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**SUBSTITUTE SENATE BILL 6442**

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**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8 are vague, inconsistent, outdated, and incomplete.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) The following employments are prohibited for all minors, unless  
18 specifically permitted in the text of the hazardous occupations orders  
19 in nonagricultural occupations of the child labor provisions of the  
20 federal fair labor standards act:

21       (a) Occupations in or about plants or establishments manufacturing  
22 or storing explosives or articles containing explosive components;

23       (b) Occupations involving regular driving of motor vehicles.  
24 Occasional driving is permissible if: (i) The minor has a valid state  
25 driver's license for the type of driving involved, (ii) driving is  
26 restricted to daylight hours, (iii) vehicle gross weight is under six  
27 thousand pounds, (iv) the minor has completed a state-approved driver  
28 education course, and (v) seat belts are provided in the vehicle and  
29 the minor has been instructed to use them;

30       (c) All mining operations;

1 (d) Logging occupations and occupations in the operation of any  
2 sawmill, lath mill, shingle mill, or cooperage-stock mill;

3 (e) Occupations involving operation of power-driven woodworking  
4 machines, power-driven metal-forming punching and shearing machines,  
5 power-driven bakery machines, power-driven paper products machines,  
6 circular saws, band saws and guillotine shears, elevators, and other  
7 power-driven hoisting apparatus;

8 (f) Occupations involving potential exposure to radioactive  
9 substances and to ionizing radiations;

10 (g) Occupations involving slaughtering, meatpacking, or processing  
11 and rendering;

12 (h) Occupations involving wrecking, demolition, and ship breaking  
13 operations;

14 (i) All roofing operations;

15 (j) Occupations involving excavations;

16 (k) Occupations involving manufacturing of brick, tile, and kindred  
17 products.

18 (10) The following types of work are prohibited for all minors:

19 (a) Work involving operation of or working in proximity to  
20 earthmoving machines, cranes, garbage compactors, or other heavy  
21 equipment of similar nature;

22 (b) Work in establishments or workplaces being picketed during the  
23 course of a labor dispute;

24 (c) Work as a nurse's aide, unless the minor is a student in a bona  
25 fide nursing program or has successfully completed such a program;

26 (d) Work as a maid or bellhop in motels or hotels, unless the minor  
27 is accompanied by a responsible adult whenever the work requires the  
28 minor to enter assigned guest rooms;

29 (e) Work in shooting galleries, penny arcades, sauna-massage  
30 parlors or body painting studios.

1       (11) Employment of minors under age sixteen is subject to the  
2 following additional restrictions. They are prohibited from working:  
3       (a) In any manufacturing occupation;  
4       (b) In any processing operations such as filleting of fish,  
5 dressing poultry, cracking nuts, commercial processing, canning,  
6 freezing or drying of foods, laundering as performed by commercial  
7 laundries, and dry cleaning;  
8       (c) In work rooms or workplaces where goods are manufactured,  
9 mined, or otherwise processed;  
10       (d) In any public messenger service;  
11       (e) In occupations connected with transportation, warehouse and  
12 storage, communications and public utilities, or construction. Office  
13 or sales work related to these occupations is permitted if none of the  
14 minor's work is performed on the transportation media or construction  
15 site;  
16       (f) In occupations requiring operation or tending of any power-  
17 driven machinery or hoisting apparatus;  
18       (g) In the following specific areas of retail, food service, or  
19 gasoline service station operations:  
20       (i) Work performed in or about boiler or engine rooms;  
21       (ii) Maintenance or repair work;  
22       (iii) Outside window washing or other work requiring the worker to  
23 be positioned at higher than ground level;  
24       (iv) Cooking and baking;  
25       (v) Operating, setting up, adjusting, cleaning, oiling, or  
26 repairing power-driven food slicers and grinders, food choppers and  
27 cutters, and bakery-type mixers;  
28       (vi) Work in freezers, meat coolers, and all work in preparing meat  
29 for sale. Wrapping, sealing, labeling, weighing, pricing, and stocking

1 are permitted if work is performed away from meat-cutting and  
2 preparation areas;

3 (vii) Loading and unloading goods to or from trucks, railroad cars,  
4 or conveyors.

5 (12) The employer is responsible for obtaining and keeping on file  
6 the following information concerning each minor employee:

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

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

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

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

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

20 (13) The employer shall make any or all of the information under  
21 subsection (12) of this section available to the department or any of  
22 its authorized agents upon request.

