
SENATE BILL 5539

State of Washington

66th Legislature

2019 Regular Session

By Senator Braun

Read first time 01/23/19. Referred to Committee on Labor & Commerce.

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.04 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.04
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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