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LABOR AND INDUSTRY COMMITTEE

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HEARING ON
HOUSE BILL 927 (DELOZIER)

BEFORE:
HONORABLE RON MILLER, MAJORITY CHAIR
HONORABLE WILLIAM KELLER, MINORITY CHAIR
HONORABLE JOHN C. BEAR
HONORABLE JIM COX
HONORABLE SHERYL M. DELOZIER
HONORABLE NEAL P. GOODMAN
HONORABLE SETH M. GROVE
HONORABLE ROB W. KAUFFMAN
HONORABLE KEVIN MURPHY
HONORABLE CHERELLE L. PARKER

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CHAIRMAN MILLER: We'll call this hearing of the Labor and Industry Committee to order on House Bill 927, a comprehensive rewrite of Pennsylvania's Child Labor Law. Before we get started in full, I need to remind everyone that this hearing is being recorded and videotaped by the broadcasting office of the House Bipartisan Management Committee. The video is also being made available to the news media and for streaming on House web sites. I'm Ron Miller, the Republican Chair of the committee. To my left is Chairman Bill Keller, Democratic Chair, and we're a little light on Members. I appreciate the fact that it's August, but we have a full agenda for the fall, and we need to take a look at a lot of information, so I appreciate the fact that we can have these hearings during August. If I can start over here on my left and ask for some introductions? It's one of the things that we're normally on a Session day in a hurry and I skip, but the Members that are here, I'd like for them to introduce themselves.

REPRESENTATIVE GOODMAN: Thank you, Mr. Chairman. Representative Neal Goodman, Schuylkill County.

REPRESENTATIVE DELOZIER: Representative Sheryl Delozier of Cumberland County.

CHAIRMAN MILLER: And I know that Representative Kauffman is on a call in the hall and will be in shortly. So with that, Representative Delozier, would you like to make some comments on your bill?

REPRESENTATIVE DELOZIER: Thank you, Mr. Chairman. I just have a few opening comments. A little bit of history as to where we are right now and, and how we've got to where we are. This issue of rewriting the State Labor Law is certainly nothing new. In fact, former Representative Dave Steil originally initiated the concept of completely rewriting this law and making it more with the times, modernizing what we have for our Child Labor Law in 2002.

With the introduction of the House Bill 2780, public hearings were held in 2002 on the bill, and the bill was passed by the House unanimously, so we've seen this type of legislation before and these updates that are needed. The legislation was reintroduced in the same Sessions after that, continuing with the passage of House Bill 74 in 2003 and again in 2005 of House Bill 89. The bottom line is that House Bill 927 does not reinvent the wheel with respect to the issue of the need to modernize and rewrite the Child Labor Law, so at this point, it's just something that we need to get done. The goal of the legislation is to produce a bipartisan rewrite of our Child Labor Law to modernize it and establish a clear set of standards that both employers and minors can understand clearly and follow. The current law was written in 1915, and, as one can imagine, there are archaic provisions in the law that need to be updated, and because the law has been amended multiple times, there are areas in the law that contradict each other, and there's nothing harder than when you're trying to follow a law than to see two sections that don't coincide or don't get along, so we need to make sure that everything is cohesive and easier for the employers to better understand to follow it. So, these grey areas need to be cleared up. It might also be noted that there are, are differences between our State law and our Federal law, and nothing is more confusing, as we said, to have two sections in conflict, but also, when we're dealing with employers that have to deal with our State laws and our Federal laws, we want to make it as easy as possible for them not to be in conflict with one or the other. The issue of outdated child labor laws was recently recognized at the Federal level when the U.S. Department of Labor's Wage and Hour Division published a final rule, which was designed to help update child labor regulations for the 21st Century, marking the second update since 2005. So, they're updating it more than once since 2005 and Pennsylvania needs to take those same steps. It's important to note that the bill adopts the current standards that exist in our current Child Labor Statute as

permitting work for children under 14, permitting work for minors in volunteer companies, for fire companies, and permitting work for minors in and around establishments that sell liquor under certain circumstances. The main substantive difference that exists between my bill and current law is that my legislation would permit 16 to 17 year-olds to work a few more hours per week as Federal law permits, and the bill requires the Department to adopt the already-existing list of prohibited, hazardous occupations established by the Federal child labor regulations as our State's prohibited list of occupations, so again, that we're in agreement with what the Feds are already have out there, again, making it easier for employers to understand what they can and can't do with those of certain age. This legislation's certainly not written in stone. It's a starting point. As I've mentioned, we have a history with it, but it is something that, that we need to start with, and we're looking to work with all the interested groups to make sure that all the concerns are addressed before we move forward with it; hence, why we wanted to have the hearing. So, I look forward to working with my colleague, Jared Gibbons, who also has a bill on this issue, so it's obviously an issue of importance to him, as well, and others that have the intent to make sure that our child labor laws for both our minors and our businesses are in the best that we can be to protect the minors and protect the business owners. Thank you.

CHAIRMAN MILLER: Thank you, Representative Delozier. Chairman Keller has a question, but before I turn it over to him, I would note that Representative Kevin Murphy has also joined us. Chairman Keller?

CHAIRMAN KELLER: Thank you, Mr. Chairman. Representative Delozier, you had mentioned that we're trying to be in compliance with the Fair Labor Standards Act. I read in Section 7 of the bill that states that permissible hours of employment for 16 and 17 year-olds would be in compliance with the Fair Labor Standards Act, but it's my understanding that the

Fair Labor Standards Act does not currently set any time limits on hours of employment for minors over 16, and instead, it currently leaves it up to the states. Pennsylvania's current child labor law prevents high school students from working past midnight or before six a.m. during the school year and for more than eight hours a day; so, would your bill provide any similar protections for high school students over 16?

