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SENATE BILL 5810

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State of Washington

55th Legislature

1997 Regular Session

By Senators Deccio, Schow, Swecker, McCaslin, Wood, Rossi, Horn, Hochstatter and Oke

Read first time 02/13/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the employment of minors; amending RCW  
2 49.12.121, 49.12.390, 49.12.410, and 49.12.420; repealing RCW  
3 49.12.123; 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))~~ The department shall issue work permits to employers for the  
15 employment of minors, after being assured the proposed employment of a  
16 minor meets the standards for the health, safety, and welfare of minors  
17 as set forth in this chapter and the rules adopted by the department  
18 under this chapter. No minor person shall be employed in any  
19 occupation, trade, or industry subject to chapter 16, Laws of 1973 2nd

1 ex. sess., unless a work permit has been properly issued, with the  
2 consent of the parent, guardian, or other person having legal custody  
3 of the minor and with the approval of the school which such minor may  
4 then be attending. However, the consent of a parent, guardian, or  
5 other person, or the approval of the school which the minor may then be  
6 attending, is unnecessary if the minor is emancipated by court order.  
7 The employer who is required to have a work permit under this section  
8 or RCW 49.12.124 shall keep the permit on file during the employment of  
9 a minor or minors.

10 ((+3)) (2) Except as otherwise provided in this chapter, the  
11 employment of a minor under the age of sixteen is restricted as  
12 follows:

13 (a) During a school week, the total number of hours worked may not  
14 exceed three hours per day on school days, eight hours per day on  
15 nonschool days, or eighteen hours per week, and the total number of  
16 days worked may not exceed six days per week;

17 (b) During a nonschool week, the total number of hours worked may  
18 not exceed eight hours per day or forty hours per week;

19 (c) Employment may not begin before 7:00 a.m. During the school  
20 year, employment must end no later than 7:00 p.m. and, during the  
21 summer school vacation, employment must end no later than 9:00 p.m.;  
22 and

23 (d) Employment after 8:00 p.m. in service occupations must be  
24 supervised by a responsible adult who is required to be on the  
25 premises.

26 (3) Except as otherwise provided in this chapter, the hours of  
27 employment for minors age sixteen and seventeen may not be restricted  
28 except as follows:

29 (a) During a school week the total number of hours worked may not  
30 exceed six hours per day on school days, eight hours per day on  
31 nonschool days or twenty-four hours per week, and the total number of  
32 days worked may not exceed six days per week;

33 (b) During a nonschool week, the total number of hours worked may  
34 not exceed ten hours per day or forty-eight hours per week;

35 (c) Employment may not begin before 7:00 a.m. on school days or  
36 before 5:00 a.m. on Saturdays and Sundays, and must end no later than  
37 11:00 p.m. on days before a school day or midnight on days before a  
38 nonschool day, except that working past 10:00 p.m. on two consecutive  
39 days preceding school days is prohibited; and

1 (d) A variance to (a) of this subsection that will permit a total  
2 of no more than thirty-six hours of work per week during a school week  
3 may be granted by the minor's school with concurrence of the minor's  
4 parent or legal guardian. The department shall adopt rules  
5 establishing the procedures that the school must follow in granting a  
6 variance under this subsection.

7 (4) The restrictions in subsections (2) and (3) of this section do  
8 not apply to minors who are emancipated by court order.

9 (5) Minors may not be employed:

10 (a) More than five hours without a meal period of at least thirty  
11 minutes. Minors must be given a rest period of at least ten minutes in  
12 every four-hour period of employment;

13 (b) During school hours unless special permission has been granted  
14 under RCW 28A.225.010 and 28A.225.080;

15 (c)(i) In an occupation in which there:

16 (A) Is a risk of exposure to bodily fluids or transmission of  
17 infectious agents, including but not limited to exposure to hepatitis  
18 and human immunodeficiency virus and laboratory work that entails the  
19 cleaning of medical equipment used to draw or store blood or other  
20 contaminated tissue;

21 (B) Are duties that involve venipuncture; and

22 (C) Are duties that involve work with laundry from health care  
23 facilities.

