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**HOUSE BILL 2191**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representative Dufault

Prefiled 12/03/19. Read first time 01/13/20. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to family and medical leave program coverage for  
2 bona fide corporate officers and members of limited liability  
3 companies; and adding a new section to chapter 50A.05 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 50A.05  
6 RCW to read as follows:

7 (1) The following employments are not included within the  
8 coverage of this title:

9 (a)(i) Except as otherwise provided in (a)(ii) of this  
10 subsection, any bona fide officer of a corporation voluntarily  
11 elected or voluntarily appointed in accordance with the articles of  
12 incorporation or bylaws of the corporation, who at all times during  
13 the period involved is also a bona fide director, and who is also a  
14 shareholder of the corporation. Only such officers who exercise  
15 substantial control in the daily management of the corporation and  
16 whose primary responsibilities do not include the performance of  
17 manual labor are included within this subsection.

18 (ii) Alternatively, a corporation that is not a "public company"  
19 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide  
20 officers, who are voluntarily elected or voluntarily appointed in  
21 accordance with the articles of incorporation or bylaws of the

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

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

18 (b) Members of a limited liability company, if the management of  
19 the company is vested in one or more managers, and the members for  
20 whom the exemption is sought are managers who would qualify for  
21 exemption under (a) of this subsection if the company was a  
22 corporation.

23 (2) A corporation or limited liability company may elect to cover  
24 individuals who are exempted by this section.

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