REPRESENTATIVE DELOZIER: What we are trying to do with the laws dealing with 16 and 17 is certainly to protect them. We certainly don't want to be having anything that would harm those that are of that age. But the pure goal of that was to allow for kids that were possibly saving for college, a lot more kids are active within their home of donating and helping pay for bills that are at home. So, the idea behind it was purely driven by the capability of allowing them, if they would choose to, to work additional hours. It is certainly not something that, you know, as you had mentioned; we're not trying to harm them by forcing them to do extra hours. It is purely a choice on that behalf in order to allow them to have additional time if they would like to.

CHAIRMAN KELLER: But currently, Pennsylvania doesn't allow for them to work between midnight and six a.m. during the school year; your intent is to change that?

REPRESENTATIVE DELOZIER: It's an open debate in order to have it. During a school year, there's more constraints in the bill that deal with school times versus nonschool times, so it's much more flexible during the summer hours or when they're on vacation. During school, it would be having certain limits, that's not something that I would be against at all. We certainly don't want our children out there when they should be at home getting rest for school.

CHAIRMAN KELLER: All right. Unless I'm reading it wrong, it takes away that protection, the bill, as it stands now. Am I reading that wrong?

REPRESENTATIVE DELOZIER: Okay, we can certainly take a look at it, make sure it's clarified.

CHAIRMAN KELLER: Okay, thank you.

CHAIRMAN MILLER: Are there any other questions for Sheryl? With that, I would recognize that Representative Seth Grove from York County has also joined us, and we would ask for our first testifier to come forward. Jay Scott Robinette, Robinette, he's Deputy Secretary for Safety and Labor Management Relations, and I believe you're joined by Jim Holtzman, Deputy Chief Counsel, so please correct my pronunciation of your name, if appropriate, and proceed when you're ready.

DEPUTY SECRETARY ROBINETTE: Good afternoon, Chairman Miller.

CHAIRMAN MILLER: Please pull the mic[rophone] in front of you as you speak because that mic[rophone] just doesn't pick up real well. Make sure the green lights on.

DEPUTY SECRETARY ROBINETTE: Thank you. Good afternoon, Chairman Miller, Chairman Keller, and members of the House Labor and Industry Committee. I am Scott Robinette, Acting Deputy Secretary for Safety and Labor Management Relations for the Department of Labor and Industry. Accompanying me today is James Holtzman, Deputy Chief Counsel with the Department of Labor's Labor Law Compliance Division. On behalf of Secretary Julia Hearthway, thank you for the opportunity to present the Department's comments on House Bill 927.

Pennsylvania's Child Labor Law was first enacted in 1915. Over the last 96 years, the way people live their lives has drastically changed. We went from horse and buggy to horse powered engines, from black and white televisions to high definition, from compasses to GPS [global positioning system], from phonographs to digital downloads, and from vaudeville to the

internet. Likewise, the workplace has also changed; businesses have become safer, more diverse, innovative, and high tech. As new generations enter the workforce, they bring with them different expectations. But despite the changing landscape, there is one constant: the need to protect children. Ironically, the Child Labor Law has been amended only a handful of times since 1915, most recently in 1999 before the explosion of reality television and social media, and as Representative Delozier noted in her opening remarks, over the years the General Assembly has considered a number of legislative proposals to bring the Child Labor Law of Pennsylvania into the 21st Century.

Most recently, the House unanimously passed Representative Murt's bill, House Bill 1548, which would amend the current law to address entertainment, particularly documentaries and reality television. We appreciate Representative Murt's efforts and agree that addressing the entertainment industry must be a part of our dialogue.

Regarding today's hearing, which addresses Representative Delozier's bill, that bill would repeal the Child Labor Law and replace it with a new Child Labor Act. It would govern the employment of minors, their hours, work permit requirements, and participation in entertainment. It would provide for administrative and criminal prosecutions, specify prohibited employment, and address the participation of minors in emergency services.

The Secretary fully understands the need for reform and has made it a top priority for the Department. As such, an internal work group was formed to explore the issue and review the legislative proposals on the table. We also recognize that this issue impacts many different entities, and we want them to be included in the reform discussion. Our plan is to meet with and seek input from key stakeholders in the coming weeks to further discuss the issue and hear their viewpoints. It is our expectation that we will be ready to comment in more detail on House Bill

927 and provide specific recommendations in coming weeks. We will keep you abreast of our progress.

Broadly speaking, the Department believes House Bill 927 represents an encouraging starting point and framework for further dialogue. While the Department does not have an official position on the bill at this time, there are a number of common goals that we support.

The Department supports the goal of crafting a modernized, well-written, clear, and easy to understand law. The current law is outdated. It's confusing, and this impedes the Department's ability to ensure compliance. Modernizing the law will be good for business and enable better enforcement.

The Department supports the goal of aligning state and federal standards. Currently, state law is inconsistent with the Federal Fair Labor Standards Act, creating confusion for employers and workers. Situations arise where an employer is in compliance with Federal law but not state law and vice versa.

The Department supports the goal to address and protect minors engaged in motion picture and television production. Currently, the standards for these industries are ambiguous and cause confusion for production companies and enforcers.

The Department supports the goal to grant investigative subpoena power to facilitate the review of certain records. This authority will provide staff with the tools to investigate claims more efficiently.

