
SENATE BILL 6540

State of Washington

53rd Legislature

1994 Regular Session

By Senators L. Smith, Anderson, Moyer, Hochstatter, Prince, Oke, McDonald and Sellar

Read first time 01/26/94. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to child labor; amending RCW 49.12.121, 49.12.105,
2 49.12.185, 49.12.390, 49.12.410, and 49.12.005; adding new sections to
3 chapter 49.12 RCW; creating a new section; prescribing penalties; and
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Juvenile crime has grown at an alarming rate;

8 (2) Statistics show that juveniles who work have fewer criminal
9 convictions than those who do not;

10 (3) Employment opportunities for juveniles teach them
11 responsibility, prepare them for self-sufficiency after they leave
12 home, and serve a valuable function for the employer community;

13 (4) Increasing opportunities for employment for juveniles is an
14 important factor in addressing juvenile justice issues; and

15 (5) Every opportunity must be taken to permit juveniles to take
16 advantage of increased opportunities for employment.

17 **Sec. 2.** RCW 49.12.121 and 1993 c 294 s 9 are each amended to read
18 as follows:

1 (1) The department may at any time inquire into wages, hours, and
2 conditions of labor of minors employed in any trade, business, or
3 occupation in the state of Washington (~~(and may adopt special rules for~~
4 ~~the protection of the safety, health, and welfare of minor employees.~~
5 ~~However, the rules may not limit the hours per day or per week, or~~
6 ~~other specified work period, that may be worked by minors who are~~
7 ~~emancipated by court order)).~~

8 (2) The department shall issue work permits to employers for the
9 employment of minors, after being assured the proposed employment of a
10 minor meets the standards for the health, safety, and welfare of minors
11 as set forth in (~~(the rules adopted by the department))~~ sections 3
12 through 6 of this act. No minor person shall be employed in any
13 occupation, trade, or industry subject to (~~(this 1973 amendatory act))~~
14 chapter 16, Laws of 1973 2nd ex. sess., unless a work permit has been
15 properly issued, with the consent of the parent, guardian, or other
16 person having legal custody of the minor and with the approval of the
17 school which such minor may then be attending. However, the consent of
18 a parent, guardian, or other person, or the approval of the school
19 which the minor may then be attending, is unnecessary if the minor is
20 emancipated by court order.

21 (3) The minimum wage for minors shall be as prescribed in RCW
22 49.46.020.

23 NEW SECTION. Sec. 3. (1) Minors under age sixteen may not be
24 employed: (a) During school hours except by special permission from
25 school officials as outlined in RCW 28A.225.010 and 28A.225.080; (b)
26 before 7:00 a.m. or after 7:00 p.m. during the school year; or (c)
27 after 9:00 p.m. during the summer vacation season.

28 (2) Minors under age sixteen may not be employed more than three
29 hours per day on school days nor more than eighteen hours per week
30 during school weeks.

31 (3) No minor may be employed more than forty hours per week during
32 school weeks.

33 (4) No minor may be employed more than eight hours per day nor more
34 than five days in any one week. Minors employed past 8:00 p.m. in
35 service occupations shall be supervised by a responsible adult who is
36 required to be on the premises.

1 (5) On nights preceding a school day, no minor may be employed on
2 any two consecutive nights later than 9:00 p.m. or ten hours prior to
3 his or her first scheduled school class, whichever is later.

4 (6) No minor may be employed more than five hours without a meal
5 period of at least thirty minutes.

6 (7) Every minor employee shall be given a rest period of at least
7 ten minutes in every four-hour period of employment.

