
HOUSE BILL 1288

State of Washington

52nd Legislature

1991 Regular Session

By Representatives Cole, Prentice, Jones, R. King, Winsley, Leonard, Jacobsen, Wineberry and Wang; by request of Department of Labor & Industries.

Read first time January 25, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the employment of minors; amending RCW
2 49.12.170; adding new sections to chapter 49.12 RCW; creating a new
3 section; prescribing penalties; providing an effective date; and
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the future of
7 the state depends on the education and well-being of the state's
8 children. Investigations of three hundred ninety-five workplace
9 injuries to minors by the department of labor and industries indicates
10 that over forty percent of the injuries occurred at worksites not in
11 compliance with child labor laws. Almost half of the injuries that
12 resulted in time off work occurred at a worksite not in compliance with
13 child labor laws.

14 The legislature finds that employment of minors requires strict
15 adherence to standards that protect the safety and health of children

1 and ensure that their education receives top priority. The purposes of
2 this act are to protect children in the work force and provide the
3 department of labor and industries the enforcement resources necessary
4 to assure that minors are employed in accordance with the state's child
5 labor standards.

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

26 (b) Except when an employer corrects a violation as provided in (a)
27 of this subsection, he or she shall be assessed a civil penalty of not
28 more than one thousand dollars depending on the size of the business
29 and the gravity of the violation. The employer shall pay the amount

1 assessed within thirty days of receipt of the assessment or notify the
2 director of his or her intent to appeal the citation or the assessment
3 penalty as provided in section 3 of this act.

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

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

29 (4) An employer who violates any of the posting requirements of RCW
30 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 NEW SECTION. **Sec. 3.** A person, firm, or corporation aggrieved by
9 an action taken or decision made by the department under section 2 of
10 this act may appeal the action or decision to the director by filing
11 notice of the appeal with the director within thirty days of the
12 department's action or decision. A notice of appeal filed under this
13 section shall stay the effectiveness of a citation or notice of the
14 assessment of a penalty pending review of the appeal by the director,
15 but such appeal shall not stay the effectiveness of an order of
16 immediate restraint issued under section 2 of this act. Upon receipt
17 of an appeal, a hearing shall be held in accordance with chapter 34.05
18 RCW. The director shall issue all final orders after the hearing. The
19 final orders are subject to appeal in accordance with chapter 34.05
20 RCW. Orders not appealed within the time period specified in chapter
21 34.05 RCW are final and binding.

22 NEW SECTION. **Sec. 4.** An employer who knowingly or recklessly
23 violates the requirements of RCW 49.12.121 or 49.12.123, or a rule or
24 order adopted under RCW 49.12.121 or 49.12.123, is guilty of a gross
25 misdemeanor. An employer whose practices in violation of the
26 requirements of RCW 49.12.121 or 49.12.123, or a rule or order adopted
27 under RCW 49.12.121 or 49.12.123, result in the death or permanent
28 disability of a minor employee is guilty of a class C felony.

1 **Sec. 5.** RCW 49.12.170 and 1973 2nd ex.s. c 16 s 16 are each
2 amended to read as follows:

3 Except as otherwise provided in section 2 or 4 of this act, any
4 employer employing any person for whom a minimum wage or standards,
5 conditions, and hours of labor have been specified, at less than said
6 minimum wage, or under standards, or conditions of labor or at hours of
7 labor prohibited by the rules and regulations of the committee; or
8 violating any other of the provisions of this 1973 amendatory act,
9 shall be deemed guilty of a misdemeanor, and shall, upon conviction
10 thereof, be punished by a fine of not less than twenty-five dollars nor
11 more than one thousand dollars.

12 NEW SECTION. **Sec. 6.** The penalties established in sections 2 and
13 4 of this act for violations of RCW 49.12.121 and 49.12.123 are
14 exclusive remedies.

15 NEW SECTION. **Sec. 7.** Sections 2 through 4 and 6 of this act are
16 each added to chapter 49.12 RCW.

17 NEW SECTION. **Sec. 8.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and shall take
24 effect July 1, 1991.