The Department supports the goal to make use of administrative hearings to impose administrative monetary penalties for intentional violations of the law. Currently, the Department does not have the explicit power to issue corrective orders, and the law only allows summary criminal prosecutions. The Department extends expensive resources in investigating

and prosecuting cases, only to obtain light penalties for first offenses. We welcome the opportunity to work with the committee to further discuss these goals as the bill moves through the legislative process. There are many new faces around, in both the General Assembly and in the Department, and I am one of them, but I can assure you that the leadership within the Department wants to build a relationship with the committee and create a strong partnership so that we can address these and other issues.

As the process moves ahead, we look forward to working with the committee and staff towards our commitment to modernize the Child Labor Law and protect children in Pennsylvania.

Thank you again for the opportunity to present the Department's views, and I would be happy to try to field any questions that you might have.

CHAIRMAN MILLER: Thank you for your testimony. Before we go to questions, I would note that Representative John Bear has joined us. Are there questions for Mr. Robinette? Chairman Keller?

CHAIRMAN KELLER: Thank you, Mr. Chairman. Mr. Robinette, Deputy Secretary, I know you're new in your job, but I have a question; how many and what types of Child Labor Law violations have been found by the Department in recent years?

DEPUTY SECRETARY ROBINETTE: That is a very good question, Mr. Chairman, and I am going to divert to Mr. Holtzman to field that one, because I believe he might have that information.

MR. HOLTZMAN: It's something that the Department, to provide you specific information, will likely tell you in writing. The last time we appeared before your committee last year, we sent a letter. We have an ongoing prosecution now. There's other cases under

investigation. We, on average, prosecute one or two cases per year, but we can provide you the specifics in a follow up correspondence.

CHAIRMAN KELLER: And in the prosecution, what are they subject to? What penalties are they subject to?

MR. HOLTZMAN: It's a criminal summary offense that has to be prosecuted before a magisterial district justice, so we have to go wherever in the state the violation occurred and file before an MDJ. First offenses are 200 to 400 dollars fine, and they get a little higher for subsequent offenses, which is one of the reasons we are in agreement that there should be administrative hearings.

CHAIRMAN KELLER: Okay, and are all children who are employed under this bill subject to the state and federal minimum wage, under the minimum wage laws?

MR. HOLTZMAN: Anyone who works is subject to state and federal minimum wage laws. Both laws do contain exclusions or exemptions for a certain type of work.

CHAIRMAN KELLER: Do we know what the exemptions will be in this law?

MR. HOLTZMAN: Well, the bill as drafted contains exemptions, but I don't think the exemptions would impact whether minors paid minimum wage and vice versa.

CHAIRMAN KELLER: So we're not, we're not clear on that yet.

MR. HOLTZMAN: Well, if, if your question is would exemptions in this bill provide an exemption for minimum wage, I would say "no" because any exemptions are already covered in Pennsylvania's Minimum Wage Act and the Federal Fair Labor Standards Act.

CHAIRMAN KELLER: Okay. Thank you very much.

CHAIRMAN MILLER: Representative Delozier?

REPRESENTATIVE DELOZIER: Thank you, Mr. Chairman. I just wanted to, actually, answer on the issue that you mentioned, the key stakeholders in your working group that L[abor] and I[ndustry] has put together. Can you possibly provide after the hearing a contact information for that group so that we can – I know you said you keep us abreast and everything else, but, like, be a two-way conversation and certainly let you know what we have going on here, and I know that’s what you’ll be looking at, but in and of itself, as of yet, where do you stand with that right now, or is it in its early stages?

DEPUTY SECRETARY ROBINETTE: The group has met, and we are beginning the process of seeking that input from various stakeholders, and in answer to your first question, I’d be very pleased to provide you with the contact information from folks from whom we seek and obtain information.

REPRESENTATIVE DELOZIER: That’d be great, and the other question, and this is just dealing with employers and online; do you have many of any of the forms that they have to go through online, at this point, or is that something that you’re planning on doing?

MR. HOLTZMAN: We have several forms online. I know the permit application for performances is online, and it was recently revised last year. The abstract that employers should post is online, I believe, plus we also have the regulations, the statute, and even a PowerPoint presentation.

REPRESENTATIVE DELOZIER: Okay, and that was one of the questions that we had been asked as to more accessibility for the businesses to be able to download a lot of the forms that they need to have that capability, just for ease versus hunting down some of the forms that they need for minors, as well as some of the operations that they have, so thank you very much.

CHAIRMAN MILLER: Representative Murphy.

REPRESENTATIVE MURPHY: Thank you, Mr. Chairman, and thank you, Mr. Deputy Secretary, for your testimony today. My question pertains to the Department's support of modernizing the Child Labor Law, because it will be good for business, ensure compliance, and strengthen enforcement. Additionally, the Department supports the goal to grant investigative subpoena power and review certain records. This authority will provide staff with the tools to investigate claims more efficiently. If you can explain or reconcile that with the existing law, because, to me, and, and I may be misunderstanding this, it appears that the bill would make enforcement harder for the Department by requiring subpoenas to investigate violations, and if you can explain how that is different than current child labor law?

DEPUTY SECRETARY ROBINETTE: Yes, thank you for your question. Currently, if an investigator gets a complaint about a labor law violation and starts to pursue that complaint and goes to an employer and asks for documentation that would explain or show the level of the minor's employment and how that employment's being handled, the employer can just refuse to provide that documentation. There's no mechanism, short of filing charges in front of a district justice and then being able to issue a subpoena that would allow the Department to compel the production of documents, which would help us to enforce the law. The provision of Representative Delozier's bill, which provides for the issuance of administrative subpoenas, would allow the Department to generate a legal document to serve upon an employer and would compel that employer to produce documents that would show compliance or noncompliance with the Child Labor Law.

