

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5123**

63rd Legislature  
2014 Regular Session

Passed by the Senate February 18, 2014  
YEAS 46 NAYS 0

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**President of the Senate**

Passed by the House March 7, 2014  
YEAS 88 NAYS 9

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5123** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5123**

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Passed Legislature - 2014 Regular Session

**State of Washington                      63rd Legislature                      2013 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Ranker, Hatfield, Hobbs, Parlette, and Conway)

READ FIRST TIME 03/01/13.

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

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 RCW  
7 to read as follows:

8            (1) The director shall establish a farm internship pilot project  
9 until December 1, 2017, for the employment of farm interns on small  
10 farms under special certificates at wages, if any, as authorized by the  
11 department and subject to such limitations as to time, number,  
12 proportion, and length of service as provided in this section and as  
13 prescribed by the department. The pilot project consists of the  
14 following counties: San Juan, Skagit, King, Whatcom, Kitsap, Pierce,  
15 Jefferson, Spokane, Yakima, Chelan, Grant, Island, Snohomish, Kittitas,  
16 Lincoln, and Thurston.

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

1 (3) A small farm must apply for a special certificate on a form  
2 made available by the director. The application must set forth: The  
3 name of the farm and a description of the farm seeking the certificate;  
4 the type of work to be performed by a farm intern; a description of the  
5 internship program; the period of time for which the certificate is  
6 sought and the duration of an internship; the number of farm interns  
7 for which a special certificate is sought; the wages, if any, that will  
8 be paid to the farm intern; any room and board, stipends, and other  
9 remuneration the farm will provide to a farm intern; and the total  
10 number of workers employed by the farm.

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

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

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

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

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

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

35 (5) A special certificate issued under this section must specify  
36 the terms and conditions under which it is issued, including: The name  
37 of the farm; the duration of the special certificate allowing the  
38 employment of farm interns and the duration of an internship; the total

1 number of interns authorized under the special certificate; the  
2 authorized wage rate, if any; and any room and board, stipends, and  
3 other remuneration the farm will provide to the farm intern. A farm  
4 worker may be paid at wages specified in the certificate only during  
5 the effective period of the certificate and for the duration of the  
6 internship.

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

16 (7) Before employing a farm intern, a farm must submit a statement  
17 on a form made available by the director stating that the farm  
18 understands: The requirements of the industrial welfare act, chapter  
19 49.12 RCW, that apply to farm interns; that the farm must pay workers'  
20 compensation premiums in the assigned intern risk class and must pay  
21 workers' compensation premiums for nonintern work hours in the  
22 applicable risk class; and that if the farm does not comply with  
23 subsection (8) of this section, the director may revoke the special  
24 certificate.

25 (8) The director may revoke a special certificate issued under this  
26 section if a farm fails to: Comply with the requirements of the  
27 industrial welfare act, chapter 49.12 RCW, that apply to farm interns;  
28 pay workers' compensation premiums in the assigned intern risk class;  
29 or pay workers' compensation premiums in the applicable risk class for  
30 nonintern work hours.

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

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

37 (b) Explicitly state that the intern is not entitled to

1 unemployment benefits or minimum wages for work and activities  
2 conducted pursuant to the internship program for the duration of the  
3 internship;

4 (c) Describe the responsibilities, expectations, and obligations of  
5 the intern and the farm, including the anticipated number of hours of  
6 farm activities to be performed by and the anticipated number of hours  
7 of curriculum instruction provided to the intern per week;

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

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

12 (10) The department must limit the administrative costs of  
13 implementing the internship pilot program by relying on farm  
14 organizations and other stakeholders to perform outreach and inform the  
15 farm community of the program and by limiting employee travel to the  
16 investigation of allegations of noncompliance with program  
17 requirements.

