

2 ESHB 1911 - S AMD - 468
3 By Senators Schow and Horn

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 49.12.121 and 1993 c 294 s 9 are each amended to read
8 as follows:

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

16 ~~(2))~~ Before hiring a minor or allowing a minor to work, an
17 employer that seeks to employ one or more minors must:

18 (a) Obtain, maintain, and post a valid minor work permit from the
19 department for each workplace at which minors will be employed. The
20 department shall issue work permits to employers for the employment of
21 minors((7)) after being assured the proposed employment of a minor
22 meets the standards for the health, safety, and welfare of minors as
23 set forth in this chapter and the rules adopted by the department((-
24 ~~No minor person shall be employed in any occupation, trade, or industry
25 subject to chapter 16, Laws of 1973 2nd ex. sess., unless a work permit
26 has been properly issued, with the consent of the parent, guardian, or
27 other person having legal custody of the minor and with the approval of
28 the school which such minor may then be attending. However, the
29 consent of a parent, guardian, or other person, or the approval of the
30 school which the minor may then be attending, is unnecessary if the
31 minor is emancipated by court order.~~

32 ~~(3))~~ as specified in this chapter; and

33 (b)(i) If the minor will be employed a total of twenty hours per
34 week or less during the school year, obtain a signed authorization from
35 the minor's parent, guardian, or other person having legal custody of
36 the minor indicating approval of the minor's job duties and the hours

1 of work. The employer shall send a copy of this authorization to the
2 school that the minor is attending. This authorization may not be
3 required more often than once during the school year.

4 (ii) If the minor will be employed for a total of more than twenty
5 hours per week during the school year under a variance granted under
6 subsection (4) of this section, obtain a copy of the completed approved
7 variance.

8 (2)(a) Any department requirements for employers to keep minor
9 employee personnel records must be the same as for all other employers
10 under this chapter, with the following additions, as applicable:

11 (i) A current copy of the authorization required under subsection
12 (1)(b)(i) of this section; or

13 (ii) A current copy of a variance granted under subsection (4)(b)
14 or (7) of this section or RCW 49.12.105.

15 (b) Employers may keep these records in a central location where
16 business records are regularly maintained but must make them available
17 within a reasonable time following a request by the department.

18 (3) Except as otherwise provided in this chapter, the employment of
19 a minor under the age of sixteen is restricted as follows:

20 (a) During a school week, the total number of hours worked may not
21 exceed three hours per day on a school day, eight hours per day on
22 other days, or eighteen hours per week.

23 (b) During a nonschool week, the total number of hours worked may
24 not exceed eight hours per day or forty hours per week.

25 (c) Employment may not begin before 7:00 a.m. During the school
26 year, employment must end no later than 7:00 p.m. and, during the
27 summer school vacation, employment must end no later than 9:00 p.m.

28 (d) Employment during school hours is not permitted.

29 (4)(a) Except as otherwise provided in this chapter, the hours of
30 employment for minors age sixteen and seventeen may not be restricted
31 except as follows:

32 (i) During a school week:

33 (A) The total number of hours worked may not exceed six hours per
34 day on a school day, eight hours per day on other days, or twenty hours
35 per week;

36 (B) Employment may not begin before 7:00 a.m. on a school day or
37 before 5:00 a.m. on other days; and

38 (C) Employment must end no later than 10:00 p.m. on days preceding
39 a school day and no later than midnight on other days.

1 (ii) During a nonschool week, the total number of hours worked may
2 not exceed ten hours per day or forty-eight hours per week.

3 (iii) Minors who have been issued a certificate of educational
4 competence under RCW 28A.305.190, are enrolled in a bona fide college
5 program, are named on a valid certificate of marriage, or are shown as
6 the parent on a valid certificate of birth may work as would be
7 permitted during nonschool weeks.

8 (iv) Employment during school hours is not permitted unless the
9 minor has been excused from school attendance by the minor's school
10 district superintendent or his or her authorized agent, or by the chief
11 administrator of the approved private school attended by the minor, as
12 applicable.

13 (b) A variance to (a)(i)(A) and (C) of this subsection may be
14 granted by the minor's school with concurrence of the minor's parent or
15 legal guardian to permit any of the following:

16 (i) Up to eight hours of work per day on a school day and up to
17 twenty-eight hours of work per week during the school year; and

18 (ii) Employment until 11:00 p.m. on a day preceding a school day,
19 except that working past 10:00 p.m. on two consecutive days preceding
20 school days is not permitted.

21 Variance authorization under this subsection (4)(b) may not be
22 required more often than twice during the school year: In September,
23 or whenever the variance request is made during the school year, and in
24 January of the school year. In reviewing a variance request under this
25 subsection, the official at the school with responsibility for granting
26 the variance must consult with each teacher of the minor for whom the
27 variance is sought. The department shall develop a form that the
28 school must use in granting a variance under this subsection.

