

HOUSE BILL REPORT

ESHB 1911

As Passed House

March 14, 1997

Title: An act relating to the employment of minors.

Brief Description: Revising restrictions on the employment of minors.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Benson, Mastin, McMorris, Mulliken, Boldt, Sterk, Lambert, Honeyford, Smith, Mielke, Buck, Thompson, Clements, Sherstad, O'Brien, Zellinsky, Sump, Hickel, Schoesler, Koster, Delvin, Wensman, Chandler, L. Thomas, Quall, Crouse, Pennington, Huff, Grant, Talcott, D. Schmidt, D. Sommers, Sheldon and Cooke).

Brief History:

Committee Activity:

Commerce & Labor: 2/24/97, 3/3/97 [DPS].

Floor Activity:

Passed House: 3/14/97, 55-39.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements and Lisk.

Minority Report: Do not pass. Signed by 4 members: Representatives Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Cole and Hatfield.

Staff: Chris Cordes (786-7103).

Background: *The Department of Labor and Industries is authorized by statute to adopt rules establishing employment standards, including working conditions and hours of labor, for the protection of the safety, health, and welfare of employees. In addition, the department may adopt special rules for the protection of minor employees. The provisions granting this authority do not apply to agricultural labor, newspaper vending, or domestic or casual labor at private residences. Employment of minors in house-to-house sales is restricted by statute.*

The statute also requires an employer who employs minors to have a minor work permit issued by the department, with the consent of the minor's parent or guardian and the approval of the minor's school.

Until July 1, 1993, the department's rules regulating the employment of minors included the following restrictions on the hours of work:

Minors 16 or 17 years of age: A maximum of eight hours of work per day and five days per week; and no work after 9:00 p.m. on two consecutive school nights.

Minors under age 16: A maximum of three hours of work per day on school days and 18 hours per week during school weeks; a maximum of eight hours of work per day on nonschool days and five days per week; and no work before 7:00 a.m. or after 7:00 p.m., except during summer vacation when work must end by 9:00 p.m.

On July 1, 1993, revised rules providing for the employment of minors became effective. These rules include the following restrictions:

Minors 16 or 17 years of age: A maximum of four hours of work per day on a school day preceding a school day, eight hours per day on other days, 20 hours during a school week and six days per week. With a variance, these limits may be extended to a maximum of six hours of work per day on a school day preceding a school day and 28 hours per week. No work is permitted before 7:00 a.m. or after 10:00 p.m. on a school night, or after midnight on Friday, Saturday, or the day before a holiday.

During school vacations, a maximum of eight hours of work per day and 48 hours per week is permitted, for up to six days per week. Work may not start before 5:00 a.m. or end after midnight.

Minors under age 16: A maximum of three hours of work per day on a school day preceding a school day, eight hours per day on other days, 16 hours during a school week, and six days per week. During school vacations, a maximum of eight hours of work per day and 40 hours per week is permitted, up to six days per week.

No work is permitted before 7:00 a.m. or after 7:00 p.m. on a day preceding a school day. On Friday, Saturday, or a day preceding a school holiday, and during school vacations, work must end by 9:00 p.m.

The revised rules also changed the regulation of employment of minors in hazardous occupations. In addition to occupations previously prohibited, new occupations were prohibited, including:

- (1) Occupations where there is a risk of exposure to bodily fluids or transmission of infectious agents, unless minor is in health care training or is a state-certified life guard with first aid training.*
- (2) Occupations involving potential exposure to hazardous substances considered to be carcinogenic, corrosive, highly toxic, or determined to cause reproductive health effects or irreversible end organ damage, unless exposure is not greater than exposure during normal consumer use of the product.*
- (3) Employment in sauna or massage parlors, body painting or tattoo studios, or adult entertainment establishments.*

The U.S. Department of Labor has established child labor standards under the federal Fair Labor Standards Act. These standards restrict the employment of minors in certain hazardous occupations. In addition, the federal standards limit the nonagricultural employment of minors under age 16 to three hours on school days, eight hours on nonschool days, 18 hours per week during school weeks, and 40 hours per week during school vacations.

Summary of Bill:

Authority of the Department of Labor and Industries to adopt special rules.

Provisions are deleted that give the Department of Labor and Industries authority to adopt special rules for the protection of the safety, health, and welfare of minors employed in nonagricultural and other covered employments. However, the department is authorized to adopt rules determining the unreasonably hazardous occupations in which minors may not be employed (see hazardous occupations below).

Parental/school approval and recordkeeping. *If the minor will be employed 20 hours or less during the school year, the approval of the minor's parent, but not the school, is required. The parent's authorization must indicate approval of the minor's work hours and job duties. The employer must send a copy of the parent's authorization to the minor's school. This authorization may not be required more than once during the school year.*

If the minor will be employed more than 20 hours per week during the school year under a variance granted by the minor's school, the employer must keep a copy of the completed approved variance.

