

1 1355 NOT ADOPT 4/15/91.3721

2 HB 1355 - S AMD
3 By Senator Murray

4 FAILED SCOPE - NOT ADOPTED 4/15/91

5 On page 3, after line 30, insert the following:

6 "NEW SECTION. **Sec. 2.** A new section is added to chapter
7 49.17 RCW to read as follows:

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

1 proposed penalty assessment to the central personnel office of the
2 employer. Citations issued under this section shall be posted at
3 or near the place where the violation occurred.

4 (b) Except where an employer corrects a violation as provided
5 in (a) of this subsection, he or she shall be assessed a civil
6 penalty of not more than one thousand dollars depending on the size
7 of the business and the gravity of the violation. The employer
8 shall pay the amount assessed within thirty days of receipt of the
9 assessment or notify the director of his or her intent to appeal
10 the citation or the assessment penalty as provided in section 3 of
11 this act.

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

25 (3) In addition to any other authority provided in this
26 section, if, upon inspection or investigation, the director, or the

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

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

17 (5) A person who gives advance notice, without the authority
18 of the director, of an inspection to be conducted under this
19 chapter shall be assessed a civil penalty of not more than one
20 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. 3.** A new section is added to chapter
24 49.17 RCW to read as follows:

25 A person, firm, or corporation aggrieved by an action taken or

1 decision made by the department under section 2 of this act may
2 appeal the action or decision to the director by filing notice of
3 the appeal with the director within thirty days of the department's
4 action or decision. A notice of appeal filed under this section
5 shall stay the effectiveness of a citation or notice of the
6 assessment of a penalty pending review of the appeal by the
7 director, but such appeal shall not stay the effectiveness of an
8 order of immediate restraint issued under section 2 of this act.
9 Upon receipt of an appeal, a hearing shall be held in accordance
10 with chapter 34.05 RCW. The director shall issue all final orders
11 after the hearing. The final orders are subject to appeal in
12 accordance with chapter 34.05 RCW. Orders not appealed within the
13 time period specified in chapter 34.05 RCW are final and binding."

14 "NEW SECTION. **Sec. 4.** An employer who knowingly or
15 recklessly violates the requirements of RCW 49.12.121 or 49.12.123,
16 or a rule or order adopted under RCW 49.12.121 or 49.12.123, is
17 guilty of a gross misdemeanor. An employer whose practices in
18 violation of the requirements of RCW 49.12.121 or 49.12.123, or a
19 rule or order adopted under RCW 49.12.121 or 49.12.123, result in
20 the death or permanent disability of a minor employee is guilty of
21 a class C felony."

22 **"Sec. 5.** RCW 49.12.121 and 1989 c 1 s 3 are each amended to
23 read as follows:

24 (~~The committee, or the director,~~) (1) The department may at

1 any time inquire into wages, hours, and conditions of labor of
2 minors employed in any trade, business or occupation in the state
3 of Washington and may adopt special rules for the protection of the
4 safety, health and welfare of minor employees. (~~The minimum wage
5 for minors shall be as prescribed in RCW 49.46.020.~~)

6 (2) The (~~committee~~) department shall issue work permits to
7 employers for the employment of minors(~~, after being assured~~) if
8 the proposed employment (~~of a minor~~) meets the standards (~~set
9 forth concerning~~) for the health, safety and welfare of minors
10 (~~as set forth in the rules and regulations promulgated by the
11 committee~~) required by this chapter or adopted by department rule.
12 To implement state policy to assure the attendance of children in
13 the public schools, an employer employing a minor shall obtain a
14 work permit issued by the department. The permit shall be kept on
15 file during the employment of minors. No minor person shall be
16 employed in any occupation, trade or industry subject to this 1973
17 amendatory act, unless a work permit has been properly issued, with
18 the consent of the parent, guardian or other person having legal
19 custody of the minor and with the approval of the school (~~which
20 such~~) that the minor may then be attending."

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

23 Except as otherwise provided in section 2 or 4 of this act,
24 any employer employing any person for whom a minimum wage or
25 standards, conditions, and hours of labor have been specified, at

1 less than said minimum wage, or under standards, or conditions of
2 labor or at hours of labor prohibited by the rules and regulations
3 of the committee; or violating any other of the provisions of this
4 1973 amendatory act, shall be deemed guilty of a misdemeanor, and
5 shall, upon conviction thereof, be punished by a fine of not less
6 than twenty-five dollars nor more than one thousand dollars."

7 "NEW SECTION. **Sec. 7.** The penalties established in sections
8 2 and 4 of this act for violations of RCW 49.12.121 and 49.12.123
9 are exclusive remedies."

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13 On page 1, line 2 of the title, after "49.17.180" insert "
14 49.12.121, and 49.12.170; adding new sections to chapter 49.17 RCW;
15 creating new sections"