8 NEW SECTION. **Sec. 4.** (1) The following employments are prohibited
9 for all minors, unless specifically permitted in the text of the
10 hazardous occupations orders in nonagricultural occupations of the
11 child labor provisions of the federal fair labor standards act:

12 (a) Occupations in or about plants or establishments manufacturing
13 or storing explosives or articles containing explosive components;

14 (b) Occupations involving regular driving of motor vehicles.
15 Occasional driving is permissible if: (i) The minor has a valid state
16 driver's license for the type of driving involved, (ii) driving is
17 restricted to daylight hours, (iii) vehicle gross weight is under six
18 thousand pounds, (iv) the minor has completed a state-approved driver
19 education course, and (v) seat belts are provided in the vehicle and
20 the minor has been instructed to use them;

21 (c) All mining operations;

22 (d) Logging occupations and occupations in the operation of any
23 sawmill, lath mill, shingle mill, or cooperage-stock mill;

24 (e) Occupations involving operation of power-driven woodworking
25 machines, power-driven metal-forming punching and shearing machines,
26 power-driven bakery machines, power-driven paper products machines,
27 circular saws, band saws and guillotine shears, elevators, and other
28 power-driven hoisting apparatus;

29 (f) Occupations involving potential exposure to radioactive
30 substances and to ionizing radiations;

31 (g) Occupations involving slaughtering, meatpacking, or processing
32 and rendering;

33 (h) Occupations involving wrecking, demolition, and ship breaking
34 operations;

35 (i) All roofing operations;

36 (j) Occupations involving excavations;

37 (k) Occupations involving manufacturing of brick, tile, and kindred
38 products.

1 (2) The following types of work are prohibited for all minors:

2 (a) Work involving operation of or working in proximity to
3 earthmoving machines, cranes, garbage compactors, or other heavy
4 equipment of similar nature;

5 (b) Work in establishments or workplaces being picketed during the
6 course of a labor dispute;

7 (c) Work as a nurse's aide, unless the minor is a student in a bona
8 fide nursing program or has successfully completed such a program;

9 (d) Work as a maid or bellhop in motels or hotels, unless the minor
10 is accompanied by a responsible adult whenever the work requires the
11 minor to enter assigned guest rooms;

12 (e) Work in shooting galleries, penny arcades, sauna-massage
13 parlors, or body painting studios.

14 NEW SECTION. **Sec. 5.** Employment of minors under age sixteen is
15 subject to the following additional restrictions. They are prohibited
16 from working:

17 (1) In any manufacturing occupation;

18 (2) In any processing operations such as filleting of fish,
19 dressing poultry, cracking nuts, commercial processing, canning,
20 freezing, or drying of foods, laundering as performed by commercial
21 laundries, and dry cleaning;

22 (3) In work rooms or workplaces where goods are manufactured,
23 mined, or otherwise processed;

24 (4) In any public messenger service;

25 (5) In occupations connected with transportation, warehouse and
26 storage, communications and public utilities, or construction. Office
27 or sales work related to these occupations is permitted if none of the
28 minor's work is performed on the transportation media or construction
29 site;

30 (6) In occupations requiring operation or tending of any power-
31 driven machinery or hoisting apparatus;

32 (7) In the following specific areas of retail, food service, or
33 gasoline service station operations:

34 (a) Work performed in or about boiler or engine rooms;

35 (b) Maintenance or repair work;

36 (c) Outside window washing or other work requiring the worker to be
37 positioned at higher than ground level;

38 (d) Cooking and baking;

1 (e) Operating, setting up, adjusting, cleaning, oiling, or
2 repairing power-driven food slicers and grinders, food choppers and
3 cutters, and bakery-type mixers;

4 (f) Work in freezers, meat coolers, and all work in preparing meat
5 for sale. Wrapping, sealing, labeling, weighing, pricing, and stocking
6 are permitted if work is performed away from meat-cutting and
7 preparation areas;

8 (g) Loading and unloading goods to or from trucks, railroad cars,
9 or conveyors.

10 NEW SECTION. **Sec. 6.** (1) The employer is responsible for
11 obtaining and keeping on file the following information concerning each
12 minor employee:

13 (a) Proof of age by means of a copy of one of the following: (i)
14 Birth certificate, (ii) driver's license, (iii) baptismal record, (iv)
15 bible record, (v) insurance policy at least one year old indicating
16 birth date, or (vi) witnessed statement of parent or guardian;

17 (b) Personal data relating to the minor, including name, address,
18 and sex;

19 (c) Description of employment, including each of the following:
20 Earliest and latest hours of employment, description of specific meal
21 and rest periods, and complete description of duties;

22 (d) Parental authorization for employment by signature of parent or
23 guardian on a form provided by the department;

24 (e) School authorization for employment, during any part of the
25 school year, on a form provided by the department.

