

SB 444 Jason Small

Generally revise labor laws related to work-based learning

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[SB0444.pdf \(mt.gov\)](#)

SB 444 amends section 39-3-406, MCA,

This act revises laws related to work-based learning (WBL) programs. It requires written agreements for WBL qualifications for exemption from certain wage laws.

Work-based Learning Written Agreements:

1. WBL plans agreements must include agreement executed by:
 - The pupil and the pupil's parent or guardian,
 - The school in which the pupil is enrolled, and
 - The WBL partner
2. WBL plan must include:
 - Prioritization of the pupil's academic commitments corresponding to the academic calendar and pupil's course schedule;
 - Periodic assessment;
 - A description of how the pupil's classroom activities and on-the-job experiences will be planned and supervised;
 - A designation of the academic credit that will be awarded to the pupil through the WBL experience.
3. To qualify for exclusion under 39-3-406(1)(a), the agreement must also contain:
 - A clear statement that there is no expectation of compensation;
 - A confirmation that the pupil's involvement in the WBL experience complements, rather than displaces, the work of paid employees while providing significant educational benefits; and
 - A provision confirming that the WBL experience is conducted without entitlement to a paid job at the conclusion of the experience.

Exclusions (Section 39-3-406, MCA amendment):

1. The provisions of 39-3-404 and 39-3-405 do not apply with respect to:
 - Students participating in a distributive education program;

- Persons employed in private homes whose duties consist of menial chores;
- Persons employed directly by the head of a household to care for children dependent upon the head of the household;
- Immediate members of the family of an employer or persons dependent upon an employer for half or more of their support in the customary sense of being a dependents;
- Persons who are not regular employees of a nonprofit organization and who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis;
- Persons with disabilities engaged in work that is incidental to training or evaluation programs or whose earning capacity is so severely impaired that they are unable to engage in competitive employment;
- Apprentices or learners, who may be exempted by the commissioner for a period not to exceed 30 days of their employment;
- Learners under the age of 18 who are employed as farm workers, provided that the exclusion may not exceed 180 days from their initial date of employment and further provided that during this exclusion period, wages paid the learners may not be less than 50% of the minimum wage rate established in this part;
- Retired or semiretired persons performing part-time incidental work as a condition of their residence on a farm or ranch;
- An individual employed in a bona fide executive, administrative, or professional capacity, a computer systems analyst, computer programmer, software engineer, network administrator, or other similarly skilled computer employee who earns not less than \$27.63 an hour, or an individual employed in an outside sales capacity pursuant;
- An individual employed by the United States of America;
- Resident managers employed in lodging establishments or assisted living facilities who, under the terms of their employment, live in the establishment or facility;
- A direct seller;
- A person placed as a participant in a public assistance program for the purpose of developing employment skills;
- A person serving as a foster parent providing care without wage compensation to no more than six foster children in the provider's own residence;

- An employee employed in domestic service employment to provide companionship services or respite care for individuals who, because of age or infirmity, are unable to care for themselves;
- An employee of a seasonal nonprofit establishment that is an organized camp or religious or educational conference center; or
- A student enrolled at a postsecondary educational institution who assists with the implementation of student housing programs and receives full or partial remuneration in the form of free or reduced housing in a university or campus-owned housing facility.

2. The provisions of 39-3-405 do not apply to:

- An employee with respect to whom the United States secretary of transportation has power to establish qualifications and maximum hours of service;
- An employee of an employer subject to the provisions of part I of the Interstate Commerce Act;
- An individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;
- A salesperson, parts person, or mechanic paid on a commission or contract basis and primarily engaged in selling or servicing automobiles, trucks, mobile homes, recreational vehicles, or farm implements;
- A salesperson primarily engaged in selling trailers, boats, or aircraft if the salesperson is employed by a nonmanufacturing establishment;
- A salesperson paid on a commission or contract basis who is primarily engaged in selling advertising for a radio or television station employer;
- An employee employed as a driver or driver's helper making local deliveries who is compensated for the employment on the basis of trip rates or other delivery payment plan;
- An employee employed in agriculture or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways that are not owned or operated for profit, that are not operated on a sharecrop basis, and that are used exclusively for supply and storing of water for agricultural purposes;
- An employee employed in agriculture by a farmer, notwithstanding other employment of the employee in connection with livestock auction operations in which the farmer is engaged as an adjunct to the raising of livestock, either alone or in conjunction with other farmers;

- An employee of an establishment commonly recognized as a country elevator, including an establishment that sells products and services used in the operation of a farm if no more than five employees;
- A driver employed by an employer engaged in the business of operating taxicabs;
- An employee who is employed with the employee's spouse by a nonprofit educational institution to serve as the parents of children who are orphans or one of whose natural parents is deceased or who are enrolled in the institution and reside in residential facilities of the institution;
- An employee employed in planting or tending trees; cruising, surveying, or felling timber; or transporting logs or other forestry products to a mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed eight;
- An employee of a sheriff's office who is working under an established work period in lieu of a workweek;
- An employee of a municipal or county government who is working under a work period not exceeding 40 hours in a 7-day period established through a collective bargaining agreement;
- An employee of a hospital or other establishment primarily engaged in the care of the sick, disabled, aged, or mentally ill or disordered who is working under a work period not exceeding 80 hours in a 14- day period established through collective bargaining;
- A firefighter who is working under a work period established in a collective bargaining agreement;
- An officer or other employee of a police department in a city of the first or second class who is working under a work period established by the chief of police;
- An employee of a department of public safety working under a work period;
- An employee of a retail establishment if the employee's regular rate of pay exceeds 1 1/2 times the minimum hourly rate applicable under the Fair Labor Standards Act;
- A person employed as a guide, cook, camp tender, outfitter's assistant, or livestock handler by a licensed outfitter;

- An employee employed as a radio announcer, news editor, or chief engineer by an employer in a second- or third-class city or a town;
- An employee of the consolidated legislative branch;
- An employee of the state or its political subdivisions employed, at the employee's option, on an occasional or sporadic basis in a capacity other than the employee's regular occupation.
- An employee of an air carrier, whose hours worked in excess of 40 hours in a workweek were not required by the air carrier but were arranged through a voluntary agreement among employees to trade scheduled work hours.