

PROPOSED SUBSTITUTE HB 1515 (H-1897.1/19)
By Representative Sells

Original bill:

- Creates the Employee Fair Classification Act, which creates new provisions prohibiting the misclassification of employees as independent contractors and creates remedies, including civil penalties and damages.
- Defines "independent contractor" for purposes of the Employee Fair Classification Act and establishes the same definition for purposes of the Minimum Wage Act, unemployment insurance, industrial insurance, and other employment laws.
- Eliminates the statutory exemption from industrial insurance for taxi drivers and drivers providing commercial transportation services.

Proposed substitute compared to original bill:

- Strikes the underlying bill and creates a workgroup on employee classification.
- Provides that the workgroup is composed of four legislators, one from each major caucus of the House and Senate, and five members appointed by each of the Association of Washington Business and the Washington Labor Council.
- Provides that the Department of Labor and Industries (L&I) and the Employment Security Department each have one non-voting member. The members select co-chairs from among the workgroup membership.
- Provides that the L&I provides staff support to the workgroup.
- Directs the workgroup to review the elements of classification by:
 - Examining ways to adopt unified employee and independent contractor definitions, which must assure no general loss of worker rights, protections, and social insurance;
 - Considering the classification of specific industries as exempt under specified laws; and
 - Examining any need for changes to agency practices to ensure classifications are enforced.
- Requires the workgroup to report its findings and any recommendations to the appropriate committees of the Legislature by November 15, 2019. The findings must include problem statements submitted by members, options for unified definitions and exemptions and an analysis of the impact of proposals on affected industries and workers, and the impact of broad inclusions or exclusions on workers.
- Provides that a majority of the work group may agree to continue to work until December 1, 2020.

1 AN ACT Relating to simplifying, clarifying, and making consistent
2 employee status under industrial insurance laws, prevailing wage
3 laws, wage deduction laws, wage payment laws, minimum wage laws, and
4 unemployment compensation laws, and creating the employee fair
5 classification act; creating a new section; and providing an
6 expiration date.

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

8 NEW SECTION. **Sec. 1.** (1)(a) A work group on employee
9 classification is established, with members as provided in this
10 subsection, to examine questions regarding worker classifications as
11 employees, independent contractors, or exempt from coverage under
12 various laws.

13 (i) The president of the senate shall appoint one member from
14 each of the two largest caucuses of the senate.

15 (ii) The speaker of the house of representatives shall appoint
16 one member from each of the two largest caucuses of the house of
17 representatives.

18 (iii) The Washington state labor council and the association of
19 Washington business shall each appoint five members.

20 (iv) The department of labor and industries and the employment
21 security department each have one nonvoting member.

1 (b) The members shall select cochairs from among the work group
2 membership. The department of labor and industries shall convene the
3 first meeting and provide staff support for the work group.

4 (2) The work group shall review the elements of classification
5 by:

6 (a) Examining ways to adopt unified employee and independent
7 contractor definitions for purposes of fair classification under laws
8 administered by the department of labor and industries and the
9 employment security department. The ways identified must assure no
10 general loss of worker rights, protections, and social insurance;

11 (b) Considering the classification of specific industries as
12 exempt under the minimum wage act, unemployment insurance, industrial
13 insurance, and related laws the work group deems appropriate to
14 consider;

15 (c) Examining any need for changes to agency practices to ensure
16 classifications are enforced.

17 (3) The work group shall report its findings to the appropriate
18 committees of the legislature by November 15, 2019. The findings
19 shall include problem statements submitted by members, options for
20 unified employee and independent contractor definitions and
21 exemptions, and an analysis of the impact of proposals on affected
22 industries and specific groups of workers, and the impact of broad
23 inclusions or exclusions of groups of workers. The work group may
24 also submit recommendations.

25 (4) If a majority of the voting members of the work group agrees,
26 the work group may continue its work until December 15, 2020, at
27 which time the work group shall report additional findings and any
28 additional recommendations.

29 (5) Legislative members of the work group are reimbursed for
30 travel expenses in accordance with RCW 44.04.120. Nonlegislative
31 members are not entitled to be reimbursed for travel expenses if they
32 are elected officials or are participating on behalf of an employer,
33 governmental entity, or other organization. Any reimbursement for
34 other nonlegislative members is subject to chapter 43.03 RCW.

35 (6) This act expires June 30, 2021.

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