23 (14) An employer may apply to the department for an order for a  
24 variance from any standard for wages, hours, or conditions of labor  
25 established under this chapter. The department shall issue an order  
26 granting a variance if it determines or decides that (a) the applicant  
27 for the variance has shown good cause for the lack of compliance and  
28 (b) the variance will not place the employer out of compliance with  
29 federal law. Any order so issued shall prescribe the conditions the  
30 employer must maintain, and the practices, means, methods, operations,

1 standards, and processes which the employer must adopt and utilize to  
2 the extent they differ from the standard in question. At any time the  
3 department may terminate and revoke such order, provided the employer  
4 was notified by the department of the termination at least thirty days  
5 prior to said termination.

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

13 (b) The committee shall consist of six voting members appointed as  
14 follows: (i) Two majority caucus members and one minority caucus  
15 member from the senate, selected by the president of the senate, and  
16 (ii) two majority caucus members and one minority caucus member from  
17 the house of representatives, selected by the speaker of the house of  
18 representatives.

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

23 (d) The committee shall use legislative committee staff and  
24 facilities. All expenses of the committee shall be paid jointly by the  
25 senate and the house of representatives.

26 (e) The committee shall report its findings and recommendations to  
27 the governor and the legislature on or before the commencement of the  
28 1993 regular session of the legislature. The committee shall cease to  
29 exist on June 1, 1993.

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

3       (1)(a) Except as otherwise provided in subsection (2) of this  
4 section, if the director, or the director's designee, finds that an  
5 employer has violated any of the requirements of RCW 49.12.121 or  
6 49.12.123, or a rule or order adopted or variance granted under RCW  
7 49.12.121 or 49.12.123, a citation stating the violations shall be  
8 issued to the employer. The citation shall be in writing, describing  
9 the nature of the violation including reference to the standards,  
10 rules, or orders alleged to have been violated. An initial citation  
11 for failure to comply with RCW 49.12.121(12) or (13), 49.12.123 or  
12 rules requiring a minor work permit and maintenance of records shall  
13 state a specific and reasonable time for abatement of the violation to  
14 allow the employer to correct the violation without penalty. The  
15 director or the director's designee may establish a specific time for  
16 abatement of other nonserious violations in lieu of a penalty for first  
17 time violations. The citation and a proposed penalty assessment shall  
18 be given to the highest management official available at the workplace  
19 or be mailed to the employer at the workplace. In addition, the  
20 department shall mail a copy of the citation and proposed penalty  
21 assessment to the central personnel office of the employer. Citations  
22 issued under this section shall be posted at or near the place where  
23 the violation occurred.

24       (b) Except when an employer corrects a violation as provided in (a)  
25 of this subsection, he or she shall be assessed a civil penalty of not  
26 more than one thousand dollars depending on the size of the business  
27 and the gravity of the violation. The employer shall pay the amount  
28 assessed within thirty days of receipt of the assessment or notify the  
29 director of his or her intent to appeal the citation or the assessment  
30 penalty as provided in RCW 49.12.400.



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

13       (3) In addition to any other authority provided in this section,  
14 if, upon inspection or investigation, the director, or director's  
15 designee, believes that an employer has violated RCW 49.12.121 or  
16 49.12.123, or a rule or order adopted or variance granted under RCW  
17 49.12.121 or 49.12.123, and that the violation creates a danger from  
18 which there is a substantial probability that death or serious physical  
19 harm could result to a minor employee, the director, or director's  
20 designee, may issue an order immediately restraining the condition,  
21 practice, method, process, or means creating the danger in the  
22 workplace. An order issued under this subsection may require the  
23 employer to take steps necessary to avoid, correct, or remove the  
24 danger and to prohibit the employment or presence of a minor in  
25 locations or under conditions where the danger exists.

26       (4) An employer who violates any of the posting requirements of RCW  
27 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed  
28 a civil penalty of not more than one hundred dollars for each  
29 violation.

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

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

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

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

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

18 For the purposes of this chapter:

19 (1) The term "department" means the department of labor and  
20 industries.

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

23 (3) The term "employer" means any person, firm, corporation,  
24 partnership, business trust, legal representative, or other business  
25 entity which engages in any business, industry, profession, or activity  
26 in this state and employs one or more employees and for the purposes of  
27 RCW 49.12.270 through 49.12.295 also includes the state, any state

1 institution, any state agency, political subdivisions of the state, and  
2 any municipal corporation or quasi-municipal corporation.

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

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

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

17 (7) The term "committee" shall mean the industrial welfare  
18 committee.

19 NEW SECTION. Sec. 6. RCW 49.12.105 and 1973 2nd ex.s. c 16 s  
20 8 are each repealed.

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

23 Sections 3 through 7 of this act shall take effect (~~April~~) July  
24 1, 1992.

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

1 (1) The implementation of RCW 49.12.390, 49.12.400, 29.12.410, and  
2 49.12.420, and section 6, chapter 303, Laws of 1991 be delayed until  
3 July 1, 1992;

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

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

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

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

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