

2 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)

3 By Senators McDonald and Vognild

4

5 On page 144, after line 26 of the amendment, insert the following:

6 **"PART VI. EMPLOYMENT**

7 NEW SECTION. **Sec. 601.** The legislature finds that a lack of
8 adequate economic opportunity is a significant factor in placing youth
9 at risk. Teenage unemployment, especially among some sectors of the
10 youth population, is at intolerable levels. This denies teenagers the
11 chance to learn responsibility, enhance their self-esteem, and acquire
12 skills that will enable them to be functional, contributing members of
13 society. Therefore, to further the intent of this act to reduce the
14 number of at-risk youth, and provide teenagers a constructive
15 alternative under safe and reasonable conditions to the destructive
16 activities in which they might otherwise be engaged, the legislature
17 enacts sections 602 and 603 of this act. Sections 602 and 603 of this
18 act shall be liberally construed to foster increased employment
19 opportunities for our youth.

20 NEW SECTION. **Sec. 602.** A new section is added to chapter 49.12
21 RCW to read as follows:

22 (1)(a) During the school year minors under the age of sixteen may
23 be employed up to three hours per day on any school day preceding
24 another school day, up to eight hours per day on any other day, and up
25 to eighteen hours per week.

26 (b) During school vacation periods, minors under the age of sixteen
27 may be employed up to eight hours per day, and up to forty hours per
28 week.

29 (c) Minors under the age of sixteen may be employed during
30 nonschool hours between 7:00 a.m. and 7:00 p.m. on any day preceding a
31 school day, and during nonschool hours between 7:00 a.m. and 9:00 p.m.
32 on any other day.

1 (2)(a) During the school year sixteen and seventeen-year-old minors
2 may be employed up to eight hours per day, and up to thirty hours per
3 week.

4 (b) During school vacation periods, sixteen and seventeen-year-old
5 minors may be employed up to ten hours per day, and up to fifty hours
6 per week.

7 (c) Minors age sixteen and seventeen may be employed during
8 nonschool hours between 7:00 a.m. and 10:00 p.m. on any day preceding
9 a school day, and during any nonschool hours on any other day.

10 (3)(a) Minors employed past 8:00 p.m. in service occupations shall
11 be supervised by a responsible adult employee who is on the premises at
12 all times.

13 (b) No minor may be employed more than five hours without a meal
14 period of at least thirty minutes.

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

17 (4) A minor may be employed only as provided in subsection (1) or
18 (2) of this section unless the minor's parent or guardian, or other
19 person having legal custody of the minor, and the minor's school have
20 agreed that other hours of employment would be beneficial for the
21 minor. In such case, the parent, guardian, or other person and the
22 school shall provide the department and the employer with a copy of the
23 written agreement describing the hours that the minor is allowed to be
24 employed. The minor may not be employed for any hours in excess of
25 those provided in the agreement.

26 (5) Subsection (1) or (2) of this section shall not apply to any
27 minor emancipated by court order or to sixteen and seventeen-year-old
28 minors who have been issued a certificate of educational competence
29 under RCW 28A.305.190, are enrolled in a bona fide college program, are
30 named on a valid certificate of marriage, or are shown as the parent on
31 a valid certificate of birth.

32 (6) The department may adopt rules necessary to implement this
33 section.

34 NEW SECTION. **Sec. 603.** A new section is added to chapter 49.12
35 RCW to read as follows:

36 (1) A minor under age sixteen may be employed in any occupation or
37 doing any type of work other than that which is prohibited by rule of
38 the industrial safety and health division of the department of labor

1 and industries. In making this determination, the division shall: (a)
2 Prohibit only types of work and occupations which evidence indicates
3 present an unreasonable threat to the health or safety of minors under
4 age sixteen relative to the skills acquired; and (b) have reasonable
5 justification for differing from the occupation standards for fourteen
6 and fifteen year olds of the child labor provisions of the fair labor
7 standards act (29 C.F.R. Part 570, Subpart C).

8 (2) A minor age sixteen or seventeen may be employed in any
9 occupation or doing any type of work other than that which is
10 prohibited by rule of the industrial safety and health division of the
11 department of labor and industries. In making this determination, the
12 division shall: (a) Prohibit only types of work and occupations which
13 evidence indicates present an unreasonable threat to the health or
14 safety of minors age sixteen or seventeen relative to the skills
15 acquired; and (b) have reasonable justification for differing from the
16 hazardous occupations orders in nonagricultural occupations of the
17 child labor provisions of the fair labor standards act (29 C.F.R. Part
18 570, Subpart E). It is the intent of the legislature that the
19 occupations and types of work in which minors age sixteen and seventeen
20 may be employed be less restrictive than for minors under age sixteen.

