
SENATE BILL 5987

State of Washington

66th Legislature

2019 Regular Session

By Senator Keiser

1 AN ACT Relating to applying minimum wage requirements to
2 independent contractors; amending RCW 49.46.010; and providing an
3 effective date.

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

5 **Sec. 1.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to
6 read as follows:

7 As used in this chapter:

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

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

10 (3) "Employee" includes any individual employed by an employer
11 ((but shall)). For the purposes of the minimum wage requirements
12 under this chapter only, "employee" also includes any person working
13 for an employer under an independent contract the essence of which is
14 his or her personal labor. "Employee" does not include:

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

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

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

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

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

29 (f) Any newspaper vendor, carrier, or delivery person selling or
30 distributing newspapers on the street, to offices, to businesses, or
31 from house to house and any freelance news correspondent or
32 "stringer" who, using his or her own equipment, chooses to submit
33 material for publication for free or a fee when such material is
34 published;

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

37 (h) Any individual engaged in forest protection and fire
38 prevention activities;

39 (i) Any individual employed by any charitable institution charged
40 with child care responsibilities engaged primarily in the development

1 of character or citizenship or promoting health or physical fitness
2 or providing or sponsoring recreational opportunities or facilities
3 for young people or members of the armed forces of the United States;

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

8 (k) Any resident, inmate, or patient of a state, county, or
9 municipal correctional, detention, treatment or rehabilitative
10 institution;

11 (l) Any individual who holds a public elective or appointive
12 office of the state, any county, city, town, municipal corporation or
13 quasi municipal corporation, political subdivision, or any
14 instrumentality thereof, or any employee of the state legislature;

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

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

19 (o) An individual who is at least sixteen years old but under
20 twenty-one years old, in his or her capacity as a player for a junior
21 ice hockey team that is a member of a regional, national, or
22 international league and that contracts with an arena owned,
23 operated, or managed by a public facilities district created under
24 chapter 36.100 RCW;

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

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

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

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

1 NEW SECTION. **Sec. 2.** This act takes effect December 31, 2019.

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