

SENATE BILL REPORT

ESB 5893

As Amended by House, April 15, 2015

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, Lias and Hargrove.

Brief History:

Committee Activity: Commerce & Labor: 2/18/15 [DP, w/oRec].

Passed Senate: 3/03/15, 47-0.

Passed House: 4/15/15, 91-7.

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; King and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senators Hasegawa, Ranking Minority Member; Conway and Keiser.

Staff: Mac Nicholson (786-7445)

Background: Minimum Wage Act (MWA). The MWA establishes a minimum wage that must be paid to all employees in the state. Under the MWA, an employee is any individual employed by an employer except those specifically excluded in statute. An employer under the MWA is any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee. Consequently any individual who is engaged or permitted to work for an employer is entitled to the state minimum wage, unless specifically exempt.

Industrial Welfare Act (IWA). The IWA regulates hours and conditions of labor and other wage issues not specifically covered by the MWA. The IWA applies to all employers and employees in the state unless specifically exempt. An employee under the IWA is an employee who is employed in the business of the employee's employer, whether by manual labor or otherwise. An employer under the IWA includes any person, firm, corporation,

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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.

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

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

Summary of Engrossed Bill: For the purposes of the MWA, IWA, and WISHA, the term employee does not include any individual training or playing as an athlete for a team affiliated with the Western Hockey League.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The Thunderbirds have been around since 1977 and have played in the WHL, which is the top level for amateur players. The players are amateur hockey players, not employees. The bill would allow the teams to keep operating; if the teams had to pay the players as employees, the teams couldn't continue to operate. Every player that plays in the WHL earns a year of scholarship at a post-secondary institution. This bill clarifies the status of amateur athletes. The WHL teams play an integral role in the communities in which they operate.

Persons Testifying: PRO: Senator Fain, prime sponsor; Doug Levy, City of Kent; Russ Farwell, Seattle Thunderbirds; Tim Speltz, Spokane Chiefs, Governor & General Manager; Garry Davidson, Everett Silvertips, General Manager; Robert Tory, Tri-City Americans Hockey Club; Ron Robison, Western Hockey League, Commissioner.

House Amendment(s): The House amendments do the following:

- Adds intent language;
- Removes the reference to "Western Hockey League" and instead references a junior ice hockey team that is a member of a regional, national, or international league that contracts with an arena owned or operated by a public facilities district;
- Adds age limits, so to be excluded as an employee, the player must be at least 16 but no older than 20; and
- Removes the provision that applied the exemption to WISHA.