

**SENATE BILL REPORT**

**SB 5558**

**AS PASSED SENATE, MARCH 15, 1991**

**Brief Description:** Providing for the adoption and enforcement of child labor regulations.

**SPONSORS:** Senators Sellar, Owen, Matson and Wojahn.

**SENATE COMMITTEE ON COMMERCE & LABOR**

**Majority Report:** Do pass.

Signed by Senators Matson, Chairman; Anderson, Vice Chairman; McCaslin, McDonald, McMullen, and Skratek.

**Staff:** Jonathan Seib (786-7427)

**Hearing Dates:** February 28, 1991; March 5, 1991

**BACKGROUND:**

The state industrial welfare law authorizes the Department of Labor and Industries to adopt special rules for the protection of the safety, health, and welfare of minor employees. An employer who violates the industrial welfare law or corresponding rules is guilty of a misdemeanor and is subject to a fine of not less than \$25 or more than \$1,000. No civil penalties are authorized.

**SUMMARY:**

By October 1, 1991, the Department of Labor and Industries is to replace existing child labor rules with rules consistent with federal child labor laws. The rules are to be revised as necessary to remain consistent with federal law. Upon adopting these rules, the department is to implement a comprehensive program to inform employers of the rules adopted.

The Department of Labor and Industries is to issue written citations for violations of the child labor standards of the state's industrial welfare law. For first time, nonserious violations, a reasonable abatement period may be established in lieu of imposing a penalty. If the violation is not corrected, the employer is subject to a civil penalty of not more than \$1,000.

For serious or repeated violations of the child labor standards, the employer is subject to a civil penalty of not more than \$1,000 for each day the violation continues.

The director is also authorized to issue an order restraining any workplace practice in violation of the child labor standards if the practice creates a substantial probability

that death or serious physical harm could result to a minor employee.

Employers who violate certain posting requirements of the child labor standards are subject to a civil penalty of not more than \$100 per violation.

Persons who give unauthorized advance notice of an inspection to be conducted under the industrial welfare law are subject to a civil penalty of not more than \$1,000.

Any person aggrieved by an action of the department in enforcing the child labor standards may appeal to the director. After a hearing, the director must issue a final order, which may then be appealed to superior court.

An employer who knowingly or recklessly violates the child labor standards is guilty of a gross misdemeanor (maximum penalty: \$5,000, one year in jail). An employer whose violation of the child labor standards results in the death or permanent disability of a minor employee is guilty of a class C felony (maximum penalty: \$10,000, five years in jail).

**Appropriation:** none

**Revenue:** yes

**Fiscal Note:** available

**Effective Date:** The sections mandating new rules and an education program are effective immediately. The sections regarding new penalty provisions are effective April 1, 1992.

**TESTIMONY FOR:**

The enforcement authority of the Department of Labor and Industries with regard to child labor should be increased only if the state regulations are made consistent with federal law. The current regulations are not consistent and not consistently applied. This confuses employers and results in inadvertent child labor violations due mainly to conflicting information from the state and federal government, for which employers should not be punished.

**TESTIMONY AGAINST:**

It is essential that the department be given more authority to enforce child labor standards. Currently, enforcement is the responsibility of county prosecutors, who do not make it a very high priority. Children have been and will continue to be injured or killed on the job if civil enforcement authority is not granted. Granting that authority, however, should not be tied to making the state laws consistent with the federal. The federal standards are not as rigorous. They do not regulate the number of hours 16 and 17 year-olds may work. The department has established a task force to address concerns with the substance of the existing rules.

**TESTIFIED:** PRO: Clif Finch, Association of Washington Business; Jan Gee, Washington Retail Association; Gary Smith, Independent Business Association; CON: Jeff Johnson, Washington State Labor Council; Ricardo Sanchez, Superintendent of Public Instruction; Joe Dear, Department of Labor and Industries; Larry Norwood, Association of Washington School Principals; Shirley Nichols, UFCW Local 1105; Lonnie Johns-Brown, WASCAP/NOW