
SENATE BILL 5661

State of Washington

54th Legislature

1995 Regular Session

By Senators Prentice and Kohl

Read first time 01/31/95. Referred to Committee on Labor, Commerce & Trade.

1 AN ACT Relating to child labor; amending RCW 49.12.300, 49.12.310,
2 49.12.390, and 49.12.410; adding new sections to chapter 49.12 RCW;
3 creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** This act shall be known and cited as the
6 child workers' health and safety act.

7 NEW SECTION. **Sec. 2.** Despite more than a half-century of state
8 and federal laws protecting workers under eighteen years of age,
9 children continue to suffer injury, illness, and death in the
10 workplace. Child workers are at greater risk than adults.

11 Most of the deaths of child workers are due to conditions that
12 violate existing law. This suggests that employers do not take child
13 health and safety seriously enough.

14 It is the intent of the legislature to protect and assure the
15 health and safety of child workers by imposing significant civil
16 penalties and criminal liability on employers who violate Washington's
17 child labor laws.

1 In addition, the legislature intends that each child worker
2 understands her or his right to a safe work environment.

3 NEW SECTION. **Sec. 3.** (1) Each minor employee shall be provided,
4 upon employment, with a copy, in readily understandable language, of a
5 "Child Worker's Bill of Rights." The purpose of the "Child Worker's
6 Bill of Rights" is to inform the minor employee of working conditions
7 affecting health and safety. The "Child Worker's Bill of Rights" shall
8 include, at a minimum:

9 (a) The hours of employment, including an explanation of breaks,
10 mealtimes, and restroom access;

11 (b) In cases of night employment, a statement of safety precautions
12 taken by the employer to protect the minor in and around the workplace,
13 including parking facilities;

14 (c) The availability of adult supervision, specifying an adult to
15 contact with health and safety questions or concerns;

16 (d) The phone numbers to call at the department of labor and
17 industries, if the minor employee has a question or complaint;

18 (e) The availability and proper use of safety equipment, including
19 seat belt use in vehicles;

20 (f) What to do in emergencies, including attempted robberies or
21 other worksite crimes; and

22 (g) A statement of the child worker's legal right to be free from
23 sexual or other actionable harassment in the workplace, including
24 designating a responsible adult supervisor to contact if the child
25 encounters problems or has questions.

26 (2) The "Child Worker's Bill of Rights" shall be in addition to,
27 rather than in place of, any written contract, employment agreement,
28 employee or personnel manual, poster required by statute or rule, or
29 other document meant to inform workers of their rights and
30 responsibilities.

31 (3) Child workers for whom English is a second language shall be
32 provided a copy of the "Child Worker's Bill of Rights" in their native
33 language.

34 NEW SECTION. **Sec. 4.** The director may, at her or his discretion,
35 cause the department to engage in a cross-agency review, for the
36 purpose of identifying employers who have a pattern of violation of
37 other state laws and rules, including without limitation business and

1 occupation tax, licensing and registration, or environmental or
2 employment law violations.

3 Such cross-agency review shall be for the purpose of auditing
4 identified employers for child labor violations under this title.

5 **Sec. 5.** RCW 49.12.300 and 1989 c 216 s 1 are each amended to read
6 as follows:

7 (1) No person under sixteen years of age may be employed in house-
8 to-house sales unless the department grants a variance permitting
9 specific employment under criteria adopted by department rule.

10 (2) No person sixteen or seventeen years of age may be employed in
11 house-to-house sales unless the employer:

12 (a) Obtains and maintains a validated registration certificate
13 issued by the department. Application for registration shall be made
14 on a form prescribed by the director, which shall include but not be
15 limited to:

16 (i) The employer's name, permanent address, and telephone number;

17 (ii) The employer's social security number and industrial insurance
18 number or, in lieu of these numbers, the employer's unified business
19 identifier account number; and

20 (iii) A description of the work to be performed by persons aged
21 sixteen or seventeen and the working conditions under which the work
22 will be performed;

23 (b) Provides each employee sixteen or seventeen years of age,
24 before beginning work, an identification card in a form prescribed by
25 the director. The card shall include, but not be limited to, a picture
26 of the employee, the employee's name, the name and address of the
27 employer, a statement that the employer is registered with the
28 department of labor and industries, and the registration number. The
29 person employed in house-to-house sales shall show the identification
30 card to each customer or potential customer of the person;

31 (c) Ensures supervision by a person aged twenty-one years or over
32 during all working hours, with each supervisor responsible for no more
33 than five persons; and

34 (d) If transporting an employee sixteen or seventeen years of age
35 to another state, obtains the express written consent of the employee's
36 parent or legal guardian.

37 (3) An employer may not employ a person sixteen or seventeen years
38 of age in house-to-house sales after the hour of (~~nine~~) seven p.m.

1 (4) The department shall adopt by rule procedures for the renewal,
2 denial, or revocation of registrations required by this section.

3 (5) No person sixteen or seventeen years of age may be permitted or
4 required to engage in house-to-house sales unless accompanied by
5 another employee.

6 **Sec. 6.** RCW 49.12.310 and 1989 c 216 s 2 are each amended to read
7 as follows:

8 (1) Any person advertising to employ a person in house-to-house
9 sales with an advertisement specifically prescribing a minimum age
10 requirement that is under the age of twenty-one shall:

11 (a) Register with the department as provided in RCW
12 49.12.300(2)(a); and

13 (b) Include the following information in any advertisement:

14 (i) The registration number required by subsection (1)(a) of this
15 section;

16 (ii) The specific nature of the employment and the product or
17 services to be sold; and

18 (iii) The average monthly compensation paid in the previous six
19 months to new employees, taking into account any deductions made
20 pursuant to the employment contract.

