
ENGROSSED SUBSTITUTE SENATE BILL 6442

State of Washington

52nd Legislature

1992 Regular Session

By Senate Committee on Commerce & Labor (originally sponsored by Senators Anderson and Murray)

Read first time 02/07/92.

1 AN ACT Relating to child labor; amending RCW 49.12.121, 49.12.390,
2 49.12.410, 49.12.005, and 49.12.902; creating new sections; repealing
3 RCW 49.12.105; 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:

7 (1) Current Washington statutes governing the employment of minors
8 are vague, inconsistent, outdated, and incomplete. They offer
9 insufficient guidance to the department of labor and industries to
10 carry out its administrative duties, forcing the department to expend
11 limited resources defining the law rather than enforcing it;

12 (2) A sound state policy governing the employment of minors
13 requires a sensitive balance of interests and values, most

1 appropriately achieved through a representative legislature and the
2 legislative process; and

3 (3) Changes to Washington law governing the employment of minors,
4 absent a thorough and balanced review of relevant data and information,
5 and input from all affected parties, risks harm to minors and
6 unwarranted discord between business and labor.

7 **Sec. 2.** RCW 49.12.121 and 1989 c 1 s 3 are each amended to read as
8 follows:

9 (1) The ((committee, or the)) director((,)) may at any time inquire
10 into wages, hours, and conditions of labor of minors employed in any
11 trade, business or occupation in the state of Washington ((and may
12 adopt special rules for the protection of the safety, health and
13 welfare of minor employees)). The minimum wage for minors shall be as
14 prescribed in RCW 49.46.020. The ((committee)) department shall issue
15 work permits to employers for the employment of minors, after being
16 assured the proposed employment of a minor meets the standards set
17 forth concerning the health, safety and welfare of minors as set forth
18 in ((the rules and regulations promulgated by the committee)) this
19 section. No minor person shall be employed in any occupation, trade or
20 industry subject to this 1973 amendatory act, unless a work permit has
21 been properly issued, with the consent of the parent, guardian or other
22 person having legal custody of the minor and with the approval of the
23 school which such minor may then be attending.

24 (2) Minors under age sixteen may not be employed: (a) During
25 school hours except by special permission from school officials as
26 outlined in RCW 28A.225.010 and 28A.225.080; (b) before 7:00 a.m. or
27 after 7:00 p.m. during the school year; or (c) after 9:00 p.m. during
28 the summer vacation season.

1 (3) Minors under age sixteen may not be employed more than three
2 hours per day on school days nor more than eighteen hours per week
3 during school weeks.

4 (4) No minor shall be employed more than twenty-eight hours per
5 week during school weeks.

6 (5) No minor shall be employed more than eight hours per day nor
7 more than five days in any one week. Minors employed past 8:00 p.m. in
8 service occupations must be supervised by a responsible adult who is
9 required to be on the premises.

10 (6) On nights preceding a school day, no minor shall be employed
11 later than 10:00 p.m. or ten hours prior to his or her first scheduled
12 school class, whichever is later.

13 (7) No minor shall be employed more than five hours without a meal
14 period of at least thirty minutes.

15 (8) Every minor employee shall be given a rest period of at least
16 ten minutes in every four-hour period of employment.

17 (9) No minor shall be employed in any occupation or doing any type
18 of work that the industrial safety and health division of the
19 department of labor and industries determines by rule to be
20 unreasonably hazardous to minors. In making this determination, the
21 division shall (a) include only types of work and occupations which
22 evidence indicates present an unreasonable threat to the health or
23 safety of minors and (b) be guided by the hazardous occupations orders
24 in nonagricultural occupations of the child labor provisions of the
25 fair labor standards act (29 C.F.R. Part 570, Subpart E).

