

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 5284**

Chapter 97, Laws of 2021

67th Legislature  
2021 Regular Session

PERSONS WITH DISABILITIES—SUBMINIMUM WAGE CERTIFICATES

EFFECTIVE DATE: July 25, 2021

Passed by the Senate February 18,  
2021

Yeas 42 Nays 7

DENNY HECK

**President of the Senate**

Passed by the House April 5, 2021

Yeas 75 Nays 23

Laurie Jinkins

**Speaker of the House of  
Representatives**

Approved April 16, 2021 10:52 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5284** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

**Secretary**

FILED

April 16, 2021

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5284**

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Passed Legislature - 2021 Regular Session

**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Randall, Billig, Carlyle, Das, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Nobles, Robinson, Saldaña, Salomon, Stanford, Wellman, and Wilson, C.)

READ FIRST TIME 02/09/21.

1       AN ACT Relating to eliminating subminimum wage certificates for  
2 persons with disabilities; amending RCW 49.12.110, 49.46.060, and  
3 49.46.170; adding a new section to chapter 71A.10 RCW; creating a new  
4 section; and providing an expiration date.

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

6       **Sec. 1.** RCW 49.12.110 and 2020 c 274 s 40 are each amended to  
7 read as follows:

8       (~~For~~) Subject to RCW 49.46.170, for any occupation in which a  
9 minimum wage has been established, the director may issue to an  
10 employer, a special certificate or permit for an employee with a  
11 disability to such a degree that (~~he or she~~) the employee is unable  
12 to obtain employment in the competitive labor market, or to a trainee  
13 or learner not otherwise subject to the jurisdiction of the  
14 apprenticeship council, a special certificate or permit authorizing  
15 the employment of such employee for a wage less than the legal  
16 minimum wage; and the director shall fix the minimum wage for said  
17 person, such special certificate or permit to be issued only in such  
18 cases as the director may decide the same is applied for in good  
19 faith and that such certificate or permit shall be in force for such  
20 length of time as the director shall decide and determine is proper.

1       **Sec. 2.** RCW 49.46.060 and 1959 c 294 s 6 are each amended to  
2 read as follows:

3       ((The)) Subject to RCW 49.46.170, the director, to the extent  
4 necessary in order to prevent curtailment of opportunities for  
5 employment, shall by regulations provide for (1) the employment of  
6 learners, of apprentices, and of messengers employed primarily in  
7 delivering letters and messages, under special certificates issued  
8 pursuant to regulations of the director, at such wages lower than the  
9 minimum wage applicable under RCW 49.46.020 and subject to such  
10 limitations as to time, number, proportion, and length of service as  
11 the director shall prescribe, and (2) the employment of individuals  
12 whose earning capacity is impaired by ~~((age or physical or mental~~  
13 ~~deficiency or injury))~~ a disability, under special certificates  
14 issued by the director, at such wages lower than the minimum wage  
15 applicable under RCW 49.46.020 and for such period as shall be fixed  
16 in such certificates.

17       **Sec. 3.** RCW 49.46.170 and 2019 c 374 s 1 are each amended to  
18 read as follows:

19       (1) Beginning July 1, 2020, no state agency may employ an  
20 individual to work under a special certificate issued under RCW  
21 49.12.110 and 49.46.060 for the employment of individuals with  
22 disabilities at less than the minimum wage. Any special certificate  
23 issued by the director to a state agency for the employment of an  
24 individual with a disability at less than minimum wage must expire by  
25 June 30, 2020. For the purposes of this section, "state agency" means  
26 any office, department, commission, or other unit of state  
27 government.

28       (2) After July 31, 2023, the director may not issue any new  
29 special certificates under RCW 49.12.110 and 49.46.060 for the  
30 employment, at less than the minimum wage, of individuals with  
31 disabilities.

32       (3) (a) Special certificates that have not expired as of July 31,  
33 2023, remain valid until the certificate expires.

34       (b) The director may extend, no more than once and for no longer  
35 than one year, the duration of a special certificate that was valid  
36 as of the effective date of this section only under the following  
37 circumstances:

38       (i) The individual employed under the special certificate is an  
39 "eligible person" as defined under RCW 71A.10.020; and

1 (ii) The employer requests the extension of the special  
2 certificate.

3 (4) Ninety days before the expiration of the special certificates  
4 under this section, the director shall provide written notice to the  
5 employer, the employee, and the employee's legal guardian, legal  
6 representative as defined under RCW 71A.10.020, or other individual  
7 authorized to receive information on behalf of the employee, of the  
8 following:

9 (a) The expiration date of the special certificate;

10 (b) The employer's option to extend the special certificate if  
11 the conditions under subsection (3) of this section are met; and

12 (c) Upon request, the contact information for the department of  
13 social and health services and a statement that provides the  
14 supportive services available to the individual with disabilities.

15 (5) For the purposes of allowing the department of social and  
16 health services to prioritize services and existing individualized  
17 technical assistance to individuals advancing to at least minimum  
18 wage employment, the department of labor and industries may share  
19 information, such as individuals' contact information and expiration  
20 dates of special certificates with the department of social and  
21 health services.

22 NEW SECTION. Sec. 4. A new section is added to chapter 71A.10  
23 RCW to read as follows:

24 (1) To the extent consistent with federal law and federal funding  
25 requirements, the department must prioritize individuals, utilizing  
26 the expiration dates of the special certificates, for the provision  
27 of individual technical assistance to an individual, prior to the  
28 expiration date of the individual's special certificate, and may  
29 utilize the individual technical assistance to allow for an effective  
30 transition into at least minimum wage employment or other services.

31 (2) Subject to the availability of amounts appropriated for this  
32 specific purpose, the department must work with contracted providers  
33 to expand employment and day services to individuals leaving special  
34 certificate employment, including but not limited to providing  
35 individual technical assistance and individual supported employment  
36 services to individuals leaving special certificate employment.

37 (3) Prior to the expiration date of the individual's special  
38 certificate, the department must provide written and verbal  
39 notification to the individual and their legal representatives

1 informing them of all available waiver services and the processes for  
2 the individual to identify, transition to, and request any of the  
3 available waiver services.

4 NEW SECTION. **Sec. 5.** (1) By October 1, 2021, the department of  
5 labor and industries, in collaboration with the department of social  
6 and health services' developmental disabilities administration and  
7 division of vocational rehabilitation, must submit a report to the  
8 appropriate committees of the legislature with the following  
9 information:

10 (a) The number of special certificates remaining;

11 (b) The number of individuals who were employed under a special  
12 certificate who have contacted the department of social and health  
13 services to receive individual technical assistance and other  
14 services provided by the department of social and health services'  
15 developmental disabilities administration or division of vocational  
16 rehabilitation and the assistance and services that were provided;  
17 and

18 (c) The number of individuals who continued to be employed after  
19 the expiration of the individual's special certificate, a description  
20 of employment or other services, including services under chapter  
21 71A.12 RCW, if any, that were provided to those individuals, and  
22 other services provided by the department of social and health  
23 services' developmental disabilities administration or division of  
24 vocational rehabilitation and the assistance and services that were  
25 provided.

26 (2) The report must be provided annually until all remaining  
27 special certificates have expired.

28 (3) This section expires December 1, 2024.

Passed by the Senate February 18, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

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