment
36 requirement.

37 ~~((9))~~ (10) "Successor" means any person to whom an employer
38 quitting, selling out, exchanging, or disposing of a business sells

1 or otherwise conveys in bulk and not in the ordinary course of the
2 employer's business, more than fifty percent of the property, whether
3 real or personal, tangible or intangible, of the employer's business.

4 ~~((10))~~ (11) "Wage" has the meaning provided in RCW 49.46.010.

5 ~~((11))~~ (12) "Wage complaint" means a complaint from an employee
6 to the department that asserts that an employer has violated one or
7 more wage payment requirements and that is reduced to writing.

8 ~~((12))~~ (13) "Wage payment requirement" means a wage payment
9 requirement set forth in RCW 49.46.020, 49.46.130, 49.48.010,
10 49.52.050, or 49.52.060, and any related rules adopted by the
11 department.

12 ~~((13))~~ (14) "Willful" means a knowing and intentional action
13 that is neither accidental nor the result of a bona fide dispute, as
14 evaluated under the standards applicable to wage payment violations
15 under RCW 49.52.050(2).

16 NEW SECTION. **Sec. 17.** A new section is added to chapter 49.48
17 RCW to read as follows:

18 (1) An employer-employee relationship exists when an individual
19 performs labor or services for another individual or entity. The
20 party asserting that an individual is not an employee must establish
21 by a preponderance of the evidence that the individual is an
22 independent contractor or is otherwise not an employee under this
23 chapter.

24 (2) A general contractor is not responsible for violations of a
25 bona fide independent contractor or subcontractor under this chapter
26 unless the general contractor exerts substantial control over the
27 day-to-day work of the independent contractor or subcontractor. For
28 purposes of this section, "general contractor" and "subcontractor"
29 have the same meaning as in section 4(2) (a) and (b) of this act.

30 **MINIMUM WAGE ACT**

31 **Sec. 18.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to
32 read as follows:

33 As used in this chapter:

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

35 (2) ~~(("Employ" includes to permit to work))~~ "Department,"
36 "employ," and "employer" have the same meanings as in section 3 of
37 this act;

1 (3) "Employee" (~~includes any individual employed by an employer~~
2 ~~but~~) has the same meaning as in section 3(4) (a) and (b) of this act
3 and shall not include:

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

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

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

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

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

39 (f) Any newspaper vendor, carrier, or delivery person selling or
40 distributing newspapers on the street, to offices, to businesses, or

1 from house to house and any freelance news correspondent or
2 "stringer" who, using his or her own equipment, chooses to submit
3 material for publication for free or a fee when such material is
4 published;

5 (g) Any carrier subject to regulation by part 1 of the interstate
6 commerce act;

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **Sec. 19.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to
14 read as follows:

15 As used in this chapter:

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

17 (2) ~~(("Employ" includes to permit to work))~~ "Department,"
18 "employ," and "employer" have the same meanings as in section 3 of
19 this act;

20 (3) "Employee" ~~((includes any individual employed by an employer~~
21 ~~but))~~ has the same meaning as in section 3(4) (a) and (b) of this act
22 and shall not include:

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

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

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

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

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

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

26 (g) Any carrier subject to regulation by part 1 of the interstate
27 commerce act;

28 (h) Any individual engaged in forest protection and fire
29 prevention activities;

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

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

1 (k) Any resident, inmate, or patient of a state, county, or
2 municipal correctional, detention, treatment or rehabilitative
3 institution;

4 (l) Any individual who holds a public elective or appointive
5 office of the state, any county, city, town, municipal corporation or
6 quasi municipal corporation, political subdivision, or any
7 instrumentality thereof, or any employee of the state legislature;

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

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

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

18 (~~4~~) (~~"Employer" includes any individual, partnership,~~
19 ~~association, corporation, business trust, or any person or group of~~
20 ~~persons acting directly or indirectly in the interest of an employer~~
21 ~~in relation to an employee;~~

22 (~~5~~)) "Occupation" means any occupation, service, trade,
23 business, industry, or branch or group of industries or employment or
24 class of employment in which employees are gainfully employed;

25 (~~(6)~~) (5) "Retail or service establishment" means an
26 establishment seventy-five percent of whose annual dollar volume of
27 sales of goods or services, or both, is not for resale and is
28 recognized as retail sales or services in the particular industry;

29 (~~(7)~~) (6) "Wage" means compensation due to an employee by
30 reason of employment, payable in legal tender of the United States or
31 checks on banks convertible into cash on demand at full face value,
32 subject to such deductions, charges, or allowances as may be
33 permitted by rules of the director.

