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**SENATE BILL 6421**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senators Muzzall, Hunt, Warnick, Takko, Schoesler, Wagoner, Padden, Hasegawa, and Saldaña

Read first time 01/16/20. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to extending the farm internship program;  
2 reenacting and amending RCW 49.46.010; adding a new section to  
3 chapter 49.12 RCW; adding a new section to chapter 50.04 RCW; adding  
4 a new section to chapter 51.16 RCW; and providing expiration dates.

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

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

8 (1) The director shall establish a farm internship pilot project  
9 for the employment of farm interns on small farms under special  
10 certificates at wages, if any, as authorized by the department and  
11 subject to such limitations as to time, number, proportion, and  
12 length of service as provided in this section and as prescribed by  
13 the department. The pilot project consists of the following counties:  
14 San Juan, Skagit, King, Whatcom, Kitsap, Pierce, Jefferson, Spokane,  
15 Yakima, Chelan, Grant, Island, Snohomish, Kittitas, Lincoln,  
16 Thurston, Walla Walla, Clark, Cowlitz, and Lewis.

17 (2) A small farm may employ no more than three interns at one  
18 time under this section.

19 (3) A small farm must apply for a special certificate on a form  
20 made available by the director. The application must set forth: The  
21 name of the farm and a description of the farm seeking the

1 certificate; the type of work to be performed by a farm intern; a  
2 description of the internship program; the period of time for which  
3 the certificate is sought and the duration of an internship; the  
4 number of farm interns for which a special certificate is sought; the  
5 wages, if any, that will be paid to the farm intern; any room and  
6 board, stipends, and other remuneration the farm will provide to a  
7 farm intern; and the total number of workers employed by the farm.

8 (4) Upon receipt of an application, the department shall review  
9 the application and issue a special certificate to the requesting  
10 farm within fifteen days if the department finds that:

11 (a) The farm qualifies as a small farm;

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

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

20 (d) A farm intern will not displace an experienced worker; and

21 (e) The farm demonstrates that the interns will perform work for  
22 the farm under an internship program that: (i) Provides a curriculum  
23 of learning modules and supervised participation in farm work  
24 activities designed to teach farm interns about farming practices and  
25 farm enterprises; (ii) is based on the bona fide curriculum of an  
26 educational or vocational institution; and (iii) is reasonably  
27 designed to provide the intern with vocational knowledge and skills  
28 about farming practices and enterprises. In assessing an internship  
29 program, the department may consult with relevant college and  
30 university departments and extension programs and state and local  
31 government agencies involved in the regulation or development of  
32 agriculture.

33 (5) A special certificate issued under this section must specify  
34 the terms and conditions under which it is issued, including: The  
35 name of the farm; the duration of the special certificate allowing  
36 the employment of farm interns and the duration of an internship; the  
37 total number of interns authorized under the special certificate; the  
38 authorized wage rate, if any; and any room and board, stipends, and  
39 other remuneration the farm will provide to the farm intern. A farm  
40 intern may be paid at wages specified in the certificate only during

1 the effective period of the certificate and for the duration of the  
2 internship.

3 (6) If the department denies an application for a special  
4 certificate, notice of denial must be mailed to the farm. The farm  
5 listed on the application may, within fifteen days after notice of  
6 such action has been mailed, file with the director a petition for  
7 review of the denial, setting forth grounds for seeking such a  
8 review. If reasonable grounds exist, the director or the director's  
9 authorized representative may grant such a review and, to the extent  
10 deemed appropriate, afford all interested persons an opportunity to  
11 be heard on such review.

12 (7) Before employing a farm intern, a farm must submit a  
13 statement on a form made available by the director stating that the  
14 farm understands: The requirements of the industrial welfare act,  
15 this chapter, that apply to farm interns; that the farm must pay  
16 workers' compensation premiums in the assigned intern risk class and  
17 must pay workers' compensation premiums for nonintern work hours in  
18 the applicable risk class; and that if the farm does not comply with  
19 subsection (8) of this section, the director may revoke the special  
20 certificate.

21 (8) The director may revoke a special certificate issued under  
22 this section if a farm fails to: Comply with the requirements of the  
23 industrial welfare act, this chapter, that apply to farm interns; pay  
24 workers' compensation premiums in the assigned intern risk class; or  
25 pay workers' compensation premiums in the applicable risk class for  
26 nonintern work hours.

27 (9) Before the start of a farm internship, the farm and the  
28 intern must sign a written agreement and send a copy of the agreement  
29 to the department. The written agreement must, at a minimum:

30 (a) Describe the internship program offered by the farm,  
31 including the skills and objectives the program is designed to teach  
32 and the manner in which those skills and objectives will be taught;

33 (b) Explicitly state that the intern is not entitled to  
34 unemployment benefits or minimum wages for work and activities  
35 conducted pursuant to the internship program for the duration of the  
36 internship;

37 (c) Describe the responsibilities, expectations, and obligations  
38 of the intern and the farm, including the anticipated number of hours  
39 of farm activities to be performed by and the anticipated number of  
40 hours of curriculum instruction provided to the intern per week;

1 (d) Describe the activities of the farm and the type of work to  
2 be performed by the farm intern; and

3 (e) Describes any wages, room and board, stipends, and other  
4 remuneration the farm will provide to the farm intern.

