

# HOUSE BILL REPORT

## ESHB 1644

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**As Passed House:**

March 10, 2025

**Title:** An act relating to the safety and health of working minors.

**Brief Description:** Concerning the safety and health of working minors.

**Sponsors:** House Committee on Labor & Workplace Standards (originally sponsored by Representatives Fosse, Ortiz-Self, Parshley, Stonier, Taylor, Shavers, Davis, Obras, Macri, Berg, Hill, Street, Berry, Reed, Cortes, Ramel, Thomas, Goodman, Ormsby, Salahuddin, Scott, Gregerson, Thai and Simmons).

**Brief History:**

**Committee Activity:**

Labor & Workplace Standards: 2/4/25, 2/14/25 [DPS].

**Floor Activity:**

Passed House: 3/10/25, 60-35.

**Brief Summary of Engrossed Substitute Bill**

- Establishes minimum penalties for violations of restrictions governing the employment of minors in nonagricultural and agricultural industries.
- Requires the Department of Labor and Industries (L&I) to revoke an employer's minor work permit if the employer committed a serious, willful, or ongoing safety or health violation or child labor violation that caused death or serious physical harm to a minor or that required an order of immediate restraint.
- Precludes a contractor subject to a minor work permit revocation from bidding on public works projects in certain circumstances.
- Requires L&I to conduct a safety and health consultation at a worksite before granting a student-learner variance allowing a minor to perform work typically prohibited based on the minor's age.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Berry, Chair; Fosse, Vice Chair; Scott, Vice Chair; Bronoske, Obras and Ortiz-Self.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Schmidt, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; McEntire.

**Staff:** Kelly Leonard (786-7147).

### **Background:**

#### Restrictions on Employing Minors.

Both federal and state laws impose restrictions on the employment of minors (persons under 18 years of age), and where those standards differ with one another, employers must comply with the more restrictive standards. The Department of Labor and Industries (L&I) is directed to adopt restrictions on the wages, working hours, and other conditions of working minors. These restrictions vary based on the industry (nonagricultural or agricultural), the age of the minor, and whether school is in session. In order to employ a minor, an employer must: (1) obtain a minor work permit; (2) obtain parental and school authorization, if applicable; (3) verify the minor's age and comply with any restrictions imposed based on age; and (4) limit the hours worked by the minor, if applicable.

Minors may not perform certain hazardous work, also referred to as "prohibited duties" in L&I rules. This includes, for example: performing logging or sawmill work; operating power-driven woodworking machines or saws; roofing; handling highly toxic chemicals; working higher than 10 feet off the ground or floor level; operating forklifts or other heavy equipment; operating powered food slicers and grinders; operating or riding cargo elevators, manlifts, hoists, and cranes; handling, mixing, loading or applying dangerous pesticides; or doing any work involving slaughtering and meat processing. Prohibited duties vary depending on the worker's age.

Minors are allowed to work limited hours compared to adults. Minors must also be given more frequent meal and rest breaks, which vary depending on age. Minors under 16 years old must be paid at least 85 percent of the minimum wage, and minors 16 and 17 years old must be paid the minimum wage.

*Student Learner Variance.* An employer may apply for a variance through L&I, which would allow for a temporary exception to the normal work restrictions for minors based on certain criteria. L&I has a specific process for granting a variance for a 16- or 17-year old minor to perform otherwise prohibited or hazardous duties for paid worksite learning

programs, also referred to as a student-learner variance. To receive a student-learner variance, the work must be done as part of one of the following types of programs:

- a paid, worksite learning program certified and monitored by the Office of Superintendent of Public Instruction;
- a worksite learning program from the student employee's school district;
- a course of study in a substantially similar worksite program at a private school; or
- a program registered by the Washington State Apprenticeship and Training Council.

The variance will be granted only if the hazardous activity is incidental to the worksite learning program, intermittent, and closely supervised by a journey-level worker, qualified instructor, or mentor.

