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HOUSE BILL 2691

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State of Washington

62nd Legislature

2012 Regular Session

By Representatives Chandler and Condotta

Read first time 01/25/12. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to making coverage of certain maritime service  
2 elective for purposes of unemployment compensation; amending RCW  
3 50.24.160 and 50.04.170; and creating a new section.

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

5 **Sec. 1.** RCW 50.24.160 and 2007 c 146 s 6 are each amended to read  
6 as follows:

7 Except as provided in RCW 50.04.165, any employing unit for which  
8 services that do not constitute employment as defined in this title are  
9 performed may file with the commissioner a written election that all  
10 such services performed by any distinct class or group of individuals  
11 or by all individuals in its employment in one or more distinct  
12 establishments or places of business shall be deemed to constitute  
13 employment for all the purposes of this title for at least two calendar  
14 years. Upon the written approval of such election by the commissioner,  
15 such services shall be deemed to constitute employment subject to this  
16 title on and after the date stated in the approval. Services covered  
17 under this section shall cease to be deemed employment as of January  
18 1st of any calendar year subsequent to the two-calendar year period,  
19 only if the employing unit files with the commissioner before January

1 15th of that year a written application for termination of coverage.  
2 Services for which an employing unit may elect coverage include, but  
3 are not limited to, maritime service as described in RCW 50.04.170.

4 **Sec. 2.** RCW 50.04.170 and 1949 c 214 s 3 are each amended to read  
5 as follows:

6 (1)(a) The term "employment" (~~(shall)~~) includes an individual's  
7 entire service as an officer or member of a crew of an American vessel  
8 wherever performed and whether in intrastate or interstate or foreign  
9 commerce, if the employer maintains within this state at the beginning  
10 of the pay period an operating office from which the operations of the  
11 vessel are ordinarily and regularly supervised, managed, directed, and  
12 controlled.

13 (b) The term "employment" (~~(shall)~~) does not include:

14 (i) Services performed by an individual on a boat engaged in  
15 catching fish or other forms of aquatic animal life under an  
16 arrangement with the owner or operator of the boat under which:

17 (A) The individual does not receive any cash remuneration except as  
18 provided in (b)(i)(B) and (C) of this subsection;

19 (B) The individual receives a share of the boat's, or the boats' in  
20 the case of a fishing operation involving more than one boat, catch of  
21 fish or other forms of aquatic animal life or a share of the proceeds  
22 from the sale of the catch; and

23 (C) The amount of the individual's share depends on the amount of  
24 the boat's, or the boats' in the case of a fishing operation involving  
25 more than one boat, catch of fish or other forms of aquatic animal  
26 life, but only if the operating crew of the boat, or each boat from  
27 which the individual receives a share in the case of a fishing  
28 operation involving more than one boat, is normally made up of fewer  
29 than ten individuals.

30 (ii) Services performed as an officer or member of the crew of a  
31 vessel not an American vessel and services on or in connection with an  
32 American vessel under a contract of service which is not entered into  
33 within the United States and during the performance of which the vessel  
34 does not touch at a port of the United States.

35 (2) For the purposes of this section, "American vessel"(~~(τ)~~) means  
36 any vessel documented or numbered under the laws of the United  
37 States(~~(τ)~~), and includes any vessel which is neither documented or

1 numbered under the laws of the United States nor documented under the  
2 laws of any foreign country if its crew is employed solely by one or  
3 more citizens or residents of the United States or corporations  
4 organized under the laws of the United States or of any state.

5 NEW SECTION. **Sec. 3.** If any part of this act is found to be in  
6 conflict with federal requirements that are a prescribed condition to  
7 the allocation of federal funds to the state or the eligibility of  
8 employers in this state for federal unemployment tax credits, the  
9 conflicting part of this act is inoperative solely to the extent of the  
10 conflict, and the finding or determination does not affect the  
11 operation of the remainder of this act. Rules adopted under this act  
12 must meet federal requirements that are a necessary condition to the  
13 receipt of federal funds by the state or the granting of federal  
14 unemployment tax credits to employers in this state.

15 NEW SECTION. **Sec. 4.** If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

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