26 (10) It is the belief of the legislature that many occupations and
27 types of work are less hazardous for minors age sixteen and older than
28 for those under age sixteen. The occupations and types of work of
29 minors under age sixteen shall therefore be subject to additional
30 restrictions as determined by rule by the industrial safety and health

1 division of the department of labor and industries. In making this
2 determination, the division shall (a) include only types of work and
3 occupations which evidence indicates present an unreasonable threat to
4 the health or safety of minors under age sixteen and (b) be guided by
5 the occupation standards for fourteen and fifteen year olds of the
6 child labor provisions of the fair labor standards act (29.C.F.R. Part
7 570, Subpart C).

8 (11) The employer is responsible for obtaining and keeping on file
9 the following information concerning each minor employee:

10 (a) Proof of age by means of a copy of one of the following: (i)
11 Birth certificate, (ii) driver's license, (iii) baptismal record, (iv)
12 bible record, (v) insurance policy at least one year old indicating
13 birth date, or (vi) witnessed statement of parent or guardian;

14 (b) Personal data relating to the minor, including name, address,
15 and sex;

16 (c) Description of employment, including each of the following:
17 Earliest and latest hours of employment, description of specific meal
18 and rest periods, and complete description of duties;

19 (d) Parental authorization for employment by signature of parent or
20 guardian on a form provided by the department;

21 (e) School authorization for employment, during any part of the
22 school year, on a form provided by the department.

23 (12) The employer shall make any or all of the information under
24 subsection (11) of this section available to the department or any of
25 its authorized agents upon request.

26 (13) An employer may apply to the department for an order for a
27 variance from any standard for wages, hours, or conditions of labor
28 established under this chapter. The department shall issue an order
29 granting a variance if it determines or decides that (a) the applicant
30 for the variance has shown good cause for the lack of compliance and

1 (b) the variance will not place the employer out of compliance with
2 federal law. Any order so issued shall prescribe the conditions the
3 employer must maintain, and the practices, means, methods, operations,
4 standards, and processes which the employer must adopt and utilize to
5 the extent they differ from the standard in question. At any time the
6 department may terminate and revoke such order, provided the employer
7 was notified by the department of the termination at least thirty days
8 prior to said termination.

9 (14) The department may adopt rules necessary to implement this
10 section.

11 (15)(a) A joint select committee on nonagricultural child labor is
12 established to review the law governing the nonagricultural employment
13 of minors in Washington state. The committee shall recommend any
14 changes to the law that it believes are necessary to provide, in a
15 clear and unambiguous fashion, for the safe and reasonable
16 participation of minors in the workplace and for the proper education
17 and social development of the state's youth.

18 (b) The committee shall consist of six voting members appointed as
19 follows: (i) Two majority caucus members and one minority caucus
20 member from the senate, selected by the president of the senate, and
21 (ii) two majority caucus members and one minority caucus member from
22 the house of representatives, selected by the speaker of the house of
23 representatives.

24 (c) The committee shall establish an advisory group consisting of:
25 (i) Equal representation from business and labor, to be selected by the
26 appropriate organizations representing business and labor and (ii) at
27 least two minors.

28 (d) The committee shall use legislative committee staff and
29 facilities. All expenses of the committee shall be paid jointly by the
30 senate and the house of representatives.

1 (e) The committee shall report its findings and recommendations to
2 the governor and the legislature on or before the commencement of the
3 1993 regular session of the legislature. The committee shall cease to
4 exist on June 1, 1993.

5 **Sec. 3.** RCW 49.12.390 and 1991 c 303 s 3 are each amended to read
6 as follows:

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

28 (b) Except when an employer corrects a violation as provided in (a)
29 of this subsection, he or she shall be assessed a civil penalty of not

1 more than one thousand dollars depending on the size of the business
2 and the gravity of the violation. The employer shall pay the amount
3 assessed within thirty days of receipt of the assessment or notify the
4 director of his or her intent to appeal the citation or the assessment
5 penalty as provided in RCW 49.12.400.