REPRESENTATIVE MURPHY: Thank you, Deputy Secretary. So, this would actually expedite the process of the investigation for the Department of Labor?

DEPUTY SECRETARY ROBINETTE: That is correct.

REPRESENTATIVE MURPHY: Thank you, sir. Thank you, Mr. Chairman.

CHAIRMAN MILLER: Representative Goodman?

REPRESENTATIVE GOODMAN: Mr. Chairman, my question was along the same lines of the subpoena, but it's been asked and answered. Thank you.

CHAIRMAN MILLER: Thank you. Any other questions? Oh, Chairman Keller? Follow up?

CHAIRMAN KELLER: Yes, thank you, Mr. Chairman. Mr. Deputy Secretary, under current Pennsylvania law, a number of jobs are prohibited or declared too hazardous for employment for minors. For instance, working on boats, railroads, welding, manufacturing paints, dyes, down the waterfront, and some of these items are not carried over into House Bill 927, and it's my belief that some of them are not currently prohibited under the Federal Fair Labor Standards Act. Do you think we should put some of these, more, restrictions into 927?

DEPUTY SECRETARY ROBINETTE: Thank you for your question, Mr. Chairman. It raises an important point. The point that that question raises is there is some archaic language in the existing Child Labor Law. I was reviewing it today and noted that the occupation of scavenger was regulated, and I've never even heard of anyone in the United States or in Pennsylvania who was actually employed as a scavenger. I'm not sure how helpful that type of terminology –

CHAIRMAN KELLER: I wouldn't remove that too quickly. I think we're headed back to that.

DEPUTY SECRETARY ROBINETTE: My point is, Mr. Chairman, that there is some archaic language in the statute as it stands now that may not lend itself to businesses understanding what the rules are or for enforcers to even understand what the rules are. The

question about whether or not certain occupations or activities would be prohibited is an important one. I think the House Bill 927 as it stands now does two things. Number one, I think it generally prohibits employment in hazardous activities. Beyond that, I think it also allows for the Department to address specific situations through the promulgation of regulations, and that would be important, particularly in a world where things are changing more and more quickly, so while, for instance, technology affords us certain opportunities, maybe, to put forms and things online to facilitate more efficient administration of our Child Labor Law system, technology also creates some challenges if the Department is able, through the procedures outlined in the bill, to promulgate regulations, which would restrict specific regulations. That's just going to be good for both business and children and employees in Pennsylvania.

CHAIRMAN KELLER: Well, my point is if there's antiquated language, I understand removing it, but if there's some hazardous jobs that are in Pennsylvania law not covered under Federal law, I think we should look twice before we just depend on the Federal law to protect our children.

DEPUTY SECRETARY ROBINETTE: Certainly, child safety is the paramount concern in our approach to this legislation.

CHAIRMAN KELLER: Thank you. Thank you, Mr. Chairman.

CHAIRMAN MILLER: Representative Delozier?

REPRESENTATIVE DELOZIER: Thank you, Mr. Chairman. Chairman, just to your question, the point behind it, as was mentioned, is that flexibility, is having the capability that so we don't have to update this law on a regular basis, that if we match it with the Feds and go by that statute, then, if there's other ones that come into play that we certainly need to add to it as the State of Pennsylvania, because Wyoming might not have what Pennsylvania has, allowing

for that regulation to be promulgated in order to protect that class or that hazardous. By all means, that was the idea is to add a little bit of flexibility so we wouldn't have to constantly try to update specifics in the law, so I think that that gives us a little bit of leeway to adapt to what we have in the future. Thank you.

CHAIRMAN MILLER: Seeing no further questions, thank you for your testimony on behalf of the Department today, and we look forward to working with you on this proposal.

DEPUTY SECRETARY ROBINETTE: Thank you, Mr. Chairman.

CHAIRMAN MILLER: Thank you. Before we call up our next testifiers, I would note that we've also been joined by Representatives Jim Cox and Representative Cherelle Parker. Our next testifier is Don Konkle, Executive Director of Pennsylvania Fire and Emergency Services Institute. Hello, Mr. Konkle.

MR. KONKLE: Good afternoon. Chairman Miller, members of the committee, thank you for having me testify today. The fire service is impacted by Child Labor Laws with junior firefighters. There are about 25 hundred, the best that we know, junior firefighters currently serving in the State of Pennsylvania. We've surveyed the Leadership on two different occasions on the revisions to the Child Labor Law. Frankly, no pun intended, it's not a burning issue with the fire service at the moment. We do have two comments, and one, in Section 9 of the bill, it refers to minors successfully completing a training course equal to the standards prescribed by the Department of Education. That doesn't reflect current practice in that the State Fire Commissioner now approves training for the fire service, and we think that the "Department of Education" should be changed to read the "Office of the State Fire Commissioner." And the other one we have is also fairly simple. It's really a question; once again, in Section 9, it prohibits the training or use of high pressure hose lines by juveniles, and we think "high pressure

hose lines” needs to be defined. Are we referring to a booster line with 60 pounds of pressure? A line off of a hydraulic rescue tool at 20 thousand pounds of pressure? A line from a self-contained breathing apparatus at five thousand pounds of pressure? So we, we would just like – it’s certainly our intention at the Fire Service Institute to comply with this, and we would think that defining that would be helpful. We would be happy to sit down with staff and try to work on that definition. That, really, the only comments we’ve received. We have no objections to the passage of the bill based on what the fire service has seen, and thank you for the opportunity, and we would be happy to take questions.