*Penalties for Violations.* For nonagricultural industries, L&I may issue citations and assess penalties if an employer violates a state law or L&I rule on the employment of minors. Certain nonserious violations can be abated by a deadline in lieu of a penalty. Otherwise, the amount of the penalty varies depending on the size of the business and the gravity of the violation. The maximum penalty is \$1,000 for each violation, except for certain nonserious violations involving posting requirements, which carry a maximum penalty of \$100. If the employer has committed a serious or repeated violation, the employer is subject to an additional civil penalty not to exceed \$1,000 for each day the violation continues. A serious violation exists if death or serious physical harm has resulted or is imminent from an existing condition, unless the employer did not know, and could not have known with the exercise of reasonable diligence, of the presence of the violation.

For agricultural industries, L&I may issue a class 1 civil infraction if an employer violates a state law or L&I rule governing the employment of minors. The maximum penalty and the default amount for a class 1 civil infraction is \$250.

If L&I finds that a violation creates a danger from which there is a substantial probability that death or serious physical harm could result to a minor employee, L&I may issue an order immediately restraining the condition, practice, method, process, or means creating the danger in the workplace. L&I also retains the authority to refuse to issue or renew, revoke, suspend, or modify a minor work permit in certain instances.

State law establishes certain criminal penalties for child labor law violations, which apply only to nonagricultural industries. It is a gross misdemeanor if an employer knowingly or recklessly violates requirements, and a class C felony if an employer's practices that violate requirements result in the death or permanent disability of a minor employee.

#### Washington Industrial Safety and Health Act.

The Washington Industrial Safety and Health Act (WISHA) requires employers to provide a workplace free from recognized hazards, and authorizes L&I to inspect and investigate workplaces for compliance with safety and health standards. L&I has adopted general health and safety standards, pursuant to WISHA, that apply to most industries, and has

adopted safety standards that apply only to specific industries.

If the Director of L&I believes that an employer has committed a violation following an inspection or investigation, the Director must, with reasonable promptness, issue a citation to the employer. A citation may not be issued more than six months following the inspection or investigation where the violation was revealed. A citation must be in writing, describe the nature of the violation, and specify a reasonable time for abating the violation.

Penalties for violations vary based on whether the violation is general/nonserious, serious, willful, repeat, or ongoing, also referred to as a failure to abate violation. A serious violation is deemed to exist in a workplace if there is a substantial probability that death or serious physical harm could result from a condition, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use in such workplace, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation. Civil penalties may be adjusted based on the employer's inspection history, the size of the workforce, and other factors.

#### Responsible Bidders for Public Works.

Public works refer to all work, construction, alteration, repair, or improvement, other than ordinary maintenance, executed at the cost of the state or a municipality. State law requires competitive bidding for all public works projects. A contractor bidding on a public works project must meet certain criteria, known as responsible bidder criteria, to be awarded a public works contract. Bidders must also submit a signed statement under penalty of perjury that they have not been found by L&I or a court to have willfully violated the state's wage payment laws within the three-year period prior to bid solicitation.

#### **Summary of Engrossed Substitute Bill:**

##### Restrictions on Employing Minors.

*Variances.* Before granting a student-learner variance allowing a minor to perform work typically prohibited based on the minor's age in either an agricultural or nonagricultural industry, L&I must conduct a safety and health consultation at the worksite, and consult with the employer on the types of tools, equipment, and practices permitted under the variance.

*Penalties for Violations.* The authority to impose citations with penalty assessments for violations of laws and rules governing the employment of minors is extended to agricultural industries, thereby creating the same procedures and penalty amounts for both categories. The \$250 penalty for class 1 civil infractions involving agricultural industries does not apply to this category of violations. The criminal penalties for child labor law violations are modified to apply to violations occurring in agricultural industries. L&I is also directed to adopt rules for protecting minors in agricultural industries.

The penalties for both nonagricultural and agricultural industries are modified based on the type of violation as follows:

- No less than \$100 and no more than \$1,000 for each violation involving the failure to obtain a minor work permit or parental or school authorization, for failure to maintain records, or for each other nonserious violation;
- No less than \$150 and no more than \$1,000 for each violation involving failure to comply with hours of work requirements;
- No less than \$300 and no more than \$1,000 for each violation involving failure to comply with meal break or rest break requirements;
- No less than \$1,000 for each violation involving failure to comply with prohibited duty requirements, variance conditions, or minimum wage requirements for minors, or for each other serious violation, except the civil penalty may be no less than \$2,000 for each violation in a second or subsequent citation for any of these violations;
- No less than \$15,000 for any violation resulting in the serious physical harm of a minor, which may be doubled where the violation is a willful violation or a repeated violation; and
- No less than \$71,000 for any violation resulting in the death of a minor, which may be doubled where the violation is a willful violation or a repeated violation.

