

EFFECT:

- Removes a provision prohibiting holders of a salon/shop license from leasing, subleasing, or providing space at a licensed location to any person for providing cosmetology or hair design as part of a separate business.
- Repeals the exclusion of cosmetologist and barber booth renters from the definition of employment for the purposes of unemployment insurance.
- Adds barbering booth renters to the list of booth renters no longer considered independent contractors for the purposes of the business and occupation tax.

1 AN ACT Relating to booth rental agreements; amending RCW
2 51.12.020 and 82.04.360; creating a new section; repealing RCW
3 50.04.225; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that broad
6 exemptions for businesses structured using booth renters deny
7 individuals eligibility for unemployment insurance and industrial
8 insurance, and give businesses that use booth renters an unfair
9 competitive advantage. Therefore, the legislature intends to
10 encourage a competitive marketplace by removing these broad
11 exemptions for businesses that rely on booth renters.

12 **Sec. 2.** RCW 51.12.020 and 2015 c 236 s 4 are each amended to
13 read as follows:

14 The following are the only employments which shall not be
15 included within the mandatory coverage of this title:

16 (1) Any person employed as a domestic servant in a private home
17 by an employer who has less than two employees regularly employed
18 forty or more hours a week in such employment.

19 (2) Any person employed to do gardening, maintenance, or repair,
20 in or about the private home of the employer. For the purposes of

1 this subsection, "maintenance" means the work of keeping in proper
2 condition, "repair" means to restore to sound condition after damage,
3 and "private home" means a person's place of residence.

4 (3) A person whose employment is not in the course of the trade,
5 business, or profession of his or her employer and is not in or about
6 the private home of the employer.

7 (4) Any person performing services in return for aid or
8 sustenance only, received from any religious or charitable
9 organization.

10 (5) Sole proprietors or partners.

11 (6) Any child under eighteen years of age employed by his or her
12 parent or parents in agricultural activities on the family farm.

13 (7) Jockeys while participating in or preparing horses for race
14 meets licensed by the Washington horse racing commission pursuant to
15 chapter 67.16 RCW.

16 (8) (a) Except as otherwise provided in (b) of this subsection,
17 any bona fide officer of a corporation voluntarily elected or
18 voluntarily appointed in accordance with the articles of
19 incorporation or bylaws of the corporation, who at all times during
20 the period involved is also a bona fide director, and who is also a
21 shareholder of the corporation. Only such officers who exercise
22 substantial control in the daily management of the corporation and
23 whose primary responsibilities do not include the performance of
24 manual labor are included within this subsection.

25 (b) Alternatively, a corporation that is not a "public company"
26 as defined in RCW 23B.01.400 may exempt eight or fewer bona fide
27 officers, who are voluntarily elected or voluntarily appointed in
28 accordance with the articles of incorporation or bylaws of the
29 corporation and who exercise substantial control in the daily
30 management of the corporation, from coverage under this title without
31 regard to the officers' performance of manual labor if the exempted
32 officer is a shareholder of the corporation, or may exempt any number
33 of officers if all the exempted officers are related by blood within
34 the third degree or marriage. If a corporation that is not a "public
35 company" elects to be covered under (a) of this subsection (~~((8)(a)~~
36 ~~of this section)~~), the corporation's election must be made on a form
37 prescribed by the department and under such reasonable rules as the
38 department may adopt.

39 (c) Determinations respecting the status of persons performing
40 services for a corporation shall be made, in part, by reference to

1 Title 23B RCW and to compliance by the corporation with its own
2 articles of incorporation and bylaws. For the purpose of determining
3 coverage under this title, substance shall control over form, and
4 mandatory coverage under this title shall extend to all workers of
5 this state, regardless of honorary titles conferred upon those
6 actually serving as workers.

7 (d) A corporation may elect to cover officers who are exempted by
8 this subsection in the manner provided by RCW 51.12.110.

9 (9) Services rendered by a musician or entertainer under a
10 contract with a purchaser of the services, for a specific engagement
11 or engagements when such musician or entertainer performs no other
12 duties for the purchaser and is not regularly and continuously
13 employed by the purchaser. A purchaser does not include the leader of
14 a group or recognized entity who employs other than on a casual basis
15 musicians or entertainers.

16 (10) Services performed by a newspaper vendor, carrier, or
17 delivery person selling or distributing newspapers on the street, to
18 offices, to businesses, or from house to house and any freelance news
19 correspondent or "stringer" who, using his or her own equipment,
20 chooses to submit material for publication for free or a fee when
21 such material is published.

22 (11) Services performed by an insurance producer, as defined in
23 RCW 48.17.010, or a surplus line broker licensed under chapter 48.15
24 RCW.

25 ~~(12) ((Services performed by a booth renter. However, a person
26 exempted under this subsection may elect coverage under RCW
27 51.32.030.~~

28 ~~(13))~~ Members of a limited liability company, if either:

29 (a) Management of the company is vested in its members, and the
30 members for whom exemption is sought would qualify for exemption
31 under subsection (5) of this section were the company a sole
32 proprietorship or partnership; or

33 (b) Management of the company is vested in one or more managers,
34 and the members for whom the exemption is sought are managers who
35 would qualify for exemption under subsection (8) of this section were
36 the company a corporation.

37 ~~((14))~~ (13) A driver providing commercial transportation
38 services as defined in RCW 48.177.005. The driver may elect coverage
39 in the manner provided by RCW 51.32.030.

1 ((~~15~~)) (14) For hire vehicle operators under chapter 46.72 RCW
2 who own or lease the for hire vehicle, chauffeurs under chapter
3 46.72A RCW who own or lease the limousine, and operators of taxicabs
4 under chapter 81.72 RCW who own or lease the taxicab. An owner or
5 lessee may elect coverage in the manner provided by RCW 51.32.030.

6 **Sec. 3.** RCW 82.04.360 and 2010 1st sp.s. c 23 s 702 are each
7 amended to read as follows:

8 (1) This chapter does not apply to any person in respect to his
9 or her employment in the capacity of an employee or servant as
10 distinguished from that of an independent contractor. For the
11 purposes of this section, the definition of employee includes those
12 persons that are defined in section 3121(d)(3)(B) of the federal
13 internal revenue code of 1986, as amended through January 1, 1991.

14 (2) Until July 1, 2010, this chapter does not apply to amounts
15 received by an individual from a corporation as compensation for
16 serving as a member of that corporation's board of directors.
17 Beginning on July 1, 2010, such amounts are taxable under RCW
18 82.04.290(2).

19 (3) A booth renter is an independent contractor solely for
20 purposes of this chapter. For purposes of this section, "booth
21 renter" means any person who:

22 (a) Performs ((cosmetology, ~~barbering,~~) esthetics((~~7~~)) or
23 manicuring services for which a license is required under chapter
24 18.16 RCW; and

25 (b) Pays a fee for the use of salon or shop facilities and
26 receives no compensation or other consideration from the owner of the
27 salon or shop for the services performed.

28 NEW SECTION. **Sec. 4.** RCW 50.04.225 (Employment—Barber and
29 cosmetology services) and 1991 c 324 s 17, 1985 c 7 s 117, & 1982 1st
30 ex.s. c 18 s 20 are each repealed.

31 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2020.

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