
SENATE BILL 6131

State of Washington

68th Legislature

2024 Regular Session

By Senator McCune

1 AN ACT Relating to the definition of employee in regard to
2 Nwauzor v. The GEO Grp., Inc.; amending RCW 49.46.010; creating a new
3 section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** In response to the Washington supreme
6 court's ruling in *Nwauzor v. The GEO Grp., Inc.*, the legislature
7 intends to clarify the definition of "employee" under the state
8 minimum wage act to exclude inmates of federal facilities.

9 **Sec. 2.** RCW 49.46.010 and 2023 c 269 s 3 are each amended to
10 read as follows:

11 As used in this chapter:

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

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

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

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

1 employed; and (iii) who has been employed in agriculture less than
2 thirteen weeks during the preceding calendar year;

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

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

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

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

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

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

39 (h) Any individual engaged in forest protection and fire
40 prevention activities;

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

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

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

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

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

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

21 (o) Any farm intern providing his or her services to a small farm
22 which has a special certificate issued under RCW 49.12.471;

23 (p) An individual who is at least 16 years old but under twenty-
24 one years old, in his or her capacity as a player for a junior ice
25 hockey team that is a member of a regional, national, or
26 international league and that contracts with an arena owned,
27 operated, or managed by a public facilities district created under
28 chapter 36.100 RCW;

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

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

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

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

6 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of
8 the state government and its existing public institutions, and takes
9 effect immediately.

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