

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

BILL NO. House Bill 1548

PRINTER'S NO. 4148

AMOUNT

\$840,000 Revenue FY 2013-14

FUND

General Fund

DATE INTRODUCED

May 18, 2011

PRIME SPONSOR

Representative Murt

HISTORY OF BILL

Referred to LABOR AND INDUSTRY, May 18, 2011

Reported as amended, June 14, 2011

First consideration, June 14, 2011

Re-committed to RULES, June 14, 2011

Re-reported as committed, June 22, 2011

Second consideration, with amendments, June 22, 2011

Re-committed to APPROPRIATIONS, June 22, 2011

(Remarks see House Journal Page 1419-1420), June 22, 2011

Re-reported as committed, June 23, 2011

Third consideration and final passage, June 24, 2011 (197-0)

(Remarks see House Journal Page 1494), June 24, 2011

In the Senate

Referred to LABOR AND INDUSTRY, June 26, 2011

Reported as amended, May 22, 2012

First consideration, May 22, 2012

Re-referred to APPROPRIATIONS, June 13, 2012

Re-reported as amended, Oct. 1, 2012

DESCRIPTION AND PURPOSE OF BILL

House Bill 1548 enacts the Child Labor Act and replaces the Child Labor Law.

The bill provides definitions for multiple terms including "Enforcement Officer." An "Enforcement Officer" is defined as any of the following: the Secretary of Labor & Industry, a designee who is an employee of the department, or an attorney of the Office of General Counsel who is assigned to the Department. An "Enforcement Officer" may also be a chief school administrator, a home and school visitor, an attendance officer appointed under the Public School Code, an issuing officer, or a law enforcement officer. An "Issuing Officer" is defined in the bill to be one of the following: a district superintendent or supervising principal of a public school. If a public school district does not have a superintendent or supervising principal, the secretary of the board of school directors, or an individual authorized in writing by one of the aforementioned individuals, can be an "Issuing Officer." A "Minor" is defined as an individual under the age of 18.

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Section 3 of the bill provides for time limitations on employment of minors. It requires a rest break of no less than 30 continuous minutes following more than 5 hours of continuous work. Except for newspaper deliverers, employment is limited to no more than 6 consecutive days.

Employment under the age of 14 is prohibited, except as caddies or newspaper deliverers. Section 3 also provides for limitations on the hours of employment for individuals fourteen or fifteen years of age. Persons fourteen or fifteen years of age are limited to: the hours between 7am and 7pm except that during a school vacation, the time is extended to 9pm. Work is limited to no more than 3 hours on a school day or more than 8 hours on a non-school day. Work is limited to no more than 18 hours a week during a school week or 40 hours during a non-school week. Exceptions to these limitations are provided. The bill permits the department to promulgate regulations to allow a 14 or 15 year old working for an employer not covered by the Fair Labor Standards Act to work until 10pm. The bill also allows a 14 or 15 year old working on certain farms to work until 10pm. It also creates an exception for newspaper or periodical deliveries and school-work programs that do not exceed 8 hours a day.

Limitations to hours of employment for minors 16 years of age or older are provided. When school is in session, a minor 16 years of age or older is limited as follows: no more than 28 hours of work per week; no more than 8 hours per day; and between the hours of 6am and 12am, except that during school vacation, the time is extended to 1am. During school vacation, a minor 16 years of age or older is limited as follows: no more than 10 hours a day; and no more than 48 hours per week provided the minor agrees to more than 44 hours. An individual employed at a summer camp operated by a religious or scout organization must receive 24 hours rest in a 7 day period. These limitations do not apply to a minor who is a high school graduate or if the individual is exempt from compulsory school attendance under the Public School Code.

The bill continues to prohibit employment of minors in certain occupations and in certain establishments, including: places where alcoholic beverages are sold, with certain continued exceptions; in any occupation designated as hazardous and prohibited under the Fair Labor Standards Act; as one of several occupations on a plane, train, or boat; in the manufacture of any poisonous dye or composition; as a tobacco stripper or sorter; or work on scaffolding or in tunnels.