Employers may keep these records in a central location, but must make them available within a reasonable time after a department request. Except for these recordkeeping requirements, the requirements for employers to keep minor employee personnel records must be the same as for all other employers.

Hours of work rules for minors under age 16. *The employment of minors under the age of 16 is restricted as follows:*

- (1) During the school week, total hours of work may not exceed three hours per day on school days, eight hours per day on nonschool days, or 18 hours per week. Work during school hours is not permitted.*
- (2) During a nonschool week, total hours of work may not exceed eight hours per day or 40 hours per week.*
- (3) During the school year, work is prohibited before 7:00 a.m. and after 7:00 p.m.*
- (4) During summer vacation, work is prohibited before 7:00 a.m. and after 9:00 p.m.*

Hours of work rules for minors age 16 and 17. *For minors age 16 or 17, the hours of employment are restricted as follows:*

- (1) During a school week, total hours of work may not exceed six hours on school days, eight hours on other days, or 20 hours per week. The minor's school may grant a variance permitting up to eight hours on school days and up to 36 hours per week. Variance authorization is required in September, or when the variance request is made, and in January of the school year. In reviewing a variance request, the school official must consult with each of the minor's teachers. Work during school hours is not permitted unless the minor has been excused from school attendance.*
- (2) During school weeks, work is prohibited before 7:00 a.m. on a school day, before 5:00 a.m. on other days, after 10:00 p.m. on school nights, or after midnight on other nights. The minor's school may grant a variance permitting work until 11:00 p.m. on school nights, but working past 10:00 p.m. on two consecutive school nights is not permitted.*
- (3) During a nonschool week, total hours of work may not exceed 10 hours per day or 48 hours per week.*

- (4) *Minors who have a certificate of educational competence, who are enrolled in a college program, or who are married or a parent, may work as permitted during nonschool weeks.*

Provisions that apply to all minor employment. *If working after 8:00 p.m in service occupations, the minor must be supervised by an adult on the premises.*

Minors must be given meal and rest breaks to the same extent as is required by rule for other employees.

The department may grant a variance to any of the hours of work standards for minors if good cause is shown for lack of compliance.

Hazardous occupations. *All covered minors may be employed in any occupation except those that are prohibited by law or by department rules. The department rules must be adopted under the Washington Industrial Safety and Health Act. In adopting rules after the bill's effective date, the department may not restrict employment beyond the restrictions established in federal law, unless the department can show by substantial evidence that the restriction is necessary to protect the health and safety of minors.*

Exemptions. *The requirement for parental authorization and the hours of work restrictions do not apply to emancipated minors or minors employed by their own parents or grandparents.*

Penalties. *The provision is repealed that created a gross misdemeanor penalty for employers who knowingly or recklessly violated the statute or rules relating to minor employment. The penalty of a class C felony for employers whose practices resulted in the death or permanent disability of a minor employee is changed to make the employer subject to prosecution under the applicable criminal code.*

Other provisions. *One of two provisions requiring employers to obtain minor work permits is repealed.*

School- is defined as a public school or an approved private school. "School week" is defined as a week in which there are more than two scheduled school days. Definitions are also provided for "school day," "school hours," and "school year."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill is a compromise that tries to set reasonable work limits for the average teenager. It reduces the paperwork burden for employers and schools by eliminating school approval requirements when teenagers work less than 20 hours during a school week. It provides flexibility to meet individual teenagers' circumstances by allowing the schools to provide variances to some of the hours of work requirements. This will help provide job opportunities for at-risk youth. Recent studies indicate that moderate hours of work have a very beneficial impact on these youth. Working teaches responsibility and provides real life experience. Teachers and students are the best judge of what work schedule the student can handle. Without some flexibility on minor work rules and a reduction of the confusion surrounding these rules, most employers will continue to refuse to hire minors.

Testimony Against: While reducing the paperwork burden is a good idea, many other changes in the bill will allow more working time than studies recommend. If there are problems with the current rules, the department could bring the interested groups together to discuss modifications. However, the department's study indicated that most employers were not impacted by the new rules. The department rules were intended to provide a more bright line rule. If each student is working under a variance, the law becomes extremely difficult to enforce. The variance authority should be related to the need for work-based learning. If broader-based variances are needed, the department can authorize those variances. The department should not be limited in determining what occupations are hazardous to minors. Studies indicate that minors have a higher injury rate than adults. Going to school is a full-time job. The focus of this debate should be the quality of education.

Testified: (In support) Representative Brad Benson, prime sponsor; Representative Dave Mastin; Clif Finch, Association of Washington Business; Trevor Irish; Kit Hawkins, Washington Restaurant Association; and Didi Hitchens, National Federation of Independent Business. (Opposed) Barbara Casey, Washington State Parent-Teacher Association; Walter Ball, Association of Washington School Principals; Jeff Johnson, Ligaya Domingo, and Robby Stern, Washington State Labor Council; and Frank Leuck, Department of Labor and Industries.