34 NEW SECTION. **Sec. 20.** A new section is added to chapter 49.46
35 RCW to read as follows:

36 (1) An employer-employee relationship exists when an individual
37 performs labor or services for another individual or entity. The
38 party asserting that an individual is not an employee must establish
39 by a preponderance of the evidence that the individual is an

1 independent contractor or is otherwise not an employee under this
2 chapter.

3 (2) A general contractor is not responsible for violations of an
4 independent contractor or subcontractor under this chapter unless the
5 general contractor exerts substantial control over the day-to-day
6 work of the independent contractor or subcontractor. For purposes of
7 this section, "general contractor" and "subcontractor" have the same
8 meaning as in section 4(2) (a) and (b) of this act.

9 **UNEMPLOYMENT INSURANCE**

10 NEW SECTION. **Sec. 21.** A new section is added to chapter 50.04
11 RCW to read as follows:

12 The services of an independent contractor, as defined in section
13 3 of this act, are not services in employment under this title.

14 **Sec. 22.** RCW 50.04.100 and 1982 1st ex.s. c 18 s 14 are each
15 amended to read as follows:

16 "Employment," subject only to the other provisions of this title,
17 means personal service, of whatever nature, unlimited by the
18 relationship of master and servant as known to the common law or any
19 other legal relationship, including service in interstate commerce,
20 performed for wages or under any contract calling for the performance
21 of personal services, written or oral, express or implied. The party
22 asserting that services performed are not services in employment must
23 establish by a preponderance of the evidence that an individual is an
24 independent contractor or that the services are otherwise not in
25 employment under this title.

26 (~~Except as provided by RCW 50.04.145,~~) Personal services
27 performed for an employing unit by one or more contractors or
28 subcontractors acting individually or as a partnership, which do not
29 meet the provisions of ((RCW 50.04.140)) section 21 of this act,
30 shall be considered employment of the employing unit: PROVIDED,
31 HOWEVER, That such contractor or subcontractor shall be an employer
32 under the provisions of this title in respect to personal services
33 performed by individuals for such contractor or subcontractor.

34 **Sec. 23.** RCW 50.04.298 and 2007 c 146 s 8 are each amended to
35 read as follows:

36 For the purposes of this title:

1 (1) "Professional employer organization" means a person or entity
2 that enters into an agreement with one or more client employers to
3 provide professional employer services. "Professional employer
4 organization" includes entities that use the term "staff leasing
5 company," "permanent leasing company," "registered staff leasing
6 company," "employee leasing company," "administrative employer," or
7 any other name, when they provide professional employer services to
8 client employers. The following are not classified as professional
9 employer organizations: Independent contractors in (~~RCW 50.04.140~~)
10 section 21 of this act; temporary staffing services companies and
11 services referral agencies as defined in RCW 50.04.245; third-party
12 payers as defined in RCW 50.04.248; or labor organizations.

13 (2) "Client employer" means any employer who enters into a
14 professional employer agreement with a professional employer
15 organization.

16 (3) "Coemployer" means either a professional employer
17 organization or a client employer that has entered into a
18 professional employer agreement.

19 (4) "Covered employee" means an individual performing services
20 for a client employer that constitutes employment under this title.

21 (5) "Professional employer services" means services provided by
22 the professional employer organization to the client employer, which
23 include, but are not limited to, human resource functions, risk
24 management, or payroll administration services, in a coemployment
25 relationship.