5 (10) The department must limit the administrative costs of  
6 implementing the internship pilot program by relying on farm  
7 organizations and other stakeholders to perform outreach and inform  
8 the farm community of the program and by limiting employee travel to  
9 the investigation of allegations of noncompliance with program  
10 requirements.

11 (11) The definitions in this subsection apply throughout this  
12 section unless the context clearly requires otherwise.

13 (a) "Farm intern" means an individual who provides services to a  
14 small farm under a written agreement and primarily as a means of  
15 learning about farming practices and farm enterprises.

16 (b) "Farm internship program" means an internship program  
17 described under subsection (4)(e) of this section.

18 (c) "Small farm" means a farm:

19 (i) Organized as a sole proprietorship, partnership, or  
20 corporation;

21 (ii) That reports on the applicant's schedule F of form 1040 or  
22 other applicable form filed with the United States internal revenue  
23 service annual sales less than two hundred fifty thousand dollars;  
24 and

25 (iii) Where all the owners or partners of the farm provide  
26 regular labor to and participate in the management of the farm, and  
27 own or lease the productive assets of the farm.

28 (12) The department shall monitor and evaluate the farm  
29 internships authorized by this section and report to the appropriate  
30 committees of the legislature by December 31, 2024. The report must  
31 include, but not be limited to: The number of small farms that  
32 applied for and received special certificates; the number of interns  
33 employed as farm interns; the nature of the educational activities  
34 provided to the farm interns; the wages and other remuneration paid  
35 to farm interns; the number of and type of workers' compensation  
36 claims for farm interns; the employment of farm interns following  
37 farm internships; and other matters relevant to assessing farm  
38 internships authorized in this section.

39 (13) This section expires December 31, 2025.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 50.04  
2    RCW to read as follows:

3        (1) Except for services subject to RCW 50.44.010, 50.44.020,  
4    50.44.030, or 50.50.010, the term "employment" does not include  
5    service performed in agricultural labor by a farm intern providing  
6    his or her services under a farm internship program as established in  
7    section 1 of this act.

8        (2) For purposes of this section, "agricultural labor" means:

9        (a) Services performed on a farm, in the employ of any person, in  
10   connection with the cultivation of the soil, or in connection with  
11   raising or harvesting any agricultural or horticultural commodity,  
12   including raising, shearing, feeding, caring for, training, and  
13   management of livestock, bees, poultry, and furbearing animals and  
14   wildlife, or in the employ of the owner or tenant or other operator  
15   of a farm in connection with the operation, management, conservation,  
16   improvement, or maintenance of such farm and its tools and equipment;

17        (b) Services performed in packing, packaging, grading, storing,  
18   or delivering to storage, or to market or to a carrier for  
19   transportation to market, any agricultural or horticultural  
20   commodity; but only if such service is performed as an incident to  
21   ordinary farming operations. The exclusions from the term  
22   "employment" provided in this subsection (2)(b) are not applicable  
23   with respect to commercial packing houses, commercial storage  
24   establishments, commercial canning, commercial freezing, or any other  
25   commercial processing or with respect to services performed in  
26   connection with the cultivation, raising, harvesting, and processing  
27   of oysters or raising and harvesting of mushrooms; or

28        (c) Direct local sales of any agricultural or horticultural  
29   commodity after its delivery to a terminal market for distribution or  
30   consumption.

31        (3) This section expires December 31, 2025.

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

34        As used in this chapter:

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

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

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

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

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

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

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

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

36 (f) Any newspaper vendor, carrier, or delivery person selling or  
37 distributing newspapers on the street, to offices, to businesses, or  
38 from house to house and any freelance news correspondent or  
39 "stringer" who, using his or her own equipment, chooses to submit

1 material for publication for free or a fee when such material is  
2 published;

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

5 (h) Any individual engaged in forest protection and fire  
6 prevention activities;

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

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

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

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

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

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

27 (o) Until December 31, 2025, any farm intern providing his or her  
28 services to a small farm which has a special certificate issued under  
29 section 1 of this act;

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

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

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

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

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

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 51.16  
14 RCW to read as follows:

15 (1) The department shall adopt rules to provide special workers'  
16 compensation risk class or classes for farm interns providing  
17 agricultural labor pursuant to a farm internship program under  
18 section 1 of this act. The rules must include any requirements for  
19 obtaining a special risk class that must be met by small farms.

20 (2) This section expires December 31, 2025.

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