
SENATE BILL 5326

State of Washington

66th Legislature

2019 Regular Session

By Senators Keiser, Rivers, Saldaña, Billig, and Kuderer

1 AN ACT Relating to booth rental agreements; amending RCW
2 50.04.225, 51.12.020, and 82.04.360; adding a new section to chapter
3 18.16 RCW; creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that broad
6 exemptions for businesses structured using booth renters deny
7 individuals eligibility for unemployment insurance and industrial
8 insurance, and give businesses that use booth renters an unfair
9 competitive advantage. Therefore, the legislature intends to
10 encourage a competitive marketplace by removing these broad
11 exemptions for businesses that rely on booth renters.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.16
13 RCW to read as follows:

14 No holder of a salon/shop license may lease, sublease, or provide
15 space at the licensed location to any person for providing
16 cosmetology or hair design as part of a separate business to be
17 conducted by the person.

18 **Sec. 3.** RCW 50.04.225 and 1991 c 324 s 17 are each amended to
19 read as follows:

1 Except for services subject to RCW 50.44.010, 50.44.020,
2 50.44.030, or 50.50.010, the term "employment" does not include
3 services performed in a barber shop ((~~or cosmetology shop~~)) by
4 persons licensed as a barber under chapter 18.16 RCW if ((~~the person~~
5 is a booth renter as defined in RCW 18.16.020))):

6 (1) Performing the barbering services requires a license under
7 chapter 18.16 RCW;

8 (2) The barber pays a fee for the use of the barber shop
9 facilities; and

10 (3) The barber receives no compensation or other consideration
11 from the owner of the barber shop for the services performed.

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

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

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

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

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

27 (4) Any person performing services in return for aid or
28 sustenance only, received from any religious or charitable
29 organization.

30 (5) Sole proprietors or partners.

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

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

36 (8) (a) Except as otherwise provided in (b) of this subsection,
37 any bona fide officer of a corporation voluntarily elected or
38 voluntarily appointed in accordance with the articles of
39 incorporation or bylaws of the corporation, who at all times during

1 the period involved is also a bona fide director, and who is also a
2 shareholder of the corporation. Only such officers who exercise
3 substantial control in the daily management of the corporation and
4 whose primary responsibilities do not include the performance of
5 manual labor are included within this subsection.

6 (b) Alternatively, a corporation that is not a "public company"
7 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide
8 officers, who are voluntarily elected or voluntarily appointed in
9 accordance with the articles of incorporation or bylaws of the
10 corporation and who exercise substantial control in the daily
11 management of the corporation, from coverage under this title without
12 regard to the officers' performance of manual labor if the exempted
13 officer is a shareholder of the corporation, or may exempt any number
14 of officers if all the exempted officers are related by blood within
15 the third degree or marriage. If a corporation that is not a "public
16 company" elects to be covered under (a) of this subsection (~~((8)(a)~~
17 ~~of this section)~~), the corporation's election must be made on a form
18 prescribed by the department and under such reasonable rules as the
19 department may adopt.

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

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

30 (9) Services rendered by a musician or entertainer under a
31 contract with a purchaser of the services, for a specific engagement
32 or engagements when such musician or entertainer performs no other
33 duties for the purchaser and is not regularly and continuously
34 employed by the purchaser. A purchaser does not include the leader of
35 a group or recognized entity who employs other than on a casual basis
36 musicians or entertainers.

37 (10) Services performed by a newspaper vendor, carrier, or
38 delivery person selling or distributing newspapers on the street, to
39 offices, to businesses, or from house to house and any freelance news
40 correspondent or "stringer" who, using his or her own equipment,

1 chooses to submit material for publication for free or a fee when
2 such material is published.

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

6 ~~(12) ((Services performed by a booth renter. However, a person
7 exempted under this subsection may elect coverage under RCW
8 51.32.030.~~

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

10 (a) Management of the company is vested in its members, and the
11 members for whom exemption is sought would qualify for exemption
12 under subsection (5) of this section were the company a sole
13 proprietorship or partnership; or

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

18 ~~((14))~~ (13) A driver providing commercial transportation
19 services as defined in RCW 48.177.005. The driver may elect coverage
20 in the manner provided by RCW 51.32.030.

21 ~~((15))~~ (14) For hire vehicle operators under chapter 46.72 RCW
22 who own or lease the for hire vehicle, chauffeurs under chapter
23 46.72A RCW who own or lease the limousine, and operators of taxicabs
24 under chapter 81.72 RCW who own or lease the taxicab. An owner or
25 lessee may elect coverage in the manner provided by RCW 51.32.030.

26 **Sec. 5.** RCW 82.04.360 and 2010 1st sp.s. c 23 s 702 are each
27 amended to read as follows:

28 (1) This chapter does not apply to any person in respect to his
29 or her employment in the capacity of an employee or servant as
30 distinguished from that of an independent contractor. For the
31 purposes of this section, the definition of employee includes those
32 persons that are defined in section 3121(d)(3)(B) of the federal
33 internal revenue code of 1986, as amended through January 1, 1991.

34 (2) Until July 1, 2010, this chapter does not apply to amounts
35 received by an individual from a corporation as compensation for
36 serving as a member of that corporation's board of directors.
37 Beginning on July 1, 2010, such amounts are taxable under RCW
38 82.04.290(2).

1 (3) A booth renter is an independent contractor solely for
2 purposes of this chapter. For purposes of this section, "booth
3 renter" means any person who:

4 (a) Performs (~~cosmetology,~~) barbering, esthetics, or manicuring
5 services for which a license is required under chapter 18.16 RCW; and

6 (b) Pays a fee for the use of salon or shop facilities and
7 receives no compensation or other consideration from the owner of the
8 salon or shop for the services performed.

9 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2020.

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