26 (6) "Coemployment relationship" means a relationship that is
27 intended to be ongoing rather than temporary or project-specific,
28 where the rights, duties, and obligations of an employer in an
29 employment relationship are allocated between coemployers pursuant to
30 a professional employer agreement and state law. A coemployment
31 relationship exists only if a majority of the employees performing
32 services to a client employer, or to a division or work unit of a
33 client employer, are covered employees. In determining the allocation
34 of rights and obligations in a coemployment relationship:

35 (a) The professional employer organization has only those
36 employer rights and is subject only to those obligations specifically
37 allocated to it by the professional employer agreement or state law;

38 (b) The client employer has those rights and obligations
39 allocated to it by the professional employer agreement or state law,
40 as well as any other right or obligation of an employer that is not

1 specifically allocated by the professional employer agreement or
2 state law.

3 (7) "Professional employer agreement" means a written contract
4 between a client employer and a professional employer organization
5 that provides for: (a) The coemployment of covered employees; and (b)
6 the allocation of employer rights and obligations between the client
7 and the professional employer organization with respect to the
8 covered employees.

9 **Sec. 24.** RCW 50.12.070 and 2013 c 250 s 1 are each amended to
10 read as follows:

11 (1)(a) Each employing unit shall keep true and accurate work
12 records, containing such information as the commissioner may
13 prescribe. Such records shall be open to inspection and be subject to
14 being copied by the commissioner or his or her authorized
15 representatives at any reasonable time and as often as may be
16 necessary. The commissioner may require from any employing unit any
17 sworn or unsworn reports with respect to persons employed by it,
18 which he or she deems necessary for the effective administration of
19 this title.

20 (b) An employer who contracts with another person or entity for
21 work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve
22 a record of the unified business identifier account number for and
23 compensation paid to the person or entity performing the work. In
24 addition to the penalty in subsection (3) of this section, failure to
25 obtain or maintain the record is subject to RCW 39.06.010.

26 (2)(a) Each employer shall register with the department and
27 obtain an employment security account number. Each employer shall
28 make periodic reports at such intervals as the commissioner may by
29 regulation prescribe, setting forth the remuneration paid for
30 employment to workers in its employ, the full names and social
31 security numbers of all such workers, and the total hours worked by
32 each worker and such other information as the commissioner may by
33 regulation prescribe.

34 (b) If the employing unit fails or has failed to report the
35 number of hours in a reporting period for which a worker worked, such
36 number will be computed by the commissioner and given the same force
37 and effect as if it had been reported by the employing unit. In
38 computing the number of such hours worked, the total wages for the
39 reporting period, as reported by the employing unit, shall be divided

1 by the dollar amount of the state's minimum wage in effect for such
2 reporting period and the quotient, disregarding any remainder, shall
3 be credited to the worker: PROVIDED, That although the computation so
4 made will not be subject to appeal by the employing unit, monetary
5 entitlement may be redetermined upon request if the department is
6 provided with credible evidence of the actual hours worked. Benefits
7 paid using computed hours are not considered an overpayment and are
8 not subject to collections when the correction of computed hours
9 results in an invalid or reduced claim; however:

10 (i) A contribution paying employer who fails to report the number
11 of hours worked will have its experience rating account charged for
12 all benefits paid that are based on hours computed under this
13 subsection; and

14 (ii) An employer who reimburses the trust fund for benefits paid
15 to workers and fails to report the number of hours worked shall
16 reimburse the trust fund for all benefits paid that are based on
17 hours computed under this subsection.

18 (3) Any employer who fails to keep and preserve records required
19 by this section shall be subject to a penalty determined by the
20 commissioner but not to exceed two hundred fifty dollars or two
21 hundred percent of the quarterly tax for each offense, whichever is
22 greater.

23 (4) Upon referral from the department of labor and industries
24 pursuant to section 6 of this act, the employment security department
25 may initiate procedures for improper recordkeeping and the recovery
26 of contributions, interest, and penalties.

27 (5) The commissioner must consider referrals based on a court
28 finding of a violation of section 5 of this act and may initiate
29 procedures for improper recordkeeping and the recovery of
30 contributions, interest, and penalties.