26 (2) The employer shall make any or all of the above information
27 available to the department or any of its authorized agents upon
28 request.

29 **Sec. 7.** RCW 49.12.105 and 1973 2nd ex.s. c 16 s 8 are each amended
30 to read as follows:

31 An employer may apply to the ~~((committee))~~ department for an order
32 for a variance from any ~~((rule or regulation establishing a))~~ standard
33 for wages, hours, or conditions of labor ~~((promulgated by the~~
34 ~~committee))~~ established under this chapter. The ~~((committee))~~
35 department shall issue an order granting a variance if it determines or
36 decides that the applicant for the variance has shown good cause for
37 the lack of compliance. Any order so issued shall prescribe the

1 conditions the employer must maintain, and the practices, means,
2 methods, operations, standards and processes which ((he)) the employer
3 must adopt and utilize to the extent they differ from the standard in
4 question. At any time the ((committee)) department may terminate and
5 revoke such order, provided the employer was notified by the
6 ((committee)) department of the termination at least thirty days prior
7 to said termination.

8 **Sec. 8.** RCW 49.12.185 and 1973 2nd ex.s. c 16 s 17 are each
9 amended to read as follows:

10 ((~~This 1973 amendatory act~~)) Chapter 16, Laws of 1973 2nd ex. sess.
11 and sections 3 through 6 of this act shall not apply to newspaper
12 vendors or carriers and domestic or casual labor in or about private
13 residences and agricultural labor as defined in RCW 50.04.150(~~, as now~~
14 ~~or hereafter amended~~)).

15 **Sec. 9.** RCW 49.12.390 and 1991 c 303 s 3 are each amended to read
16 as follows:

17 (1)(a) Except as otherwise provided in subsection (2) of this
18 section, if the director, or the director's designee, finds that an
19 employer has violated any of the requirements of RCW 49.12.121 ((~~or~~)),
20 49.12.123, sections 3 through 6 of this act, or a rule or order adopted
21 or variance granted under RCW 49.12.121 ((~~or~~)), 49.12.123, or sections
22 3 through 6 of this act, a citation stating the violations shall be
23 issued to the employer. The citation shall be in writing, describing
24 the nature of the violation including reference to the standards,
25 rules, or orders alleged to have been violated. An initial citation
26 for failure to comply with RCW 49.12.123, section 6 of this act, or
27 rules requiring a minor work permit and maintenance of records shall
28 state a specific and reasonable time for abatement of the violation to
29 allow the employer to correct the violation without penalty. The
30 director or the director's designee may establish a specific time for
31 abatement of other nonserious violations in lieu of a penalty for first
32 time violations. The citation and a proposed penalty assessment shall
33 be given to the highest management official available at the workplace
34 or be mailed to the employer at the workplace. In addition, the
35 department shall mail a copy of the citation and proposed penalty
36 assessment to the central personnel office of the employer. Citations

1 issued under this section shall be posted at or near the place where
2 the violation occurred.

3 (b) Except when an employer corrects a violation as provided in (a)
4 of this subsection, he or she shall be assessed a civil penalty of not
5 more than one thousand dollars depending on the size of the business
6 and the gravity of the violation. The employer shall pay the amount
7 assessed within thirty days of receipt of the assessment or notify the
8 director of his or her intent to appeal the citation or the assessment
9 penalty as provided in RCW 49.12.400.

10 (2) If the director, or the director's designee, finds that an
11 employer has committed a serious or repeated violation of the
12 requirements of RCW 49.12.121 ~~((or))~~, 49.12.123, sections 3 through 6
13 of this act, or any rule or order adopted or variance granted under RCW
14 49.12.121 ~~((or))~~, 49.12.123, or sections 3 through 6 of this act, the
15 employer is subject to a civil penalty of not more than one thousand
16 dollars for each day the violation continues. For the purposes of this
17 subsection, a serious violation shall be deemed to exist if death or
18 serious physical harm has resulted or is imminent from a condition that
19 exists, or from one or more practices, means, methods, operations, or
20 processes that have been adopted or are in use by the employer, unless
21 the employer did not, and could not with the exercise of reasonable
22 diligence, know of the presence of the violation.