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

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

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

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

26 (i) Organized as a sole proprietorship, partnership, or  
27 corporation;

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

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

34 (12) The department shall monitor and evaluate the farm internships  
35 authorized by this section and report to the appropriate committees of  
36 the legislature by December 31, 2017. The report must include, but not  
37 be limited to: The number of small farms that applied for and received  
38 special certificates; the number of interns employed as farm interns;

1 the nature of the educational activities provided to the farm interns;  
2 the wages and other remuneration paid to farm interns; the number of  
3 and type of workers' compensation claims for farm interns; the  
4 employment of farm interns following farm internships; and other  
5 matters relevant to assessing farm internships authorized in this  
6 section.

7 **Sec. 2.** RCW 49.46.010 and 2011 1st sp.s. c 43 s 462 are each  
8 reenacted and amended to read as follows:

9 As used in this chapter:

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

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

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

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

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

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

30 (d) Any individual engaged in the activities of an educational,  
31 charitable, religious, state or local governmental body or agency, or  
32 nonprofit organization where the employer-employee relationship does  
33 not in fact exist or where the services are rendered to such  
34 organizations gratuitously. If the individual receives reimbursement  
35 in lieu of compensation for normally incurred out-of-pocket expenses or  
36 receives a nominal amount of compensation per unit of voluntary service  
37 rendered, an employer-employee relationship is deemed not to exist for

1 the purpose of this section or for purposes of membership or  
2 qualification in any state, local government, or publicly supported  
3 retirement system other than that provided under chapter 41.24 RCW;

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

11 (f) Any newspaper vendor or carrier;

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

14 (h) Any individual engaged in forest protection and fire prevention  
15 activities;

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

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

25 (k) Any resident, inmate, or patient of a state, county, or  
26 municipal correctional, detention, treatment or rehabilitative  
27 institution;

28 (l) Any individual who holds a public elective or appointive office  
29 of the state, any county, city, town, municipal corporation or quasi  
30 municipal corporation, political subdivision, or any instrumentality  
31 thereof, or any employee of the state legislature;

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

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

36 (o) Any farm intern providing his or her services to a small farm  
37 which has a special certificate issued under section 1 of this act;

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

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

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

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

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 51.16 RCW  
18 to read as follows:

19 The department shall adopt rules to provide special workers'  
20 compensation risk class or classes for farm interns providing  
21 agricultural labor pursuant to a farm internship program under section  
22 1 of this act. The rules must include any requirements for obtaining  
23 a special risk class that must be met by small farms.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.04 RCW  
25 to read as follows:

26 (1) Except for services subject to RCW 50.44.010, 50.44.020,  
27 50.44.030, or 50.50.010, the term "employment" does not include service  
28 performed in agricultural labor by a farm intern providing his or her  
29 services under a farm internship program as established in section 1 of  
30 this act.

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

32 (a) Services performed on a farm, in the employ of any person, in  
33 connection with the cultivation of the soil, or in connection with  
34 raising or harvesting any agricultural or horticultural commodity,  
35 including raising, shearing, feeding, caring for, training, and  
36 management of livestock, bees, poultry, and furbearing animals and



1 wildlife, or in the employ of the owner or tenant or other operator of  
2 a farm in connection with the operation, management, conservation,  
3 improvement, or maintenance of such farm and its tools and equipment;

4 (b) Services performed in packing, packaging, grading, storing, or  
5 delivering to storage, or to market or to a carrier for transportation  
6 to market, any agricultural or horticultural commodity; but only if  
7 such service is performed as an incident to ordinary farming  
8 operations. The exclusions from the term "employment" provided in this  
9 subsection (2)(b) are not applicable with respect to commercial packing  
10 houses, commercial storage establishments, commercial canning,  
11 commercial freezing, or any other commercial processing or with respect  
12 to services performed in connection with the cultivation, raising,  
13 harvesting and processing of oysters or raising and harvesting of  
14 mushrooms; or

15 (c) Direct local sales of any agricultural or horticultural  
16 commodity after its delivery to a terminal market for distribution or  
17 consumption.

18 NEW SECTION. **Sec. 5.** This act expires December 31, 2017.

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