31 INDUSTRIAL INSURANCE

32 **Sec. 25.** RCW 51.08.070 and 2008 c 102 s 2 are each amended to
33 read as follows:

34 "Employer" means any person, body of persons, corporate or
35 otherwise, and the legal representatives of a deceased employer, all
36 while engaged in this state in any work covered by the provisions of
37 this title, by way of trade or business, or who contracts with one or
38 more workers (~~(, the essence of which is the personal labor of such~~

1 ~~worker or workers)). Or as an exception to the definition of~~
2 ~~employer, persons or entities are not employers when they contract or~~
3 ~~agree to remunerate the services performed by an ((individual who~~
4 ~~meets the tests set forth in subsections (1) through (6) of RCW~~
5 ~~51.08.195 or the separate tests set forth in RCW 51.08.181 for work~~
6 ~~performed that requires registration under chapter 18.27 RCW or~~
7 ~~licensing under chapter 19.28 RCW)) independent contractor as defined~~
8 ~~in section 3 of this act.~~

9 **Sec. 26.** RCW 51.08.180 and 2008 c 102 s 3 are each amended to
10 read as follows:

11 "Worker" means every person in this state who is engaged in the
12 employment of an employer under this title, whether by way of manual
13 labor or otherwise in the course of his or her employment; also every
14 person in this state who is engaged in the employment of or who is
15 working under an independent contract, ~~((the essence of which is his~~
16 ~~or her personal labor for an employer under this title,))~~ whether by
17 way of manual labor or otherwise, in the course of his or her
18 employment, ~~((or as an exception to the definition of worker, a~~
19 ~~person is not a worker if))~~ unless he or she ~~((meets the tests set~~
20 ~~forth in subsections (1) through (6) of RCW 51.08.195 or the separate~~
21 ~~tests set forth in RCW 51.08.181 for work performed that requires~~
22 ~~registration under chapter 18.27 RCW or licensing under chapter 19.28~~
23 ~~RCW))~~ meets the definition of independent contractor as defined in
24 section 3(8) of this act: PROVIDED, That a person is not a worker for
25 the purpose of this title, with respect to his or her activities
26 attendant to operating a truck which he or she owns, and which is
27 leased to a common or contract carrier.

28 NEW SECTION. **Sec. 27.** A new section is added to chapter 51.12
29 RCW to read as follows:

30 An employer-employee relationship exists when an individual
31 performs labor or services for another individual or entity. The
32 party asserting that an individual is not an employee must establish
33 by a preponderance of the evidence that the individual is an
34 independent contractor, or otherwise not an employee or worker under
35 this chapter. This presumption also applies at the board of
36 industrial insurance appeals and may be rebutted by a preponderance
37 of the evidence.

1 **Sec. 28.** RCW 51.12.020 and 2015 c 236 s 4 are each amended to
2 read as follows:

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

5 (1) Any person employed as a domestic (~~(servant)~~) worker in a
6 private home by an employer who has less than two employees regularly
7 employed forty or more hours a week in such employment.

8 (2) Any person employed to do gardening, maintenance, or repair,
9 in or about the private home of the employer. For the purposes of
10 this subsection, "maintenance" means the work of keeping in proper
11 condition, "repair" means to restore to sound condition after damage,
12 and "private home" means a person's place of residence.

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

16 (4) Any person performing services in return for aid or
17 sustenance only, received from any religious or charitable
18 organization.

19 (5) Sole proprietors or partners.

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

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

25 (8) (a) Except as otherwise provided in (b) of this subsection,
26 any bona fide officer of a corporation voluntarily elected or
27 voluntarily appointed in accordance with the articles of
28 incorporation or bylaws of the corporation, who at all times during
29 the period involved is also a bona fide director, and who is also a
30 shareholder of the corporation. Only such officers who exercise
31 substantial control in the daily management of the corporation and
32 whose primary responsibilities do not include the performance of
33 manual labor are included within this subsection.