29 (5) Employment of a minor after 8:00 p.m. in a service occupation
30 must be supervised by a responsible adult employee who is on the
31 premises at all times.

32 (6) Subsections (1)(b) and (3) through (5) of this section do not
33 apply to a minor who is emancipated by court order or to the employment
34 of a minor by his or her own parents or grandparents.

35 (7) The department may issue an order granting a variance to any of
36 the standards contained in subsections (3) through (5) of this section
37 if the director determines that the applicant has satisfied the
38 requirements for the granting of a variance under RCW 49.12.105.

1 (8) Minors must be given meal and rest breaks to the same extent
2 and under the same conditions as breaks are provided to all other
3 employees under department rules adopted under this chapter.

4 (9) Minors may be employed in any occupation or doing any type of
5 work other than that which is prohibited by this code or rules adopted
6 by the department. The department's rules shall be necessary to
7 protect the safety of minors and shall be adopted and enforced pursuant
8 to the authority granted under this chapter.

9 (10) In addition to the penalties under RCW 49.12.390, an employer
10 whose practices in violation of this section, or a rule or order
11 adopted under this section, result in the death or permanent disability
12 of a minor employee is subject to prosecution under the Washington
13 criminal code, Title 9A RCW.

14 (11) The minimum wage for minors shall be as prescribed in RCW
15 49.46.020.

16 (12) As used in this section:

17 (a) "School day" means a day on which a minor is required to attend
18 school pursuant to the attendance policy of the school in which the
19 minor is enrolled.

20 (b) "School hours" means the hours of a school day in which a minor
21 is required to attend school pursuant to the attendance policy of the
22 school in which the minor is enrolled.

23 (c) "School week" means a week in which there are more than two
24 scheduled school days.

25 (d) "School year" means the academic school year scheduled by
26 school officials for the school in which the minor is enrolled.

27 (e) "School" means a public school operated by the state of
28 Washington or a private school approved under chapter 28A.195 RCW.

29 NEW SECTION. Sec. 2. The following acts or parts of acts are each
30 repealed:

31 (1) RCW 49.12.123 and 1991 c 303 s 8, 1983 c 3 s 156, & 1973 c 51
32 s 3; and

33 (2) RCW 49.12.410 and 1991 c 303 s 5.

34 **Sec. 3.** RCW 49.12.170 and 1994 c 164 s 21 are each amended to read
35 as follows:

36 Except as otherwise provided in RCW 49.12.121(10) or 49.12.390 ((~~or~~
37 ~~49.12.410~~)), any employer employing any person for whom a minimum wage

1 or standards, conditions, and hours of labor have been specified, at
2 less than said minimum wage, or under standards, or conditions of labor
3 or at hours of labor prohibited by the rules and regulations of the
4 director; or violating any other of the provisions of chapter 16, Laws
5 of 1973 2nd ex. sess., shall be deemed guilty of a misdemeanor, and
6 shall, upon conviction thereof, be punished by a fine of not less than
7 twenty-five dollars nor more than one thousand dollars.

8 **Sec. 4.** RCW 49.12.390 and 1991 c 303 s 3 are each amended to read
9 as follows:

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

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

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

13 (3) In addition to any other authority provided in this section,
14 if, upon inspection or investigation, the director, or director's
15 designee, believes that an employer has violated RCW 49.12.121 (~~or~~
16 ~~49.12.123~~), or a rule or order adopted or variance granted under RCW
17 49.12.121 (~~or 49.12.123~~), and that the violation creates a danger
18 from which there is a substantial probability that death or serious
19 physical harm could result to a minor employee, the director, or
20 director's designee, may issue an order immediately restraining the
21 condition, practice, method, process, or means creating the danger in
22 the workplace. An order issued under this subsection may require the
23 employer to take steps necessary to avoid, correct, or remove the
24 danger and to prohibit the employment or presence of a minor in
25 locations or under conditions where the danger exists.

26 (4) An employer who violates any of the posting requirements of RCW
27 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed
28 a civil penalty of not more than one hundred dollars for each
29 violation.

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

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

35 **Sec. 5.** RCW 49.12.420 and 1991 c 303 s 7 are each amended to read
36 as follows:

1 The penalties established in RCW 49.12.121(10) or 49.12.390 ((and
2 49.12.410)) for violations of RCW 49.12.121 ((and ~~49.12.123~~)) are
3 exclusive remedies.

4 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 immediately."

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11 On page 1, line 1 of the title, after "minors;" strike the
12 remainder of the title and insert "amending RCW 49.12.121, 49.12.170,
13 49.12.390, and 49.12.420; repealing RCW 49.12.123 and 49.12.410; and
14 declaring an emergency."

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