A first-time citation for failure to obtain a minor work permit or parental or school authorization, for failure to maintain records, or for some other nonserious violation must state a specific and reasonable time for abatement of the violation to allow the employer to correct the violation. L&I may waive or reduce a civil penalty assessed for a first-time nonserious violation if it determines that the employer has taken corrective action to resolve the violation. For each day a serious or repeat violation persists, L&I must impose an additional civil penalty of a maximum of \$5,000.

L&I must consider certain factors when determining the amount of any penalty assessment. Beginning July 1, 2027, and every two years thereafter, L&I must adjust the penalty amounts for inflation based on the consumer price index for urban wage earners and clerical workers (CPI-W).

*Permit Revocations.* L&I must revoke an employer's minor work permit and prohibit the employer from obtaining a minor work permit for no less than 12 months if:

- the employer has been issued a safety and health citation for a serious, willful, repeat, or ongoing violation of WISHA or a citation for a violation of a specific law, rule, or order governing the employment of minors, where the violation caused serious physical harm or death to a minor; or
- an order has been issued immediately restraining an employer's condition, practice, method, process, or means in the workplace due to a violation of the laws and rules governing the employment of minors.

Following a revocation, a minor work permit may not be reissued to an employer unless the

employer has not been issued a citation for any applicable violations for at least 12 months. These requirements do not prohibit L&I from revoking, suspending, or modifying a minor work permit for any reason or cause provided for under state law or rules.

#### Washington Industrial Safety and Health Act.

L&I must make a good faith effort to notify an employer within 10 calendar days when L&I immediately identifies a hazard that could cause injury to a minor worker during an inspection conducted under WISHA. The notification does not eliminate or modify any other right, responsibility, or authority under WISHA.

#### Responsible Bidders for Public Works.

The responsibility criteria for bidding on public works are modified. At the time of submittal, a bidder must not be subject to a revocation of a minor work permit under the bill occurring in a nonagricultural industry. The bidder must confirm this in the signed statement submitted before being awarded the contract.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on July 1, 2026.

#### **Staff Summary of Public Testimony:**

(In support) In recent years, employers have hired more minors across several industries. With that change, there has been an increase in child labor law violations. Children are inherently more vulnerable. They are more likely to be taken advantage of and are more likely to be injured. Just as the state strives to keep children safe in schools, the state should also keep children safe in the workplace. Several stakeholders convened to evaluate child labor laws and ultimately identified outdated and nominal penalties and enforcement. The laws should be made clear, and the consequences for violating them should be meaningful. The penalties should not be so low that they become an absorbable cost of doing business. The bill increases penalties and targets repeat bad actors. The goal is not to penalize employers operating in good faith. The goal is to deter bad actors going forward. This bill will improve the safety of the youngest and most vulnerable workers in the state.

(Opposed) There is little data to support the claims being made by the supporters of the bill. Businesses should be a part of modernizing child labor laws. The bill seems to remove L&I's discretion to work with employers to ensure compliance through abatement in lieu of penalties. This will have a chilling effect on employers. Other members of the business community support taking corrective action against bad actors who violate labor laws, but the Legislature should evaluate the part of the bill relating to variances. A full-site

consultation is not necessary for every instance, like extending hours, and L&I may not have resources to conduct so many consultations.

**Persons Testifying:** (In support) Representative Mary Fosse, prime sponsor; April Sims, Washington State Labor Council, AFL-CIO; Minna Long, Washington State Building and Construction Trades Council; Ray Dumas, OPCMIA Local 528; Diana Winther, IBEW Local 48; Justin Bourgault, SMART Local 66; and Mike Bridges, Longview/Kelso Building and Construction Trades Council.

(Opposed) Lindsey Hueer, Association of Washington Business; and Brandon Houskeeper, Southwest WA Contractors Assoc. / Associated Builders & Contractors - Western WA.

**Persons Signed In To Testify But Not Testifying:** None.