34 (b) Alternatively, a corporation that is not a "public company"
35 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide
36 officers, who are voluntarily elected or voluntarily appointed in
37 accordance with the articles of incorporation or bylaws of the
38 corporation and who exercise substantial control in the daily
39 management of the corporation, from coverage under this title without
40 regard to the officers' performance of manual labor if the exempted

1 officer is a shareholder of the corporation, or may exempt any number
2 of officers if all the exempted officers are related by blood within
3 the third degree or marriage. If a corporation that is not a "public
4 company" elects to be covered under subsection (8)(a) of this
5 section, the corporation's election must be made on a form prescribed
6 by the department and under such reasonable rules as the department
7 may adopt.

8 (c) Determinations respecting the status of persons performing
9 services for a corporation shall be made, in part, by reference to
10 Title 23B RCW and to compliance by the corporation with its own
11 articles of incorporation and bylaws. For the purpose of determining
12 coverage under this title, substance shall control over form, and
13 mandatory coverage under this title shall extend to all workers of
14 this state, regardless of honorary titles conferred upon those
15 actually serving as workers.

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

18 (9) Services rendered by a musician or entertainer under a
19 contract with a purchaser of the services, for a specific engagement
20 or engagements when such musician or entertainer performs no other
21 duties for the purchaser and is not regularly and continuously
22 employed by the purchaser. A purchaser does not include the leader of
23 a group or recognized entity who employs other than on a casual basis
24 musicians or entertainers.

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

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

34 (12) Services performed by a booth renter. However, a person
35 exempted under this subsection may elect coverage under RCW
36 51.32.030.

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

38 (a) Management of the company is vested in its members, and the
39 members for whom exemption is sought would qualify for exemption

1 under subsection (5) of this section were the company a sole
2 proprietorship or partnership; or

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

7 ~~((14) A driver providing commercial transportation services as
8 defined in RCW 48.177.005. The driver may elect coverage in the
9 manner provided by RCW 51.32.030.~~

10 ~~(15) For hire vehicle operators under chapter 46.72 RCW who own
11 or lease the for hire vehicle, chauffeurs under chapter 46.72A RCW
12 who own or lease the limousine, and operators of taxicabs under
13 chapter 81.72 RCW who own or lease the taxicab. An owner or lessee
14 may elect coverage in the manner provided by RCW 51.32.030.)~~

15 NEW SECTION. **Sec. 29.** Sections 2 through 11 of this act
16 constitute a new chapter in Title 49 RCW.

17 NEW SECTION. **Sec. 30.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 31.** If any part of this act is found to be in
22 conflict with federal requirements that are a prescribed condition to
23 the allocation of federal funds to the state or the eligibility of
24 employers in this state for federal unemployment tax credits, the
25 conflicting part of this act is inoperative solely to the extent of
26 the conflict, and the finding or determination does not affect the
27 operation of the remainder of this act. Rules adopted under this act
28 must meet federal requirements that are a necessary condition to the
29 receipt of federal funds by the state or the granting of federal
30 unemployment tax credits to employers in this state.

31 NEW SECTION. **Sec. 32.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 39.12.100 (Independent contractors—Criteria) and 2009 c
34 63 s 1;

35 (2) RCW 50.04.140 (Employment—Exception tests) and 1991 c 246 s 6
36 & 1945 c 35 s 15;

1 (3) RCW 50.04.145 (Employment—Exclusions) and 2008 c 102 s 1,
2 1983 1st ex.s. c 23 s 25, & 1982 1st ex.s. c 18 s 13;

3 (4) RCW 51.08.181 ("Worker"—Registered contractor and electrician
4 exclusions) and 2008 c 102 s 5; and

5 (5) RCW 51.08.195 ("Employer" and "worker"—Additional exception)
6 and 2008 c 102 s 4 & 1991 c 246 s 1.

7 NEW SECTION. **Sec. 33.** Section 18 of this act expires December
8 31, 2019.

9 NEW SECTION. **Sec. 34.** Section 19 of this act takes effect
10 December 31, 2019.

11 NEW SECTION. **Sec. 35.** Section 7 of this act takes effect
12 January 1, 2021.

--- END ---