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ENGROSSED SUBSTITUTE HOUSE BILL 1911

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State of Washington

55th Legislature

1997 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Benson, Mastin, McMorris, Mulliken, Boldt, Sterk, Lambert, Honeyford, Smith, Mielke, Buck, Thompson, Clements, Sherstad, O'Brien, Zellinsky, Sump, Hickel, Schoesler, Koster, Delvin, Wensman, Chandler, L. Thomas, Quall, Crouse, Pennington, Huff, Grant, Talcott, D. Schmidt, D. Sommers, Sheldon and Cooke)

Read first time 03/05/97.

1 AN ACT Relating to the employment of minors; amending RCW  
2 49.12.121, 49.12.170, 49.12.390, and 49.12.420; repealing RCW 49.12.123  
3 and 49.12.410; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 49.12.121 and 1993 c 294 s 9 are each amended to read  
6 as follows:

7 ~~(1) ((The department may at any time inquire into wages, hours, and  
8 conditions of labor of minors employed in any trade, business, or  
9 occupation in the state of Washington and may adopt special rules for  
10 the protection of the safety, health, and welfare of minor employees.  
11 However, the rules may not limit the hours per day or per week, or  
12 other specified work period, that may be worked by minors who are  
13 emancipated by court order.~~

14 ~~(2))~~ Before hiring a minor or allowing a minor to work, an  
15 employer that seeks to employ one or more minors must:

16 (a) Obtain, maintain, and post a valid minor work permit from the  
17 department for each workplace at which minors will be employed. The  
18 department shall issue work permits to employers for the employment of  
19 minors((7)) after being assured the proposed employment of a minor

1 meets the standards for the health, safety, and welfare of minors as  
2 set forth in this chapter and the rules adopted by the department(~~-~~  
3 ~~No minor person shall be employed in any occupation, trade, or industry~~  
4 ~~subject to chapter 16, Laws of 1973 2nd ex. sess., unless a work permit~~  
5 ~~has been properly issued, with the consent of the parent, guardian, or~~  
6 ~~other person having legal custody of the minor and with the approval of~~  
7 ~~the school which such minor may then be attending. However, the~~  
8 ~~consent of a parent, guardian, or other person, or the approval of the~~  
9 ~~school which the minor may then be attending, is unnecessary if the~~  
10 ~~minor is emancipated by court order.~~

11 ~~(3))~~ as specified in this chapter; and

12 (b)(i) If the minor will be employed a total of twenty hours per  
13 week or less during the school year, obtain a signed authorization from  
14 the minor's parent, guardian, or other person having legal custody of  
15 the minor indicating approval of the minor's job duties and the hours  
16 of work. The employer shall send a copy of this authorization to the  
17 school that the minor is attending. This authorization may not be  
18 required more often than once during the school year.

19 (ii) If the minor will be employed for a total of more than twenty  
20 hours per week during the school year under a variance granted under  
21 subsection (4) of this section, obtain a copy of the completed approved  
22 variance.

23 (2)(a) Any department requirements for employers to keep minor  
24 employee personnel records must be the same as for all other employers  
25 under this chapter, with the following additions, as applicable:

26 (i) A current copy of the authorization required under subsection  
27 (1)(b)(i) of this section; or

28 (ii) A current copy of a variance granted under subsection (4)(b)  
29 or (7) of this section or RCW 49.12.105.

30 (b) Employers may keep these records in a central location where  
31 business records are regularly maintained but must make them available  
32 within a reasonable time following a request by the department.

33 (3) Except as otherwise provided in this chapter, the employment of  
34 a minor under the age of sixteen is restricted as follows:

35 (a) During a school week, the total number of hours worked may not  
36 exceed three hours per day on a school day, eight hours per day on  
37 other days, or eighteen hours per week.

38 (b) During a nonschool week, the total number of hours worked may  
39 not exceed eight hours per day or forty hours per week.

1 (c) Employment may not begin before 7:00 a.m. During the school  
2 year, employment must end no later than 7:00 p.m. and, during the  
3 summer school vacation, employment must end no later than 9:00 p.m.

