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SENATE BILL 5558

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senators Sellar, Owen, Matson and Wojahn.

Read first time February 6, 1991. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to child labor regulation; amending RCW 49.12.121,  
2 49.12.170, and 49.12.123; adding new sections to chapter 49.12 RCW;  
3 prescribing penalties; providing an effective date; and declaring an  
4 emergency.

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

6            **Sec. 1.** RCW 49.12.121 and 1989 c 1 s 3 are each amended to read as  
7 follows:

8            (~~The committee, or the director,~~) The department may at any time  
9 inquire into wages, hours, and conditions of labor of minors employed  
10 in any trade, business or occupation in the state of Washington (~~and~~  
11 ~~may~~). The department shall, by October 1, 1991, adopt special rules  
12 for the protection of the safety, health and welfare of minor  
13 employees, that replace existing rules and are consistent with federal  
14 law governing the employment of minors. The rules shall be revised as  
15 necessary to remain consistent with federal law. The minimum wage for

1 minors shall be as prescribed in RCW 49.46.020. The committee shall  
2 issue work permits to employers for the employment of minors, after  
3 being assured the proposed employment of a minor meets the standards  
4 set forth concerning the health, safety and welfare of minors as set  
5 forth in the rules and regulations promulgated by the committee. No  
6 minor person shall be employed in any occupation, trade or industry  
7 subject to this 1973 amendatory act, unless a work permit has been  
8 properly issued, with the consent of the parent, guardian or other  
9 person having legal custody of the minor and with the approval of the  
10 school which such minor may then be attending.

11 NEW SECTION. **Sec. 2.** Upon adoption of the rules under section  
12 1 of this act, the department of labor and industries shall implement  
13 a comprehensive program to inform employers of the rules adopted. The  
14 program shall include mailings, public service announcements, seminars,  
15 and any other means deemed appropriate to inform all Washington  
16 employers of their rights and responsibilities regarding the employment  
17 of minors.

18 NEW SECTION. **Sec. 3.** (1)(a) Except as otherwise provided in  
19 subsection (2) of this section, if the director, or the director's  
20 designee, finds that an employer has violated any of the requirements  
21 of RCW 49.12.121 or 49.12.123, or a rule or order adopted or variance  
22 granted under RCW 49.12.121 or 49.12.123, a citation stating the  
23 violations shall be issued to the employer. The citation shall be in  
24 writing, describing the nature of the violation including reference to  
25 the standards, rules, or orders alleged to have been violated. An  
26 initial citation for failure to comply with RCW 49.12.123 or rules  
27 requiring a minor work permit and maintenance of records shall state a  
28 specific and reasonable time for abatement of the violation to allow

1 the employer to correct the violation without penalty. The director or  
2 the director's designee may establish a specific time for abatement of  
3 other nonserious violations in lieu of a penalty for first time  
4 violations. The citation and a proposed penalty assessment shall be  
5 given to the highest management official available at the workplace or  
6 be mailed to the employer at the workplace. In addition, the  
7 department shall mail a copy of the citation and proposed penalty  
8 assessment to the central personnel office of the employer. Citations  
9 issued under this section shall be posted at or near the place where  
10 the violation occurred.

11 (b) Except when an employer corrects a violation as provided in (a)  
12 of this subsection, he or she shall be assessed a civil penalty of not  
13 more than one thousand dollars depending on the size of the business  
14 and the gravity of the violation. The employer shall pay the amount  
15 assessed within thirty days of receipt of the assessment or notify the  
16 director of his or her intent to appeal the citation or the assessment  
17 penalty as provided in section 4 of this act.

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

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

14 (4) An employer who violates any of the posting requirements of RCW  
15 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed  
16 a civil penalty of not more than one hundred dollars for each  
17 violation.

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

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

23 NEW SECTION. **Sec. 4.** A person, firm, or corporation aggrieved  
24 by an action taken or decision made by the department under section 3  
25 of this act may appeal the action or decision to the director by filing  
26 notice of the appeal with the director within thirty days of the  
27 department's action or decision. A notice of appeal filed under this  
28 section shall stay the effectiveness of a citation or notice of the  
29 assessment of a penalty pending review of the appeal by the director,

1 but such appeal shall not stay the effectiveness of an order of  
2 immediate restraint issued under section 3 of this act. Upon receipt  
3 of an appeal, a hearing shall be held in accordance with chapter 34.05  
4 RCW. The director shall issue all final orders after the hearing. The  
5 final orders are subject to appeal in accordance with chapter 34.05  
6 RCW. Orders not appealed within the time period specified in chapter  
7 34.05 RCW are final and binding.

8 NEW SECTION. **Sec. 5.** An employer who knowingly or recklessly  
9 violates the requirements of RCW 49.12.121 or 49.12.123, or a rule or  
10 order adopted under RCW 49.12.121 or 49.12.123, is guilty of a gross  
11 misdemeanor. An employer whose practices in violation of the  
12 requirements of RCW 49.12.121 or 49.12.123, or a rule or order adopted  
13 under RCW 49.12.121 or 49.12.123, result in the death or permanent  
14 disability of a minor employee is guilty of a class C felony.

15 **Sec. 6.** RCW 49.12.170 and 1973 2nd ex.s. c 16 s 16 are each  
16 amended to read as follows:

17 Except as otherwise provided in section 3 or 5 of this act, any  
18 employer employing any person for whom a minimum wage or standards,  
19 conditions, and hours of labor have been specified, at less than said  
20 minimum wage, or under standards, or conditions of labor or at hours of  
21 labor prohibited by the rules and regulations of the committee; or  
22 violating any other of the provisions of this 1973 amendatory act,  
23 shall be deemed guilty of a misdemeanor, and shall, upon conviction  
24 thereof, be punished by a fine of not less than twenty-five dollars nor  
25 more than one thousand dollars.

1        NEW SECTION.    **Sec. 7.**        The penalties established in sections 3  
2 and 5 of this act for violations of RCW 49.12.121 and 49.12.123 are  
3 exclusive remedies.

4        **Sec. 8.**    RCW 49.12.123 and 1983 c 3 s 156 are each amended to read  
5 as follows:

6        In implementing state policy to assure the attendance of children  
7 in the public schools it shall be required of any person, firm or  
8 corporation employing any minor under the age of eighteen years to  
9 obtain a work permit as set forth in RCW 49.12.121 and keep such permit  
10 on file during the employment of such minor, and upon termination of  
11 such employment of such minor to return such permit to the ((~~industrial~~  
12 ~~welfare committee of the~~)) department of labor and industries.

13        NEW SECTION.    **Sec. 9.**        Sections 2 through 5 and 7 of this act  
14 are each added to chapter 49.12 RCW.

15        NEW SECTION.    **Sec. 10.**       If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

19        NEW SECTION.    **Sec. 11.**       Sections 1, 2, and 8 of this act are  
20 necessary for the immediate preservation of the public peace, health,  
21 or safety, or support of the state government and its existing public  
22 institutions, and shall take effect immediately.

23        NEW SECTION.    **Sec. 12.**       Sections 3 through 7 of this act shall  
24 take effect April 1, 1992.