CHAIRMAN MILLER: Thank you. Questions? Chairman Keller?

CHAIRMAN KELLER: Thank you, Mr. Chairman. I know there’s a big push of, especially on college applications, that students have a lot of volunteer in their resume. What ages do the emergency services organization accept minors into?

MR. KONKLE: Some organizations accept juniors as young as 14. No junior’s permitted to actively engage in structural firefighting. They can respond to the call and engage in support activities outside, laddering the building, doing those types of things, and then from 16 to 18, they’re permitted after the fire’s declared under control to assist with salvage operations or whatever may be happening in the interior of the building.

CHAIRMAN KELLER: Well, how about not on the actual fire but how about on the training?

MR. KONKLE: The training grounds have different restrictions based on age, and that’s one of the reasons that we think the definition of, of high pressure hoses, is necessary to do. But they are not allowed to be in a burning building below the age of 18, even in a training environment, or a structure designed to do that.

CHAIRMAN KELLER: But they do, they do train 14 to 16 year olds?

MR. KONKLE: We didn't train them on – we can provide them with EMT [emergency medical technician] skills. We can teach them how to throw ground liners, advance hose lines, you know, in a building that doesn't have an active fire in it; do many of those support activities. And it's frankly, not only a manpower supplement in terms of repacking hose and cleaning up after a fire, but we view it as an important recruiting tool. As we get younger kids in and get them to look at what we do and, and hopefully, then, retain them when they become 18.

CHAIRMAN KELLER: Under the bill, would any of that training be considered hazardous to the minors?

MR. KONKLE: We think it's fairly well defined, the fact that they can't operate in a burning building, they can't operate at a hazardous material scene, so we, we have a pretty good record. We have, you know, we have a death of a junior firefighter, and he was hit responding, about five years ago, on a bicycle in Delaware County, but actual fire ground injuries are pretty minimal.

CHAIRMAN KELLER: But I mean the training. Would any of the training be under this bill?

MR. KONKLE: No, once again, they're not permitted, even under training conditions, to train in a burning building or do anything like that, and we think it's appropriate that they not be allowed to do that.

CHAIRMAN KELLER: Okay, thank you. Thank you, Mr. Chairman.

CHAIRMAN MILLER: Representative Murphy?

REPRESENTATIVE MURPHY: Thank you, Mr. Chairman. House Bill 927 provides that students who are members of volunteer emergency service organizations may participate in

responding to emergency events on school nights, and I realize that this is important, since fires and other emergencies often occur at night. Are the schools or school districts typically aware of student participation in volunteer fire departments?

MR. KONKLE: Junior fire fighters are required to get working papers, so the school district would be aware of what's going on, and we think, you know, parental supervision is necessary there, and we have, in terms of taking care of kids' educations today; Hershey Fire Department, that I'm familiar with, actually has a tutoring program for their juniors, where their junior fire fighters are required one night a week to spend two hours in the fire house tutoring, and that's certainly not done everywhere, but we think, we think it's important, and, you know, to my knowledge, there has not been a large concern over kids missing homework time or anything else.

REPRESENTATIVE MURPHY: Okay, thank you, and just as a brief follow up, so I wanted to ask: are schools generally tolerant of who may have to come to school late because of an emergency activity that may have occurred the night before?

MR. KONKLE: I'm more aware of the issue with employers when a volunteer fire fighter reports to work late because he's been on the fire ground. I think in most cases people – incident commanders make an effort to get kids off the fire ground so that they get to school on time. That may not be always possible, but I think those are fairly rare exceptions, and it would involve some way where you just didn't have transportation back to the station to be able to get a kid back, or a fire came in at 6 o'clock, and it was still to the point we didn't have time to really address that issue, but I think it's fairly rare.

REPRESENTATIVE MURPHY: Yeah. I just think it'd be something, Representative Delozier, to consider that, you know, given the fact that truancy issues are something that's

strictly adhered to within the public school system here in Pennsylvania, that maybe excused absences with proper documentation or tardiness would, you know, alleviate any potential truancy problems that may arise as a result of students who do volunteer and participate, so that those absences wouldn't be recorded against their attendance records. Thank you very much.

CHAIRMAN MILLER: Thank you. Hearing no further questions, thank you for your testimony. Next on our list is Mike Stefan, Legislative Representative, Pennsylvania AFL-CIO [American Federation of Labor and Congress of Industrial Organizations]. When you're ready, you may proceed.

MR. STEFAN: Thank you. Good afternoon, Chairman Miller, Chairman Keller, committee members, and committee staff. My name is Mike Stefan. I'm the Legislative Representative of the Pennsylvania AFL-CIO. President Bloomingdale and Secretary Treasurer Snyder send their apologies for not being able to testify today. However, they'd also like me to send their greetings and thanks for allowing our organization the opportunity to testify on a topic which we have worked on since its beginning.

Child labor has a long history in Pennsylvania and has significantly changed from the days of "breaker boys" and young girls in garment factories, which recall horrific events such as the Triangle Shirtwaist Factory, which happened a century ago, and where girls, some only 16 years of age, jumped from high rise windows in an effort to save their own lives. It is important that we remember our history as we continue to try to improve our laws for the future.