24 (ii) Subsection (5)(c)(i) of this section does not apply:

25 (A) If the minor is a student in a bona fide health care career  
26 training or vocational education program; or

27 (B) To state-certified life guards with first aid training;

28 (d) In occupations involving potential exposure to hazardous  
29 substances that are considered to be carcinogenic, corrosive, highly  
30 toxic, or toxic sensitizers or that have been determined to cause  
31 reproductive health effects or irreversible end organ damage. This  
32 prohibition does not include handling of such substances in sealed  
33 containers in retail employment and does not apply to any consumer  
34 product or hazardous substance, as those terms are defined by the  
35 consumer product safety act (15 U.S.C. 2051 et seq.) and the federal  
36 hazardous substances act (15 U.S.C. 1261 et seq.) and those statutes'  
37 regulations, if the employer of a minor can demonstrate that a product  
38 or substance is used in the workplace in the same manner as normal  
39 consumer use, which use results in a duration and frequency of exposure

1 that is not greater than exposures experienced by consumers using the  
2 product or substance in conformity with the manufacturer's  
3 instructions; and

4 (e) In sauna or massage parlors, body painting or tattoo studios,  
5 or adult entertainment establishments.

6 (6) The department may determine by rule occupations, in addition  
7 to the occupations listed in subsection (5)(c), (d), and (e) of this  
8 section, that are prohibited for minors as unreasonably hazardous.  
9 Except to comply with subsection (5)(c), (d), and (e) of this section,  
10 the department's rules may not restrict the occupations in which minors  
11 may be employed beyond the restrictions of the child labor provisions  
12 of the fair labor standards act (29 C.F.R. Part 570, Subpart E), as  
13 existing on January 1, 1994.

14 (7) The minimum wage for minors shall be as prescribed in RCW  
15 49.46.020.

16 (8) As used in this section:

17 (a) "School day" means a day on which a minor is required to attend  
18 school pursuant to the attendance policy of the school in which the  
19 minor is enrolled;

20 (b) "School week" means a week in which there are more than two  
21 scheduled school days; and

22 (c) "School year" means the academic school year scheduled by  
23 school officials for the school in which the minor is enrolled.

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

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

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

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

16 (2) If the director, or the director's designee, finds that an  
17 employer has committed a serious or repeated violation of the  
18 requirements of RCW 49.12.121 (~~or 49.12.123~~), or any rule or order  
19 adopted or variance granted under RCW 49.12.121 (~~or 49.12.123~~), the  
20 employer is subject to a civil penalty of not more than one thousand  
21 dollars for each day the violation continues. For the purposes of this  
22 subsection, a serious violation shall be deemed to exist if death or  
23 serious physical harm has resulted or is imminent from a condition that  
24 exists, or from one or more practices, means, methods, operations, or  
25 processes that have been adopted or are in use by the employer, unless  
26 the employer did not, and could not with the exercise of reasonable  
27 diligence, know of the presence of the 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~~), and that the violation creates a danger  
33 from which there is a substantial probability that death or serious  
34 physical harm could result to a minor employee, the director, or  
35 director's designee, may issue an order immediately restraining the  
36 condition, practice, method, process, or means creating the danger in  
37 the workplace. An order issued under this subsection may require the  
38 employer to take steps necessary to avoid, correct, or remove the

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

3 (4) An employer who violates any of the posting requirements of RCW  
4 49.12.121 or rules adopted implementing RCW 49.12.121 shall be assessed  
5 a civil penalty of not more than one hundred dollars for each  
6 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. 3.** RCW 49.12.410 and 1991 c 303 s 5 are each amended to read  
13 as follows:

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

21 **Sec. 4.** RCW 49.12.420 and 1991 c 303 s 7 are each amended to read  
22 as follows:

23 The penalties established in RCW 49.12.390 and 49.12.410 for  
24 violations of RCW 49.12.121 (~~and 49.12.123~~) are exclusive remedies.

25 NEW SECTION. **Sec. 5.** RCW 49.12.123 and 1991 c 303 s 8, 1983 c 3  
26 s 156, & 1973 c 51 s 3 are each repealed.

27 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and takes effect  
30 immediately.

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