4 (d) Employment during school hours is not permitted.

5 (4)(a) Except as otherwise provided in this chapter, the hours of  
6 employment for minors age sixteen and seventeen may not be restricted  
7 except as follows:

8 (i) During a school week:

9 (A) The total number of hours worked may not exceed six hours per  
10 day on a school day, eight hours per day on other days, or twenty hours  
11 per week;

12 (B) Employment may not begin before 7:00 a.m. on a school day or  
13 before 5:00 a.m. on other days; and

14 (C) Employment must end no later than 10:00 p.m. on days preceding  
15 a school day and no later than midnight on other days.

16 (ii) During a nonschool week, the total number of hours worked may  
17 not exceed ten hours per day or forty-eight hours per week.

18 (iii) Minors who have been issued a certificate of educational  
19 competence under RCW 28A.305.190, are enrolled in a bona fide college  
20 program, are named on a valid certificate of marriage, or are shown as  
21 the parent on a valid certificate of birth may work as would be  
22 permitted during nonschool weeks.

23 (iv) Employment during school hours is not permitted unless the  
24 minor has been excused from school attendance by the minor's school  
25 district superintendent or his or her authorized agent, or by the chief  
26 administrator of the approved private school attended by the minor, as  
27 applicable.

28 (b) A variance to (a)(i)(A) and (C) of this subsection may be  
29 granted by the minor's school with concurrence of the minor's parent or  
30 legal guardian to permit any of the following:

31 (i) Up to eight hours of work per day on a school day and up to  
32 thirty-six hours of work per week during the school year; and

33 (ii) Employment until 11:00 p.m. on a day preceding a school day,  
34 except that working past 10:00 p.m. on two consecutive days preceding  
35 school days is not permitted.

36 Variance authorization under this subsection (4)(b) may not be  
37 required more often than twice during the school year: In September,  
38 or whenever the variance request is made during the school year, and in  
39 January of the school year. In reviewing a variance request under this

1 subsection, the official at the school with responsibility for granting  
2 the variance must consult with each teacher of the minor for whom the  
3 variance is sought. The department shall develop a form that the  
4 school must use in granting a variance under this subsection.

5 (5) Employment of a minor after 8:00 p.m. in a service occupation  
6 must be supervised by a responsible adult employee who is on the  
7 premises at all times.

8 (6) Subsections (1)(b) and (3) through (5) of this section do not  
9 apply to a minor who is emancipated by court order or to the employment  
10 of a minor by his or her own parents or grandparents.

11 (7) The department may issue an order granting a variance to any of  
12 the standards contained in subsections (3) through (5) of this section  
13 if the director determines that the applicant has satisfied the  
14 requirements for the granting of a variance under RCW 49.12.105.

15 (8) Minors must be given meal and rest breaks to the same extent  
16 and under the same conditions as breaks are provided to all other  
17 employees under department rules adopted under this chapter.

18 (9) Minors may be employed in any occupation or doing any type of  
19 work other than that which is prohibited by this code or rules adopted  
20 by the department. The department's rules shall be adopted pursuant to  
21 the authority granted in chapter 49.17 RCW and enforced under this  
22 chapter. Rules adopted after the effective date of this section may  
23 not restrict the occupations or types of work in which minors may be  
24 employed beyond the restrictions of the child labor provisions of the  
25 fair labor standards act (29 C.F.R. Part 570, Subpart E), unless the  
26 department can show by substantial evidence that the restriction is  
27 necessary to protect the health and safety of minors.

28 (10) In addition to the penalties under RCW 49.12.390, an employer  
29 whose practices in violation of this section, or a rule or order  
30 adopted under this section, result in the death or permanent disability  
31 of a minor employee is subject to prosecution under the Washington  
32 criminal code, Title 9A RCW.

33 (11) The minimum wage for minors shall be as prescribed in RCW  
34 49.46.020.

35 (12) As used in this section:

36 (a) "School day" means a day on which a minor is required to attend  
37 school pursuant to the attendance policy of the school in which the  
38 minor is enrolled.

