
ENGROSSED HOUSE BILL 1706

State of Washington

66th Legislature

2019 Regular Session

By Representatives Frame, Sells, Macri, Doglio, Gregerson, Riccelli, Callan, Jinkins, Goodman, Valdez, Bergquist, Kloba, and Pollet

Read first time 01/29/19. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to eliminating subminimum wage certificates for
2 persons with disabilities; amending RCW 49.12.110 and 49.46.060;
3 adding a new section to chapter 49.46 RCW; adding a new section to
4 chapter 71A.10 RCW; creating a new section; and providing an
5 expiration date.

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

7 **Sec. 1.** RCW 49.12.110 and 1994 c 164 s 19 are each amended to
8 read as follows:

9 Subject to section 3 of this act, for any occupation in which a
10 minimum wage has been established, the director may issue to an
11 employer, a special certificate or permit for an employee who (~~is~~
12 ~~physically or mentally handicapped~~) has a disability to such a
13 degree that he or she is unable to obtain employment in the
14 competitive labor market, or to a trainee or learner not otherwise
15 subject to the jurisdiction of the apprenticeship council, a special
16 certificate or permit authorizing the employment of such employee for
17 a wage less than the legal minimum wage; and the director shall fix
18 the minimum wage for said person, such special certificate or permit
19 to be issued only in such cases as the director may decide the same
20 is applied for in good faith and that such certificate or permit

1 shall be in force for such length of time as the director shall
2 decide and determine is proper.

3 **Sec. 2.** RCW 49.46.060 and 1959 c 294 s 6 are each amended to
4 read as follows:

5 Subject to section 3 of this act the director, to the extent
6 necessary in order to prevent curtailment of opportunities for
7 employment, shall by regulations provide for (1) the employment of
8 learners, of apprentices, and of messengers employed primarily in
9 delivering letters and messages, under special certificates issued
10 pursuant to regulations of the director, at such wages lower than the
11 minimum wage applicable under RCW 49.46.020 and subject to such
12 limitations as to time, number, proportion, and length of service as
13 the director shall prescribe, and (2) the employment of individuals
14 whose earning capacity is impaired by (~~age or physical or mental~~
15 ~~deficiency or injury~~) a disability, under special certificates
16 issued by the director, at such wages lower than the minimum wage
17 applicable under RCW 49.46.020 and for such period as shall be fixed
18 in such certificates.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.46
20 RCW to read as follows:

21 (1) Beginning on the effective date of this section, the director
22 may no longer issue any new special certificates under RCW 49.12.110
23 and 49.46.060 for the employment, at less than the minimum wage, of
24 individuals with disabilities.

25 (2)(a) Special certificates that have not expired as of the
26 effective date of this section remain valid until the certificate
27 expires.

28 (b) The director may extend the duration of a special certificate
29 that was valid as of the effective date of this section only under
30 the following circumstances:

31 (i) The individual employed under the special certificate is an
32 "eligible person" as defined under RCW 71A.10.020;

33 (ii) The extension will enable the individual to complete the
34 individual's period of enrollment in an employment program before
35 being offered an option to transition to a community access program,
36 as provided under RCW 71A.12.290; and

37 (iii) The employer requests the extension of the special
38 certificate.

1 (3) Before the expiration of the special certificates under this
2 section, the director shall provide written notice to the employer,
3 the employee, and the employee's legal guardian, legal representative
4 as defined under RCW 71A.10.020, or other individual authorized to
5 receive information on behalf of the employee, of the following:

6 (a) The expiration date of the special certificate;

7 (b) The option of extending the special certificate if the
8 conditions under subsection (2) of this section are met; and

9 (c) The contact information for the division of the department of
10 social and health services that provides services to individuals with
11 developmental disabilities, and a statement that services and
12 individualized technical assistance may be available.

13 (4) For the purposes of allowing the department of social and
14 health services to prioritize services and individualized technical
15 assistance to individuals transitioning out of subminimum wage
16 employment, the department may share information, such as
17 individuals' contact information and expiration dates of special
18 certificates, with the department of social and health services.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 71A.10
20 RCW to read as follows:

21 (1) The department shall provide individualized technical
22 assistance to eligible individuals employed under special
23 certificates that will be expiring pursuant to section 3 of this act.
24 Individualized technical assistance means services that assist
25 individuals eligible to receive services from the department in
26 transitioning from subminimum wage employment to other employment
27 programs or other programs under RCW 71A.12.290.

28 (2) In offering individualized technical assistance, the
29 department must prioritize individuals based on the expiration dates
30 of the special certificates, but must offer technical assistance to
31 an individual no later than four months prior to the expiration date
32 of the individual's special certificate. For individuals subject to
33 special certificates expiring sooner than four months after the
34 effective date of this section, the department must prioritize those
35 individuals first and offer individualized technical assistance
36 immediately.

37 NEW SECTION. **Sec. 5.** (1) The department of labor and industries
38 and the department of social and health services shall collaborate to

1 provide reports as required under this section regarding the impacts
2 of section 3 of this act on workers with developmental disabilities.

3 (2) By January 10, 2020, the departments shall submit an initial
4 report to the appropriate committees of the legislature with the
5 following information:

6 (a) The number of special certificates that have expired and the
7 number of unexpired certificates as of the date of the report;

8 (b) The number of applications the department of labor and
9 industries has received to extend certificates and the number of
10 extensions granted; and

11 (c) The number of individuals who were employed under a special
12 certificate and who have contacted the department of social and
13 health services to receive services and the services that were
14 provided.

15 (3) By October 1, 2021, the departments shall submit a final
16 report to the appropriate committees of the legislature with the
17 following information:

18 (a) The number of individuals who were employed under a special
19 certificate and who have contacted the department of social and
20 health services to receive technical assistance and services and the
21 assistance and services that were provided;

22 (b) The number of individuals who continued to be employed after
23 the expiration of their special certificates, and the hours worked,
24 wages earned, and wage rate of those individuals;

25 (c) For individuals who did not continue employment after the
26 expiration of the individual's special certificate, a description of
27 alternative employment or other services, including services under
28 chapter 71A.12 RCW, if any, that were provided to those individuals;
29 and

30 (d) Any recommendations from the departments on providing
31 employment services or other assistance to persons with disabilities.

32 (4) This section expires December 1, 2021.

--- END ---