

HOUSE BILL REPORT

HB 1288

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to the employment of minors.

Brief Description: Regulating the employment of minors.

Sponsor(s): Representatives Cole, Prentice, Jones, R. King, Winsley, Leonard, Jacobsen, Wineberry and Wang; by request of Department of Labor & Industries.

Brief History:

Reported by House Committee on:
Commerce & Labor, March 6, 1991, DP.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *Do pass.* Signed by 8 members: Representatives Heavey, Chair; Cole, Vice Chair; Franklin; Jones; R. King; O'Brien; Prentice; and Wilson.

Minority Report: *Do not pass.* Signed by 3 members: Representatives Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; and Vance.

Staff: Chris Cordes (786-7117).

Background: The industrial welfare law authorizes the Department of Labor and Industries to establish employment standards for Washington workers, except agricultural workers. The department's rules for the employment of minors include minor work permit requirements, maximum hours of work, and age limitations. Minors may not be employed in certain hazardous occupations.

An employer who violates an industrial welfare standard is guilty of a misdemeanor and is subject to a fine of not less than \$25 or more than \$1,000. The department does not have authority to impose civil penalties or issue orders to restrain violations.

Summary of Bill: New procedures and penalties for enforcing the standards for the employment of minors under the industrial welfare laws are established. These penalties are exclusive remedies for child labor law violations.

Civil penalties. The director of the Department of Labor and Industries is authorized to issue citations to employers for violations of the standards for the employment of minors. If the violation is not abated within the abatement period, the employer is subject to a civil penalty of not more than \$1,000. Violations of posting requirements are subject to a penalty of not more than \$100. For repeated or serious violations, the employer is subject to a penalty of not more than \$1,000 for each day of the violation. Any person who gives unauthorized advance notice of an inspection is subject to a penalty of not more than \$1,000. Penalties will be deposited in state general fund.

Restraining orders. The director is authorized to issue an order restraining any workplace practice in violation of employment standards for minors if the practice is creating a substantial probability that death or serious physical or emotional harm could result to a minor employee.

Appeal procedures. Any person aggrieved by an action of the department in enforcing the standards for the employment of minors may appeal to the director. After a hearing, the director must issue a final order, which may be appealed to superior court in accordance with the Administrative Procedure Act.

Criminal penalties. An employer who knowingly or recklessly violates the standards for the employment of minors is guilty of a gross misdemeanor. If an employer's practices violate the standards and result in death or permanent disability of a minor, the employer is guilty of a class C felony.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect July 1, 1991.

Testimony For: Under current law, the only penalties for violations of the child labor laws are criminal penalties. The Department of Labor and Industries could improve its enforcement of these laws if civil penalties were available as a tool. A department study of industrial insurance claims filed by minors indicated that a large number of claims occurred in situations where the minor's employment was in violation of the law. NOTE: This testimony was given on HB 1472 which contains provisions identical to HB 1288.

Testimony Against: While better enforcement is needed, the law should first be clarified. Employers cannot comply when there are conflicts between state and federal law. An

advisory committee should be formed to review the law and recommend changes, and then enforcement could be strengthened after employers are fully advised of the law's requirements. NOTE: This testimony was given on HB 1472 which contains provisions identical to HB 1288.

Witnesses: (in favor) Mark McDermott, Department of Labor and Industries; and Jeff Johnson, Washington State Labor Council. (opposed) Linda Matson, National Federation of Independent Business; Jan Gee, Washington Retail Association; Gary Smith, Independent Business Association; and Kent Meyers.