Almost one year ago, this committee held a hearing on two very similar pieces of legislation introduced by Representative Murt and Representative Gibbons. At this hearing we heard from the past administration, which sought to create more comprehensive child labor law,

which would suitably reinforce protections, clarify and strengthen the Department's ability to enforce provisions, and better suit minors and industries of Pennsylvania.

The Pennsylvania AFL-CIO acknowledges that portions of the current Child Labor Law are antiquated, unclear, and inconsistent with current Federal standards. While we recognize these faults, we also find it necessary to be clear with our position of opposition towards any extension of working hours as well as anything that we view as a step backwards in child labor laws.

We do ask that this hearing be only the beginning of a substantive conversation regarding this issue. While it may be necessary to update this law, it is also important that we do not place any additional burdens on our minors. It is particularly important that we keep in mind the economic state of our country and the sad reality that when unemployment is so high and Main Street is hurting, that the likelihood of a child's wages to supplement a parent's becomes more likely or, regrettably, young workers begin competing with their own parents for the same jobs. With this sad reality comes the temptation to loosen our restrictions of child labor.

After reviewing House Bill 927, along with House Bill 1576 and previous introduced versions, we have developed a list of recommendations, recommendations which are, of course, technical and substantive. I'll begin with the definition section.

While some technical differences do exist and can be discussed at a later time, one definition does not appear in House Bill 927, which would seem to provide flexibility and practicality to the law. Currently, the "school vacation" is interpreted to mean the time period between June and Labor Day; however, the recommended definition in House Bill 1576 would give the school district in which the minor resides the ability to set the vacation period. This, of course, will allow schools to incorporate additional days, such as snow days, to the end of the

school year. This is not a big change from current law, but would provide more flexibility to the law where no two schools are guaranteed to be the same.

Another change which would likely be classified as technical is the consecutive days of work. Current law and House Bill 927 both provide that a minor may not work more than six days consecutively in a single week. We are unsure by including the phrase “in a single week” if this provides a loophole to that Section’s intent. For example, if a minor would work the last six days in week 1 and the first three days in the following week, an employer would essentially be abiding by the plain language of the law, but would also be forcing a minor to work nine consecutive days. Our recommendation would be to remove “in a single week,” to ensure that the law would plainly state that no minor may work more than “six consecutive days.”

Two significant changes are proposed regarding prohibited forms of employment. House Bill 927 strips from the current law, in regards to general limitations of employment of minors, three sections of prohibited employment, which would be Section 4D, 3, 4, and 5 of, of 927; that’s on page six of the bill. The removal of these sections – and without being listed under the Fair Labor Standards Act as prohibited employment – would then remove the occupations from this section. Last session’s legislation, which was considered to be the Department’s language, kept this language in, which leads one to believe that in order for these occupations to remain prohibited, they must remain listed.

Similarly, House Bill 927 removes from Section 5 of Pennsylvania’s current Child Labor Law, prohibited forms of employment for minors under 16 years of age. This specifically removes stripping and sorting of tobacco, working on scaffolding, and working in a tunnel. To our knowledge, only working on a scaffolding is listed as a prohibited form of employment for minors under the age of 16; therefore, we leave it open for interpretation the ability of 14 and 15

year-olds to strip and sort tobacco and work in tunnels, both of which has already been determined by this state to be unfit for minors, evident by its existence in current law.

We viewed the removal of these prohibited forms of employment as a step backward in child labor law. A step backward which would undoubtedly expose minors to dangerous forms of work which otherwise should be performed by trained adults.

Newspaper Delivery. House Bill 927 and House Bill 1576 both propose changing the start time for newspaper delivery from six a.m. to five a.m. It is the PA AFL-CIO's longstanding position to oppose this. It is our organization's belief that no 11-year-old should be working at five a.m. in the morning. This, of course, being safety being the top concern. Our recommendation would be to leave the starting time for minors at six a.m. If it is imperative to deliver newspapers earlier than that, we would suggest hiring an adult, or at the very least, a person with a valid driver's license for those routes.

The PA AFL-CIO, as evident by my last remarks, opposes any expansion of work hours. House Bill 927 does increase a minor's work hours from eight to ten hours on a Saturday and Sunday of a school week and any day during a school vacation period. Additionally, it seeks to raise the total amount of hours a week from 44 to 48 during school vacation weeks.

Increasing hours on Saturday and Sunday of a school week will hurt children's performance in schools. It does not take scientific evidence to realize that if a child works from ten a.m. to eight p.m. on a Saturday and Sunday then no time will be designated for school work, studying, or other extracurricular activities. If education is to be the number one job for children, then why would we want to make employment compete even more for a child's time, attention, and energy?

Why would we want children working nearly 50 hours in a given week during vacation months? Some would think that this seems to be an attempt by business to hire less people, using fewer children for more work. Let me remind you that in Pennsylvania the unemployment remains severely high. This legislative body should be looking to create jobs, not give reasons to hire less, especially at the expense of our children.

The Pennsylvania AFL-CIO will continue to oppose any expansion of work hours for minors and ask this committee to consider changing the legislation to continue the hours of employment which currently exist.

We would also recommend removing the exemption of school week hours to students who are exempt from compulsory attendance. This would remove what may appear to some students as an incentive to dropping out of school.

The next topic that our organization seeks to provide recommendations for is penalties. Penalties in Pennsylvania for violations have not changed for more than a decade. Therefore, we recommend making the penalties stronger, providing for more deterrence to businesses, which sadly decide to break the law and abuse their ability to employ children.

The Pennsylvania AFL-CIO would like to see the penalties increase to replicate those proposed in House Bill 1576.