21 **Sec. 604.** RCW 49.12.390 and 1991 c 303 s 3 are each amended to
22 read as follows:

23 (1)(a) Except as otherwise provided in subsection (2) of this
24 section, if the director, or the director's designee, finds that an
25 employer has violated any of the requirements of (~~RCW 49.12.121 or~~
26 ~~49.12.123, or a rule or order adopted or variance granted under RCW~~
27 ~~49.12.121 or 49.12.123)) section 602 or 603 of this act, or a rule
28 adopted under section 602 or 603 of this act, a citation stating the
29 violations shall be issued to the employer. The citation shall be in
30 writing, describing the nature of the violation including reference to
31 the (~~standards, rules, or orders~~) statute or rule alleged to have
32 been violated. An initial citation for failure to comply with (~~RCW~~
33 ~~49.12.123 or rules requiring a minor work permit and~~) any rule
34 requiring maintenance of records shall state a specific and reasonable
35 time for abatement of the violation to allow the employer to correct
36 the violation without penalty. The director or the director's designee
37 may establish a specific time for abatement of other nonserious
38 violations in lieu of a penalty for first time violations. The~~

1 citation and a proposed penalty assessment shall be given to the
2 highest management official available at the workplace or be mailed to
3 the employer at the workplace. In addition, the department shall mail
4 a copy of the citation and proposed penalty assessment to the central
5 personnel office of the employer. Citations issued under this section
6 shall be posted at or near the place where the violation occurred.

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

14 (2) If the director, or the director's designee, finds that an
15 employer has committed a serious or repeated violation of the
16 requirements of (~~RCW 49.12.121 or 49.12.123, or any rule or order~~
17 ~~adopted or variance granted under RCW 49.12.121 or 49.12.123)) section
18 602 or 603 of this act, or any rule adopted under section 602 or 603 of
19 this act, the employer is subject to a civil penalty of not more than
20 one thousand dollars for each day the violation continues. For the
21 purposes of this subsection, a serious violation shall be deemed to
22 exist if death or serious physical harm has resulted or is imminent
23 from a condition that exists, or from one or more practices, means,
24 methods, operations, or processes that have been adopted or are in use
25 by the employer, unless the employer did not, and could not with the
26 exercise of reasonable diligence, know of the presence of the
27 violation.~~

28 (3) In addition to any other authority provided in this section,
29 if, upon inspection or investigation, the director, or director's
30 designee, believes that an employer has violated (~~RCW 49.12.121 or~~
31 ~~49.12.123, or a rule or order adopted or variance granted under RCW~~
32 ~~49.12.121 or 49.12.123)) section 602 or 603 of this act, or any rule
33 adopted under section 602 or 603 of this act, and that the violation
34 creates a danger from which there is a substantial probability that
35 death or serious physical harm could result to a minor employee, the
36 director, or director's designee, may issue an order immediately
37 restraining the condition, practice, method, process, or means creating
38 the danger in the workplace. An order issued under this subsection may
39 require the employer to take steps necessary to avoid, correct, or~~

1 remove the danger and to prohibit the employment or presence of a minor
2 in locations or under conditions where the danger exists.

3 (4) An employer who violates any (~~of the~~) posting requirements of
4 (~~RCW 49.12.121 or~~) rules adopted implementing (~~RCW 49.12.121~~)
5 section 602 of this act shall be assessed a civil penalty of not more
6 than one hundred dollars for each violation.

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

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

12 **Sec. 605.** RCW 49.12.410 and 1991 c 303 s 5 are each amended to
13 read as follows:

14 An employer who knowingly or recklessly violates (~~the requirements~~
15 ~~of RCW 49.12.121 or 49.12.123~~) section 602 or 603 of this act, or a
16 rule (~~or order~~) adopted under (~~RCW 49.12.121 or 49.12.123~~) section
17 602 or 603 of this act, is guilty of a gross misdemeanor. An employer
18 whose practices in violation of (~~the requirements of RCW 49.12.121 or~~
19 ~~49.12.123~~) section 602 or 603 of this act, or a rule (~~or order~~)
20 adopted under (~~RCW 49.12.121 or 49.12.123~~) section 602 or 603 of this
21 act, result in the death or permanent disability of a minor employee is
22 guilty of a class C felony.

23 **Sec. 606.** RCW 49.12.420 and 1991 c 303 s 7 are each amended to
24 read as follows:

25 The penalties established in RCW 49.12.390 and 49.12.410 for
26 violations of (~~RCW 49.12.121 and 49.12.123~~) section 602 or 603 of
27 this act or a rule adopted under section 602 or 603 of this act are
28 exclusive remedies.

29 NEW SECTION. **Sec. 607.** The following acts or parts of acts are
30 each repealed:

- 31 (1) RCW 49.12.105 and 1973 2nd ex.s. c 16 s 8;
32 (2) RCW 49.12.121 and 1993 c 294 s 9, 1989 c 1 s 3, & 1973 2nd
33 ex.s. c 16 s 15; and
34 (3) RCW 49.12.123 and 1991 c 303 s 8, 1983 c 3 s 156, & 1973 c 51
35 s 3."

1 Renumber the remaining parts and sections consecutively and correct
2 the table of contents and any internal references accordingly.

3 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)
4 By Senators McDonald and Vognild

5

6 On page 159, line 30 of the title amendment, after "28A.190.040,"
7 insert "49.12.390, 49.12.410, 49.12.420,"

8 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)
9 By Senators McDonald and Vognild

10

11 On page 160, line 7 of the title amendment, after "28A.600 RCW;"
12 insert "adding new sections to chapter 49.12 RCW;"

13 On page 160, line 14 of the title amendment, after "9.41.230,"
14 insert "49.12.105, 49.12.121, and 49.12.123"

--- END ---