1        (b) "School hours" means the hours of a school day in which a minor  
2 is required to attend school pursuant to the attendance policy of the  
3 school in which the minor is enrolled.

4        (c) "School week" means a week in which there are more than two  
5 scheduled school days.

6        (d) "School year" means the academic school year scheduled by  
7 school officials for the school in which the minor is enrolled.

8        (e) "School" means a public school operated by the state of  
9 Washington or a private school approved under chapter 28A.195 RCW.

10        NEW SECTION. Sec. 2. The following acts or parts of acts are each  
11 repealed:

12        (1) RCW 49.12.123 and 1991 c 303 s 8, 1983 c 3 s 156, & 1973 c 51  
13 s 3; and

14        (2) RCW 49.12.410 and 1991 c 303 s 5.

15        **Sec. 3.** RCW 49.12.170 and 1994 c 164 s 21 are each amended to read  
16 as follows:

17        Except as otherwise provided in RCW 49.12.121(10) or 49.12.390 ((~~or~~  
18 ~~49.12.410~~)), any employer employing any person for whom a minimum wage  
19 or standards, conditions, and hours of labor have been specified, at  
20 less than said minimum wage, or under standards, or conditions of labor  
21 or at hours of labor prohibited by the rules and regulations of the  
22 director; or violating any other of the provisions of chapter 16, Laws  
23 of 1973 2nd ex. sess., shall be deemed guilty of a misdemeanor, and  
24 shall, upon conviction thereof, be punished by a fine of not less than  
25 twenty-five dollars nor more than one thousand dollars.

26        **Sec. 4.** RCW 49.12.390 and 1991 c 303 s 3 are each amended to read  
27 as follows:

28        (1)(a) Except as otherwise provided in subsection (2) of this  
29 section, if the director, or the director's designee, finds that an  
30 employer has violated any of the requirements of 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~~)), a citation stating the violations shall be  
33 issued to the employer. The citation shall be in writing, describing  
34 the nature of the violation including reference to the standards,  
35 rules, or orders alleged to have been violated. An initial citation  
36 for failure to comply with RCW ((~~49.12.123~~)) 49.12.121 or rules

1 requiring a minor work permit and maintenance of records shall state a  
2 specific and reasonable time for abatement of the violation to allow  
3 the employer to correct the violation without penalty. The director or  
4 the director's designee may establish a specific time for abatement of  
5 other nonserious violations in lieu of a penalty for first time  
6 violations. The citation and a proposed penalty assessment shall be  
7 given to the highest management official available at the workplace or  
8 be mailed to the employer at the workplace. In addition, the  
9 department shall mail a copy of the citation and proposed penalty  
10 assessment to the central personnel office of the employer. Citations  
11 issued under this section shall be posted at or near the place where  
12 the violation occurred.

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

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

32 (3) In addition to any other authority provided in this section,  
33 if, upon inspection or investigation, the director, or director's  
34 designee, believes that an employer has violated RCW 49.12.121 (~~or~~  
35 ~~49.12.123~~), or a rule or order adopted or variance granted under RCW  
36 49.12.121 (~~or 49.12.123~~), and that the violation creates a danger  
37 from which there is a substantial probability that death or serious  
38 physical harm could result to a minor employee, the director, or  
39 director's designee, may issue an order immediately restraining the

1 condition, practice, method, process, or means creating the danger in  
2 the workplace. An order issued under this subsection may require the  
3 employer to take steps necessary to avoid, correct, or remove the  
4 danger and to prohibit the employment or presence of a minor in  
5 locations or under conditions where the danger exists.

6 (4) An employer who violates any of the posting requirements of RCW  
7 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed  
8 a civil penalty of not more than one hundred dollars for each  
9 violation.

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

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

15 **Sec. 5.** RCW 49.12.420 and 1991 c 303 s 7 are each amended to read  
16 as follows:

17 The penalties established in RCW 49.12.121(10) or 49.12.390 ((and  
18 ~~49.12.410~~)) for violations of RCW 49.12.121 ((and ~~49.12.123~~)) are  
19 exclusive remedies.

20 NEW SECTION. **Sec. 6.** 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 takes effect  
23 immediately.

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