

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 5893**

64th Legislature  
2015 Regular Session

Passed by the Senate April 16, 2015  
Yeas 47 Nays 1

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**President of the Senate**

Passed by the House April 15, 2015  
Yeas 91 Nays 7

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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 **ENGROSSED SENATE BILL 5893** as passed by 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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ENGROSSED SENATE BILL 5893

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington                      64th Legislature                      2015 Regular Session

By Senators Fain, Mullet, Litzow, Liias, and Hargrove

Read first time 02/09/15. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to the nonemployee status of athletes in amateur  
2 sports; amending RCW 49.12.005; reenacting and amending RCW  
3 49.46.010; and creating a new section.

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

5            NEW SECTION.    **Sec. 1.** The legislature recognizes that junior ice  
6 hockey teams that are members of regional, national, or  
7 internationally recognized leagues provide significant benefits to  
8 their players by teaching them valuable athletic skills and  
9 interpersonal life skills. These junior teams also provide  
10 significant financial support to their communities as tenants of  
11 arenas owned, operated, or managed by public facilities districts.  
12 The legislature seeks to assist in the financial stability of public  
13 facilities districts and to ensure the viability of junior ice hockey  
14 in the state by clarifying that these young athletes are not  
15 employees of their teams.

16            **Sec. 2.** RCW 49.12.005 and 2003 c 401 s 2 are each amended to  
17 read as follows:

18            For the purposes of this chapter:

19            (1) "Department" means the department of labor and industries.

1 (2) "Director" means the director of the department of labor and  
2 industries, or the director's designated representative.

3 (3)(a) Before May 20, 2003, "employer" means any person, firm,  
4 corporation, partnership, business trust, legal representative, or  
5 other business entity which engages in any business, industry,  
6 profession, or activity in this state and employs one or more  
7 employees but does not include the state, any state institution, any  
8 state agency, political subdivision of the state, or any municipal  
9 corporation or quasi-municipal corporation. However, for the purposes  
10 of RCW 49.12.265 through 49.12.295, 49.12.350 through 49.12.370,  
11 49.12.450, and 49.12.460 only, "employer" also includes the state,  
12 any state institution, any state agency, political subdivisions of  
13 the state, and any municipal corporation or quasi-municipal  
14 corporation.

15 (b) On and after May 20, 2003, "employer" means any person, firm,  
16 corporation, partnership, business trust, legal representative, or  
17 other business entity which engages in any business, industry,  
18 profession, or activity in this state and employs one or more  
19 employees, and includes the state, any state institution, state  
20 agency, political subdivisions of the state, and any municipal  
21 corporation or quasi-municipal corporation. However, this chapter and  
22 the rules adopted thereunder apply to these public employers only to  
23 the extent that this chapter and the rules adopted thereunder do not  
24 conflict with: (i) Any state statute or rule; and (ii) respect to  
25 political subdivisions of the state and any municipal or quasi-  
26 municipal corporation, any local resolution, ordinance, or rule  
27 adopted under the authority of the local legislative authority before  
28 April 1, 2003.

29 (4) "Employee" means an employee who is employed in the business  
30 of the employee's employer whether by way of manual labor or  
31 otherwise. "Employee" does not include an individual who is at least  
32 sixteen years old but under twenty-one years old, in his or her  
33 capacity as a player for a junior ice hockey team that is a member of  
34 a regional, national, or international league and that contracts with  
35 an arena owned, operated, or managed by a public facilities district  
36 created under chapter 36.100 RCW.

37 (5) "Conditions of labor" means and includes the conditions of  
38 rest and meal periods for employees including provisions for personal  
39 privacy, practices, methods and means by or through which labor or  
40 services are performed by employees and includes bona fide physical

1 qualifications in employment, but shall not include conditions of  
2 labor otherwise governed by statutes and rules and regulations  
3 relating to industrial safety and health administered by the  
4 department.

5 (6) For the purpose of chapter 16, Laws of 1973 2nd ex. sess. a  
6 minor is defined to be a person of either sex under the age of  
7 eighteen years.

8 **Sec. 3.** RCW 49.46.010 and 2014 c 131 s 2 and 2013 c 141 s 1 are  
9 each reenacted amended to read as follows:

10 As used in this chapter:

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

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

13 (3) "Employee" includes any individual employed by an employer  
14 but shall 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;

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

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

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

1 or qualification in any state, local government, or publicly  
2 supported retirement system other than that provided under chapter  
3 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, carrier, or delivery person selling or  
12 distributing newspapers on the street, to offices, to businesses, or  
13 from house to house and any freelance news correspondent or  
14 "stringer" who, using his or her own equipment, chooses to submit  
15 material for publication for free or a fee when such material is  
16 published;

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

19 (h) Any individual engaged in forest protection and fire  
20 prevention activities;

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

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

30 (k) Any resident, inmate, or patient of a state, county, or  
31 municipal correctional, detention, treatment or rehabilitative  
32 institution;

33 (l) Any individual who holds a public elective or appointive  
34 office of the state, any county, city, town, municipal corporation or  
35 quasi municipal corporation, political subdivision, or any  
36 instrumentality thereof, or any employee of the state legislature;

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

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

1 (o) Any farm intern providing his or her services to a small farm  
2 which has a special certificate issued under RCW 49.12.470;

3 (p) An individual who is at least sixteen years old but under  
4 twenty-one years old, in his or her capacity as a player for a junior  
5 ice hockey team that is a member of a regional, national, or  
6 international league and that contracts with an arena owned,  
7 operated, or managed by a public facilities district created under  
8 chapter 36.100 RCW;

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

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

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

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

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