
SENATE BILL 6442

State of Washington 52nd Legislature 1992 Regular Session

By Senators Anderson and Murray

Read first time 01/30/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to child labor; amending RCW 49.12.121, 49.12.105,
2 49.12.185, 49.12.390, 49.12.410, 49.12.005, and 49.12.902; adding new
3 sections to chapter 49.12 RCW; creating new sections; prescribing
4 penalties; providing an effective date; and 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8 are vague, inconsistent, outdated, and incomplete.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 The (~~committee, or the~~) director(~~(7)~~) 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~~) sections
19 3 through 6 of this act. No minor person shall be employed in any
20 occupation, trade or industry subject to this 1973 amendatory act,
21 unless a work permit has been properly issued, with the consent of the
22 parent, guardian or other person having legal custody of the minor and
23 with the approval of the school which such minor may then be attending.

24 NEW SECTION. **Sec. 3.** (1) Minors under age sixteen may not be
25 employed: (a) During school hours except by special permission from
26 school officials as outlined in RCW 28A.225.010 and 28A.225.080; (b)
27 before 7:00 a.m. or after 7:00 p.m. during the school year; or (c)
28 after 9:00 p.m. during the summer vacation season.

1 (2) 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 (3) No minor shall be employed more than twenty-eight hours per
5 week during school weeks.

6 (4) 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 (5) 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 (6) No minor shall be employed more than five hours without a meal
14 period of at least thirty minutes.

15 (7) Every minor employee shall be given a rest period of at least
16 ten minutes in every four-hour period of employment.

17 NEW SECTION. **Sec. 4.** (1) The following employments are
18 prohibited for all minors, unless specifically permitted in the text of
19 the hazardous occupations orders in nonagricultural occupations of the
20 child labor provisions of the 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;

1 (c) All mining operations;

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

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

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

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

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

15 (i) All roofing operations;

16 (j) Occupations involving excavations;

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

19 (2) The following types of work are prohibited for all minors:

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

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

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

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

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

3 NEW SECTION. **Sec. 5.** Employment of minors under age sixteen
4 is subject to the following additional restrictions. They are
5 prohibited from working:

6 (1) In any manufacturing occupation;

7 (2) In any processing operations such as filleting of fish,
8 dressing poultry, cracking nuts, commercial processing, canning,
9 freezing or drying of foods, laundering as performed by commercial
10 laundries, and dry cleaning;

11 (3) In work rooms or workplaces where goods are manufactured,
12 mined, or otherwise processed;

13 (4) In any public messenger service;

14 (5) In occupations connected with transportation, warehouse and
15 storage, communications and public utilities, or construction. Office
16 or sales work related to these occupations is permitted if none of the
17 minor's work is performed on the transportation media or construction
18 site;

19 (6) In occupations requiring operation or tending of any power-
20 driven machinery or hoisting apparatus;

21 (7) In the following specific areas of retail, food service, or
22 gasoline service station operations:

23 (a) Work performed in or about boiler or engine rooms;

24 (b) Maintenance or repair work;

25 (c) Outside window washing or other work requiring the worker to be
26 positioned at higher than ground level;

27 (d) Cooking and baking;

1 (e) Operating, setting up, adjusting, cleaning, oiling, or
2 repairing power-driven food slicers and grinders, food choppers and
3 cutters, and bakery-type mixers;

4 (f) Work in freezers, meat coolers, and all work in preparing meat
5 for sale. Wrapping, sealing, labeling, weighing, pricing, and stocking
6 are permitted if work is performed away from meat-cutting and
7 preparation areas;

8 (g) Loading and unloading goods to or from trucks, railroad cars,
9 or conveyors.

10 NEW SECTION. **Sec. 6.** (1) The employer is responsible for
11 obtaining and keeping on file the following information concerning each
12 minor employee:

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

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

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

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

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

26 (2) The employer shall make any or all of the above information
27 available to the department or any of its authorized agents upon
28 request.

1 **Sec. 7.** RCW 49.12.105 and 1973 2nd ex.s. c 16 s 8 are each amended
2 to read as follows:

3 An employer may apply to the ~~((committee))~~ department for an order
4 for a variance from any ~~((rule or regulation establishing a))~~ standard
5 for wages, hours, or conditions of labor ~~((promulgated by the~~
6 ~~committee))~~ established under this chapter. The ~~((committee))~~
7 department shall issue an order granting a variance if it determines or
8 decides that the applicant for the variance has shown good cause for
9 the lack of compliance. Any order so issued shall prescribe the
10 conditions the employer must maintain, and the practices, means,
11 methods, operations, standards and processes which ~~((he))~~ the employer
12 must adopt and utilize to the extent they differ from the standard in
13 question. At any time the ~~((committee))~~ department may terminate and
14 revoke such order, provided the employer was notified by the
15 ~~((committee))~~ department of the termination at least thirty days prior
16 to said termination.

17 **Sec. 8.** RCW 49.12.185 and 1973 2nd ex.s. c 16 s 17 are each
18 amended to read as follows:

19 This 1973 amendatory act and sections 3 through 6 of this act shall
20 not apply to newspaper vendors or carriers and domestic or casual labor
21 in or about private residences and agricultural labor as defined in RCW
22 50.04.150(~~(, as now or hereafter amended)~~).