Minors less than 14 years of age, but at least 12 years of age, may be employed as a caddy, but are limited to carrying 1 golf bag for a maximum of 18 holes per day. Minors 11 years of age may engage in the delivery of newspapers, subject to certain limitations.

The bill continues to prohibit youth peddling, other than the sale of goods and services to customers at the employer's establishment. The term does not include volunteer activities for a charitable purpose.

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A new section, related to the employment of minors in a performance is established, including in documentary and reality programming in which the minor's participation is substantial and the minor or any person receives remuneration for the performance. No minor may engage in a performance without an entertainment permit issued by the department. Working hours are established for minors in a performance, based on age. Meal and break times are required. Rehearsal time is considered as part of the performance.

Performances including minors shall not involve acts constituting the sexual abuse or exploitation of minors; boxing; sparring or wrestling (except for bona fide school-related or recognized amateur competition); activities involving a high level of inherent danger; acrobatic acts; the use of dangerous weapons or explosives; or in any occupation prohibited by the Fair Labor Standards Act. Special entertainment permits may be issued by the department for performances by minors as part of a nationally or internationally recognized circus, providing that appropriate trained medical personnel are on site, the minor has a physician's statement of health, and the performance does not involve high wire or trapeze acts.

Entertainment permits are valid for up to 6 months and are renewable. The department may charge a fee for permits, which shall be established by regulation. The permit shall be on a form issued by the department and shall include: the legal and professional name of the minor, date and place of birth, name of the minor's parent or representative and whether the minor has performed in other states requiring a permit. For infants, written certification from a licensed physician stating the infant is physically capable of meeting requirements of the performance is required.

Compulsory education requirements are established, including providing a certified teacher or tutor by the employer when the minor is employed for 3 or more consecutive days. The bill further requires a letter or document from a school official that the minor is in good academic standing and the performance will not interfere with his educational progress, or a guarantee that arrangements have been made for a qualified tutor for the minor. If the minor performer is a foreign national temporarily in the United States for less than 35 days, the employer requirements shall not apply. Educational requirements also do not apply for minors who are high school graduates or exempt from compulsory education requirements under the Public School Code.

Child performer trust accounts are established when anticipated earnings are in excess of \$2,500 for the production. A qualified tuition account program may be substituted. Child performer trust accounts established in other states must meet the requirements of this section.

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The parent or legal guardian shall establish the account for the benefit of the minor. The employer shall transfer not less than 15 percent of the total compensation into the account. The minor's parent or guardian may serve as custodian of the account, unless the account reaches \$150,000 or more. If so, then a trust company or independent custodian must be appointed. Proceeds of the child performer trust shall remain in trust until the minor reaches at least 18 years of age. Proceeds distributed prior to age 18 may only be used for the minor's health or educational needs.

Certain minors may be employed to perform sports-attendant services at professional sporting events. Also, minors are not prohibited from serving in volunteer fire or emergency medical services, but may not operate equipment or enter a burning structure. Minors 16 years of age and older who have completed basic firefighter training may engage in firefighting activities.

Work permits will still be required for minors not engaged in entertainment. Work permits shall be issued by the department if requirements are met. Work permits may be revoked if the minor cannot maintain adequate academic achievement. Duties of the department, school districts and employers are specified. Criminal and administrative penalties are established for violation of the act. Exclusions are provided for work done in the private home of the parent or guardian that are considered normal chores or for baby-sitting.

The act will take effect in 60 days.

FISCAL IMPACT:

No additional costs will be incurred by the Department of Labor and Industry to implement the provisions of the act. The Department will need to promulgate regulations related to the requirement for employers to obtain performance permits for minors. Fees for such permits may also be set by regulation. Assuming a fee of \$350 for the initial registration and \$200 for a renewal, and based on the issuance of about 2,700 performance permits, about \$840,000 in revenue could be generated in permit fees. The Department states that the regulations will not go into effect for about 12 months following the effective date of the act and therefore the realization of such revenue from the permit fees would not occur until FY 2013-14 and then annually thereafter.