

# HOUSE BILL REPORT

## ESB 5893

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### As Reported by House Committee On: Labor

**Title:** An act relating to the nonemployee status of athletes in amateur sports.

**Brief Description:** Addressing the nonemployee status of athletes affiliated with the Western Hockey League.

**Sponsors:** Senators Fain, Mullet, Litzow, Liias and Hargrove.

#### **Brief History:**

##### **Committee Activity:**

Labor: 3/17/15, 3/30/15 [DP].

#### **Brief Summary of Engrossed Bill**

- Specifies that "employee" as defined under the Minimum Wage Act, the Industrial Welfare Act, and the Industrial Safety and Health Act, does not include an individual who is training or playing as an athlete for a team affiliated with the Western Hockey League.

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### HOUSE COMMITTEE ON LABOR

**Majority Report:** Do pass. Signed by 5 members: Representatives Sells, Chair; Gregerson, Vice Chair; Manweller, Ranking Minority Member; G. Hunt, Assistant Ranking Minority Member; McCabe.

**Minority Report:** Do not pass. Signed by 1 member: Representative Moeller.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Ormsby.

**Staff:** Trudes Tango (786-7384).

#### **Background:**

Under the state Minimum Wage Act (MWA), employers must pay their employees who are at least 18 years old or older the minimum hourly wage. The Department of Labor and

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Industries (Department) establishes the minimum wage for persons under the age of 18, and by rule, allows employees age 14 and 15 to be paid 85 percent of the state minimum wage. Under the MWA, the definition of "employee" specifically excludes certain categories of people, such as certain agricultural workers and individuals doing casual labor in a private home.

The Industrial Welfare Act (IWA) establishes conditions of employment, including work conditions for minors. The Department may inquire into the wages, hours, and conditions of labor of minors employed in any trade, business, or occupation in the state. A minor may not work unless the Department has issued to the employer a minor work permit. "Employee" is defined under the IWA as an employee who is employed in the business of the employee's employer, whether by manual labor or otherwise. "Employer" includes any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in the state and employs one or more employees.

The Washington Industrial Safety and Health Act (WISHA) authorizes the Department to establish safety and health standards for work environments. The Department may issue citations and other orders to employers that violate safety standards.

Washington's industrial insurance laws do not cover amateur athletes.

The Western Hockey League (WHL) is a league of 22 junior hockey teams from different Canadian provinces, Oregon, and Washington. Players are usually between the ages of 16 and 20. Players earn financial aid for post-secondary education while playing. Players are also housed with families in the cities in which they play.

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**Summary of Bill:**

For the purposes of the MWA, IWA, and WISHA, the term "employee" does not include any individual for the purposes of training or playing as an athlete for a team affiliated with the WHL.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Some of the hockey teams have been operating since the 1970s. This bill is not a change in the law; it is a clarification of the business model that teams have been using for

many years. Some of the hockey teams are anchor tenants of sports arenas and the revenue the teams generate supports the arenas. Teams contribute to the community in many ways, including giving grants and participating in community events. They contribute millions of dollars into the community. Players receive scholarship money for each year they play. Without the bill, teams would not be able to play in Washington because players would be restricted in how many hours they can play. Players in the WHL are being looked at by the National Hockey League to become professional players, but they are still amateurs.

(Opposed) The WHL is a for-profit industry, which is different than amateur sports played at schools. The players are given a small stipend per week and the eligibility for scholarship money is limited. The league can afford to pay its players at least minimum wages. What would be good for the local economy is for these workers to be paid for their work.

(Information only) The Department's investigation is ongoing and it is not known when it will be completed. The bill does not address workers' compensation and will not change federal labor laws.

**Persons Testifying:** (In support) Russ Farwell and Carol Paulsen, Seattle Thunderbirds; Tim Speltz, Spokane Chiefs Hockey Club; Robert Tory, Tri-City American Hockey Club; Garry Davidson, Everett Silvertips Hockey League; Tim Higgins, Showare Center; Martin Volcan; Doug Levy, City of Kent and City of Everett; and Al Kinisky.

(Opposed) Teresa Mosquado, Washington State Labor Council.

(Information only) Tammy Fellin, Department of Labor and Industries.

**Persons Signed In To Testify But Not Testifying:** None.