The Effective Date. As suggested last year during this hearing, the Department of Labor and Industry recommended that legislation, once passed, should not take effect for 180 days, rather than 90.

With the vast amount of employers, schools, parents, and municipalities across Pennsylvania, 180 days would seem to be more appropriate to ensure adequate time for preparation and to obtain knowledge of any changes which this law may implement.

Before concluding, right before coming here, the Screen Actors' Guild of Pennsylvania asked me to give a brief comment on their behalf, who is an affiliate of the Pennsylvania AFL-CIO. They said, "One of our union affiliates here in PA, the Screen Actors' Guild, represents 1,485 performers in the State of Pennsylvania, including many child performers, and has a very long history of working to make sure minors working in the entertainment are protected. SAG has been working with the sponsors of both bills to help PA become a model for the rest of production. They believe that a carefully crafted bill, which sets forth strong protections for children in our industry, and yet still allow for production to flourish, is the best solution. SAG looks forward to working with all the parties on this bill."

To conclude, I would again like to thank the committee for allowing us to testify today on this topic.

The Pennsylvania AFL-CIO does, however, and would continue to oppose any legislation which would loosen child labor laws and expand working hours for children. It is imperative at a time such as this, when our economy is still struggling and parents are still unable to find work, that we do not pass laws which may further hurt employment opportunities and would also likely increase competition for jobs between parents and children and also the opportunity for children's wages to supplement their parents'.

It would be a travesty if our society would promote sending a child to work in unsafe conditions for low wages and for longer hours. Perhaps that doesn't sound so far removed from the "breaker boys" and the Triangle Shirtwaist Fire.

Thank you and I'd be glad to answer any questions.

CHAIRMAN MILLER: Thank you for your testimony. Chairman Keller, question?

CHAIRMAN KELLER: Thank you, Mr. Chairman. Mike, that was very good, and I'm glad to see you make some recommendations. Hopefully, we'll work with the prime sponsor and the Chairman and try to make some changes in the bill with those recommendations. We heard testimony that the penalties are three, four hundred dollars for violations. Do you have any opinions on recommendations for increased penalties?

MR. STEFAN: I believe the current levels, as stated earlier, were around two hundred for a first violation and up between four hundred and one thousand for second violation, or subsequent. I believe House Bill 1576 would up that maximum from one thousand to 25 hundred for a subsequent violation, which we think, you know, in today's times – it's a decade-old penalty – we think it should be up, you know, at least somewhat higher than what it currently is. If it's in-between those two, that'd be, you know, certainly a step in the right direction, but we would like to see what 1576 provides.

CHAIRMAN KELLER: There we go. Thank you.

CHAIRMAN MILLER: Thank you. I do have one question myself, and that is, when you reference students who are exempt from compulsory attendance, you're talking those that are, like, above 17 years of age that could –

MR. STEFAN: Have dropped out of school.

CHAIRMAN MILLER: Voluntarily dropped out of school on their own, without parental consent?

MR. STEFAN: Right.

CHAIRMAN MILLER: Okay, just wanted to clarify that. Thank you. Representative Bear?

REPRESENTATIVE BEAR: Thank you, Mr. Chairman, and thank you, Mr. Stefan, for testifying today. Just one or two questions or maybe clarification. So, around definitions in “school vacation;” you’re just asking for more flexibility in the bill?

MR. STEFAN: Yes. I believe current law essentially looks at the school vacation period as June to Labor Day. It doesn’t say any certain dates. Changing it to – I forget how I worded it – just basically, leaving it up to the school to set their own vacation period. So, if it’s June 20th because of snow days, the vacation period is June 20th to not arbitrarily just any time in June.

REPRESENTATIVE BEAR: Okay, that’s great, because I know I have some districts that start at different times, some before Labor Day and some after, so. The second question I had was around prohibited employment, and this is just of interest to me because I live in Lancaster County, and we have plain set folks that work on farms, and I’m not sure the reasoning for including this bill, but for example, stripping and sorting tobacco. Is that something that’s prohibited today?

MR. STEFAN: Yes.

REPRESENTATIVE BEAR: Even for the folks that work on farms, the Amish?

MR. STEFAN: Well, I’m not sure if that applies to the Amish, but it is in the current law that minors under the age of 16 may not strip and sort tobacco. There may be exemptions, and also probably fall under farm exemptions, where it’s your family member working in those categories.

REPRESENTATIVE BEAR: Thank you. I’ll have to clarify that, because I just wasn’t sure, and that just jumped out at me. Mr. Chairman, may I ask a question of the maker of the bill? Is that appropriate?

CHAIRMAN MILLER: Sure.

REPRESENTATIVE BEAR: See, I'm a little out of practice here. Representative Delozier, under the hours of employment, was there any particular request from industry or any groups for increasing the number of hours during the school vacation weeks?

REPRESENTATIVE DELOZIER: Thank you. As for the hours that were talked about, some of them that are in the bill are in existence right now that were brought up. As for the 44 to the 48, the Feds do not have a threshold that is to a maximum. We were approached and talked to kids, families that had children that are earning money for college that are saving for their family, helping their families to abide, especially in these times, and they were asked. This is not a mandate. This is not saying you have to work 48 hours; you can work six hours. And so, this was in coordination with, really, families that, you know, their kids wanted to work more hours because they were saving. They were trying to buy a car. They were trying to do different things like that, so by no means do we mandate that a child has to work 48 hours. At this point in time, it is strictly the capability of a 16 or 17 year-old, most likely saving for school or a car or something big to give them that option.