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

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

1 (4) An employer who violates any of the posting requirements of RCW
2 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed
3 a civil penalty of not more than one hundred dollars for each
4 violation.

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

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

10 **Sec. 4.** RCW 49.12.410 and 1991 c 303 s 5 are each amended to read
11 as follows:

12 An employer who knowingly or recklessly violates the requirements
13 of RCW 49.12.121 (1) through (11) or 49.12.123, or a rule or order
14 adopted under RCW 49.12.121 (1) through (11) or 49.12.123, is guilty of
15 a gross misdemeanor. An employer whose practices in violation of the
16 requirements of RCW 49.12.121 (1) through (11) or 49.12.123, or a rule
17 or order adopted under RCW 49.12.121 (1) through (11) or 49.12.123,
18 result in the death or permanent disability of a minor employee is
19 guilty of a class C felony.

20 **Sec. 5.** RCW 49.12.005 and 1988 c 236 s 8 are each amended to read
21 as follows:

22 For the purposes of this chapter:

23 (1) The term "department" means the department of labor and
24 industries.

25 (2) The term "director" means the director of the department of
26 labor and industries, or his or her designated representative.

27 (3) The term "employer" means any person, firm, corporation,
28 partnership, business trust, legal representative, or other business

1 entity which engages in any business, industry, profession, or activity
2 in this state and employs one or more employees and for the purposes of
3 RCW 49.12.270 through 49.12.295 also includes the state, any state
4 institution, any state agency, political subdivisions of the state, and
5 any municipal corporation or quasi-municipal corporation.

6 (4) The term "employee" means an employee who is employed in the
7 business of his or her employer whether by way of manual labor or
8 otherwise.

9 (5) The term "conditions of labor" shall mean and include the
10 conditions of rest and meal periods for employees including provisions
11 for personal privacy, practices, methods and means by or through which
12 labor or services are performed by employees and includes bona fide
13 physical qualifications in employment, but shall not include conditions
14 of labor otherwise governed by statutes and rules and regulations
15 relating to industrial safety and health administered by the
16 department.

17 (6) (~~For the purpose of this 1973 amendatory act a~~) The term
18 "minor" (~~is defined to be~~) means a person of either sex under the age
19 of eighteen years.

20 (7) The term "committee" shall mean the industrial welfare
21 committee.

22 NEW SECTION. Sec. 6. RCW 49.12.105 and 1973 2nd ex.s. c 16 s
23 8 are each repealed.

24 **Sec. 7.** RCW 49.12.902 and 1991 c 303 s 12 are each amended to read
25 as follows:

26 Sections 3 through 7 of this act shall take effect (~~April~~) July
27 1, 1992.

1 NEW SECTION. **Sec. 8.** If the effective date of section 7 of
2 this act is on or after April 1, 1992, it is the intent of the
3 legislature that:

4 (1) The implementation of RCW 49.12.390, 49.12.400, 29.12.410, and
5 49.12.420, and section 6, chapter 303, Laws of 1991 be delayed until
6 July 1, 1992;

7 (2) No enforcement actions under RCW 49.12.390 or 49.12.410 be
8 taken until July 1, 1992; and

9 (3) Penalties under RCW 49.12.390 or 49.12.410 be imposed only for
10 violations that occur on or after July 1, 1992.

11 NEW SECTION. **Sec. 9.** The department of labor and industries
12 shall adopt rules to carry out the intent of section 8 of this act and
13 delay the implementation of RCW 49.12.390, 49.12.400, 49.12.410, and
14 49.12.420, and section 6, chapter 303, Laws of 1991.

15 NEW SECTION. **Sec. 10.** (1) Sections 1 through 6 of this act
16 shall take effect July 1, 1992.

17 (2) Sections 7 through 9 of this act are necessary for the
18 immediate preservation of the public peace, health, or safety, or
19 support of the state government and its existing public institutions,
20 and shall take effect immediately.