23 (3) In addition to any other authority provided in this section,
24 if, upon inspection or investigation, the director, or director's
25 designee, believes that an employer has violated RCW 49.12.121 ~~((or))~~,
26 49.12.123, sections 3 through 6 of this act, or a rule or order adopted
27 or variance granted under RCW 49.12.121 ~~((or))~~, 49.12.123, or sections
28 3 through 6 of this act, and that the violation creates a danger from
29 which there is a substantial probability that death or serious physical
30 harm could result to a minor employee, the director, or director's
31 designee, may issue an order immediately restraining the condition,
32 practice, method, process, or means creating the danger in the
33 workplace. An order issued under this subsection may require the
34 employer to take steps necessary to avoid, correct, or remove the
35 danger and to prohibit the employment or presence of a minor in
36 locations or under conditions where the danger exists.

37 (4) An employer who violates any of the posting requirements of RCW
38 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed

1 a civil penalty of not more than one hundred dollars for each
2 violation.

3 (5) A person who gives advance notice, without the authority of the
4 director, of an inspection to be conducted under this chapter shall be
5 assessed a civil penalty of not more than one thousand dollars.

6 (6) Penalties assessed under this section shall be paid to the
7 director and deposited into the general fund.

8 **Sec. 10.** RCW 49.12.410 and 1991 c 303 s 5 are each amended to read
9 as follows:

10 An employer who knowingly or recklessly violates the requirements
11 of RCW 49.12.121 ~~((or))~~, 49.12.123, sections 3 through 6 of this act,
12 or a rule or order adopted under RCW 49.12.121 ~~((or))~~, 49.12.123, or
13 sections 3 through 6 of this act, is guilty of a gross misdemeanor. An
14 employer whose practices in violation of the requirements of RCW
15 49.12.121 ~~((or))~~, 49.12.123, sections 3 through 6 of this act, or a
16 rule or order adopted under RCW 49.12.121 ~~((or))~~, 49.12.123, or
17 sections 3 through 6 of this act, result in the death or permanent
18 disability of a minor employee is guilty of a class C felony.

19 **Sec. 11.** RCW 49.12.005 and 1988 c 236 s 8 are each amended to read
20 as follows:

21 For the purposes of this chapter:

22 (1) The term "department" means the department of labor and
23 industries.

24 (2) The term "director" means the director of the department of
25 labor and industries, or his or her designated representative.

26 (3) The term "employer" means any person, firm, corporation,
27 partnership, business trust, legal representative, or other business
28 entity which engages in any business, industry, profession, or activity
29 in this state and employs one or more employees and for the purposes of
30 RCW 49.12.270 through 49.12.295 also includes the state, any state
31 institution, any state agency, political subdivisions of the state, and
32 any municipal corporation or quasi-municipal corporation.

33 (4) The term "employee" means an employee who is employed in the
34 business of his or her employer whether by way of manual labor or
35 otherwise.

36 (5) The term "conditions of labor" shall mean and include the
37 conditions of rest and meal periods for employees including provisions

1 for personal privacy, practices, methods and means by or through which
2 labor or services are performed by employees and includes bona fide
3 physical qualifications in employment, but shall not include conditions
4 of labor otherwise governed by statutes and rules and regulations
5 relating to industrial safety and health administered by the
6 department.

7 (6) (~~For the purpose of this 1973 amendatory act a~~) The term
8 "minor" (~~is defined to be~~) means a person of either sex under the age
9 of eighteen years.

10 (7) The term "committee" shall mean the industrial welfare
11 committee.

12 NEW SECTION. Sec. 12. Sections 3 through 6 of this act are each
13 added to chapter 49.12 RCW.

14 NEW SECTION. Sec. 13. This act shall take effect July 1, 1994.

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