23 **Sec. 9.** RCW 49.12.390 and 1991 c 303 s 3 are each amended to read
24 as follows:

25 (1)(a) Except as otherwise provided in subsection (2) of this
26 section, if the director, or the director's designee, finds that an
27 employer has violated any of the requirements of RCW 49.12.121 ~~((or)),~~
28 49.12.123, sections 3 through 6 of this act, or a rule or order adopted

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

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

26 (2) If the director, or the director's designee, finds that an
27 employer has committed a serious or repeated violation of the
28 requirements of RCW 49.12.121 (~~(or)~~), 49.12.123, sections 3 through 6
29 of this act, or any rule or order adopted or variance granted under RCW
30 49.12.121 (~~(or)~~), 49.12.123, or sections 3 through 6 of this act, the

1 employer is subject to a civil penalty of not more than one thousand
2 dollars for each day the violation continues. For the purposes of this
3 subsection, a serious violation shall be deemed to exist if death or
4 serious physical harm has resulted or is imminent from a condition that
5 exists, or from one or more practices, means, methods, operations, or
6 processes that have been adopted or are in use by the employer, unless
7 the employer did not, and could not with the exercise of reasonable
8 diligence, know of the presence of the violation.

9 (3) In addition to any other authority provided in this section,
10 if, upon inspection or investigation, the director, or director's
11 designee, believes that an employer has violated RCW 49.12.121 ~~((ϵ))~~,
12 49.12.123, sections 3 through 6 of this act, or a rule or order adopted
13 or variance granted under RCW 49.12.121 ~~((ϵ))~~, 49.12.123, or sections
14 3 through 6 of this act, and that the violation creates a danger from
15 which there is a substantial probability that death or serious physical
16 harm could result to a minor employee, the director, or director's
17 designee, may issue an order immediately restraining the condition,
18 practice, method, process, or means creating the danger in the
19 workplace. An order issued under this subsection may require the
20 employer to take steps necessary to avoid, correct, or remove the
21 danger and to prohibit the employment or presence of a minor in
22 locations or under conditions where the danger exists.

23 (4) An employer who violates any of the posting requirements of RCW
24 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed
25 a civil penalty of not more than one hundred dollars for each
26 violation.

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

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

3 **Sec. 10.** RCW 49.12.410 and 1991 c 303 s 5 are each amended to read
4 as follows:

5 An employer who knowingly or recklessly violates the requirements
6 of RCW 49.12.121 ~~((or))~~, 49.12.123, sections 3 through 6 of this act,
7 or a rule or order adopted under RCW 49.12.121 ~~((or))~~, 49.12.123, or
8 sections 3 through 6 of this act, is guilty of a gross misdemeanor. An
9 employer whose practices in violation of the requirements of RCW
10 49.12.121 ~~((or))~~, 49.12.123, sections 3 through 6 of this act, or a
11 rule or order adopted under RCW 49.12.121 ~~((or))~~, 49.12.123, or
12 sections 3 through 6 of this act, result in the death or permanent
13 disability of a minor employee is guilty of a class C felony.

14 **Sec. 11.** RCW 49.12.005 and 1988 c 236 s 8 are each amended to read
15 as follows:

16 For the purposes of this chapter:

17 (1) The term "department" means the department of labor and
18 industries.

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

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

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

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

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

15 (7) The term "committee" shall mean the industrial welfare
16 committee.

17 NEW SECTION. Sec. 12. (1) A joint select committee on
18 nonagricultural child labor is established to review the law governing
19 the nonagricultural employment of minors in Washington state. The
20 committee shall recommend any changes to the law that it believes are
21 necessary to provide, in a clear and unambiguous fashion, for the safe
22 and reasonable participation of minors in the workplace and for the
23 proper education and social development of the state's youth.

24 (2) The committee shall consist of six voting members appointed as
25 follows: (a) Two majority caucus members and one minority caucus
26 member from the senate, selected by the president of the senate, and
27 (b) two majority caucus members and one minority caucus member from the
28 house of representatives, selected by the speaker of the house of
29 representatives.

1 (3) The committee shall establish an advisory group consisting of:
2 (a) Equal representation from business and labor, to be selected by the
3 appropriate organizations representing business and labor and (b) at
4 least two minors.

5 (4) The committee shall use legislative committee staff and
6 facilities. All expenses of the committee shall be paid jointly by the
7 senate and the house of representatives.

8 (5) The committee shall report its findings and recommendations to
9 the governor and the legislature on or before the commencement of the
10 1993 regular session of the legislature. The committee shall cease to
11 exist on June 1, 1993.

12 NEW SECTION. **Sec. 13.** Sections 3 through 6 of this act are
13 each added to chapter 49.12 RCW.

14 **Sec. 14.** RCW 49.12.902 and 1991 c 303 s 12 are each amended to
15 read as follows:

16 Sections 3 through 7 of this act shall take effect (~~April~~) July
17 1, 1992.

18 NEW SECTION. **Sec. 15.** (1) Sections 1 through 13 of this act
19 shall take effect July 1, 1992.

20 (2) Section 14 of this act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and shall take
23 effect immediately.