21 (2) Advertising to recruit or employ a person in house-to-house
22 sales shall not be false, misleading, or deceptive.

23 (3) A violation of this section is an unfair act or practice in
24 violation of the consumer protection act, chapter 19.86 RCW. The
25 remedies and sanctions provided under chapter 19.86 RCW shall not
26 preclude application of other available remedies and sanctions
27 including the enhanced criminal penalties set forth in RCW 49.12.410.

28 (4) No publisher, radio broadcast licensee, advertising agency, or
29 agency or medium for the dissemination of an advertisement may be
30 subject to penalties by reason of dissemination of any false,
31 misleading, or deceptive advertisement, or for an advertisement that
32 fails to meet the requirements of subsection (1) of this section,
33 unless he or she has refused on the request of the director to furnish
34 the name and address of the person purchasing the advertising.

35 **Sec. 7.** RCW 49.12.390 and 1991 c 303 s 3 are each amended to read
36 as follows:

1 (1)(a) Except as otherwise provided in subsection (2) of this
2 section, if the director, or the director's designee, finds that an
3 employer has violated any of the requirements of RCW 49.12.121 (~~((or))~~)
4 49.12.123, 49.12.300, or 49.12.310, or a rule or order adopted or
5 variance granted under RCW 49.12.121 (~~((or))~~), 49.12.123, 49.12.300, or
6 49.12.310, a citation stating the violations shall be issued to the
7 employer. The citation shall be in writing, describing the nature of
8 the violation including reference to the standards, rules, or orders
9 alleged to have been violated. An initial citation for failure to
10 comply with RCW 49.12.123 or rules requiring a minor work permit and
11 maintenance of records shall state a specific and reasonable time for
12 abatement of the violation to allow the employer to correct the
13 violation without penalty. The director or the director's designee may
14 establish a specific time for abatement of other nonserious violations
15 in lieu of a penalty for first time violations. The citation and a
16 proposed penalty assessment shall be given to the highest management
17 official available at the workplace or be mailed to the employer at the
18 workplace. In addition, the department shall mail a copy of the
19 citation and proposed penalty assessment to the central personnel
20 office of the employer. Citations issued under this section shall be
21 posted at or near the place where the violation occurred.

22 (b) Except when an employer corrects a violation as provided in (a)
23 of this subsection, he or she shall be assessed a civil penalty of not
24 more than (~~(one))~~ ten thousand dollars depending on the size of the
25 business and the gravity of the violation. The employer shall pay the
26 amount assessed within thirty days of receipt of the assessment or
27 notify the director of his or her intent to appeal the citation or the
28 assessment penalty as provided in RCW 49.12.400.

29 (2) If the director, or the director's designee, finds that an
30 employer has committed a serious or repeated violation of the
31 requirements of RCW 49.12.121 or 49.12.123, or any rule or order
32 adopted or variance granted under RCW 49.12.121 or 49.12.123, the
33 employer is subject to a civil penalty of not more than (~~(one))~~ ten
34 thousand dollars for each day the violation continues. For the
35 purposes of this subsection, a serious violation shall be deemed to
36 exist if death or serious physical harm has resulted or is imminent
37 from a condition that exists, or from one or more practices, means,
38 methods, operations, or processes that have been adopted or are in use
39 by the employer, unless the employer did not, and could not with the

1 exercise of reasonable diligence, know of the presence of the
2 violation.

3 (3) In addition to any other authority provided in this section,
4 if, upon inspection or investigation, the director, or director's
5 designee, believes that an employer has violated RCW 49.12.121 or
6 49.12.123, or a rule or order adopted or variance granted under RCW
7 49.12.121 or 49.12.123, and that the violation creates a danger from
8 which there is a substantial probability that death or serious physical
9 harm could result to a minor employee, the director, or director's
10 designee, may issue an order immediately restraining the condition,
11 practice, method, process, or means creating the danger in the
12 workplace. An order issued under this subsection may require the
13 employer to take steps necessary to avoid, correct, or remove the
14 danger and to prohibit the employment or presence of a minor in
15 locations or under conditions where the danger exists.

16 (4) An employer who violates any of the posting requirements of RCW
17 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed
18 a civil penalty of not more than one (~~hundred~~) thousand dollars for
19 each violation.

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

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

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

27 An employer who knowingly or recklessly violates the requirements
28 of RCW 49.12.121 (~~(or)~~), 49.12.123, 49.12.300, or 49.12.310, or a rule
29 or order adopted under RCW 49.12.121 (~~(or)~~), 49.12.123, 49.12.300, or
30 49.12.310, is guilty of a gross misdemeanor. An employer whose
31 practices in violation of the requirements of RCW 49.12.121 (~~(or)~~),
32 49.12.123, 49.12.300, or 49.12.310, or a rule or order adopted under
33 RCW 49.12.121 (~~(or)~~), 49.12.123, 49.12.300, or 49.12.310, result in the
34 death or permanent disability of a minor employee is guilty of a class
35 (~~(C)~~) B felony.

36 In the event that the work-related death of the minor employee is
37 caused by homicide the employer is guilty of a class A felony.

1 NEW SECTION. **Sec. 9.** Sections 2 through 4 of this act are each
2 added to chapter 49.12 RCW.

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