REPRESENTATIVE BEAR: All right, thank you. So, it wasn't the entertainment industries or anything like that? It was basically....

REPRESENTATIVE DELOZIER: No. It was the families themselves that needed the additional hours and were hamstrung by the laws that exist.

REPRESENTATIVE BEAR: Thank you.

CHAIRMAN MILLER: Does that conclude your questions? Representative Parker?

REPRESENTATIVE PARKER: Thank you, Mr. Chair, and thank you, Mr. Stefan. First, let me start by thanking you, sort of, for making reference historically to the trials and tribulations faced by those women who were victims, and that's what I often refer to them to,

who worked in the Shirtwaist Factory in New York City. It is very important that we remember our history when working on these child labor laws. Let me start by asking you to sort of clarify for me for the record what you describe as this loophole in the consecutive days of work. I mean, until I just read this thing, your testimony, it didn't click, sort of, in my mind that someone could work more hours if you sort of just took one out. So, for the record, why don't you just clarify it for us what you mean there.

MR. STEFAN: Sure. Essentially, if you're using a work week, say, Sunday to Saturday. If that worker is working, say, Monday to Saturday, that was six consecutive days. They've worked six consecutive days in a single week. The following subsequent week, they could work the first three days, Sunday, Monday, Tuesday, and have worked nine days in a row, but in the plain language of the law now and the bill as it's written, it could technically – I mean, the employer is technically abiding by the law because he's separated those work weeks. However, you're still having a minor work nine days in a row. I mean, you could have it up to twelve days in a row, technically. I don't see that happening, so I mean to use that as an example. But certainly, you know, its scheduling conflicts. I mean, it could easily be put to nine, ten days, so we believe by just deleting the words "in a single week" and just clearly stating "six consecutive days," we'll be protecting that from happening.

REPRESENTATIVE PARKER: You, in your testimony, appeared to be, sort of, very adamant about seeing the penalties increased, and Chairman Keller referenced this earlier in his questioning. Are you familiar, and I did not get an opportunity to ask Labor and Industry this question during the beginning of the hearing, but are we familiar with, sort of, the number of the employers who we have considered, you know, sort of a, abused their authority and decided to break the law?

MR. STEFAN: I don't want to speak for the Department, and I can defer to Jim if need be, but it sounds to me that part of the problem is going after these employers to begin with, administratively, that everything would have to be done through the judicial system, which may create more headaches and more problems in itself, but I believe Jim said earlier that two Judicial cases a year, you said, average prosecutions? Whether that's the amount of actual complaints and actual cases that would be followed through administratively, it's hard to tell.

REPRESENTATIVE PARKER: In addition to that, you talk about the newspaper delivery, and, you know, although we use technology, some of us are still very much accustomed to getting up first thing in the morning, going on our doorstep, picking up our daily newspapers. Talk about, for me, why you are opposed to the, the sort of change in the start time for newspaper delivery from the six a.m. that currently exists to changing it to five a.m. Sort of, you know, what's your rationale?

MR. STEFAN: I think the real problem with that is it's the age of the person doing it, not necessarily the time. An 11-year-old at five a.m. in the morning, either walking the street or biking down the street, delivering papers just seems very unsafe to us. I don't believe there's any point in a year where five a.m. is daylight, and it would just seem difficult for us to be okay with saying, "Sure, you know, let's put 11-year-olds out on the street at five in the morning," and that's why we had suggested either, you know, if it is imperative that that time be, you know, be used, maybe we'd look at using adults or even somebody with a valid driver's license who could be driving at that time, but not an 11 or 12 year-old who's, you know, too young to be out on any street at five a.m.

REPRESENTATIVE PARKER: Thank you. Mr. Chair, I don't have any more questions, but I thank you, Mr. Stefan, for your testimony, and I look forward to working with you in the future.

MR. STEFAN: Thank you.

CHAIRMAN MILLER: Representative DeLozier has a follow up.

REPRESENTATIVE DELOZIER: Thank you. Just on two things. One, dealing with the consecutive days that Cherelle brought up, that's existing language in the law right now?

MR. STEFAN: Yes.

REPRESENTATIVE DELOZIER: Is that what you have mentioned, in the sense that they could work six days, and then, they could work three, so this was just a duplication of existing law.

MR. STEFAN: Right.

REPRESENTATIVE DELOZIER: That wasn't a change in this bill, particularly, but if changing it to "nonconsecutive days" in the sense of saying six only and then having a break is totally reasonable to be able to put that language in to make sure that it's not a nine-day stint, because that's certainly not what we're going for. That language in and of itself was exactly what we have now. That's in existence right now; that wasn't a change. And the newspapers, by all means, I mean, I know we're going to hear testimony from the Newspaper Association as well. Most of those that deliver as we know now are adults. You don't see too many little kids running around anymore on their bikes, but in and of itself – I know in one section we talked about conflicting sections having made some changes. One section had mentioned five a.m. One section had mentioned six a.m., so that, again, is just kind of to try and make them cohesive, so we can decide what's in the best interest, and it's certainly not something that's off the table

by any stretch, so we'd certainly look forward to working with some of the issues that you've addressed, and in and of itself, you know, for the best outcome for not only the employees but the businesses that employ them.

MR. STEFAN: Thank you.

CHAIRMAN MILLER: No other questions? Thank you for your testimony.

MR. STEFAN: Thank you.

CHAIRMAN MILLER: Our next testifier is Bernard Oravec, Publisher, *Williamsport Sun Gazette*, and with him is Deborah Musselman, Director of Government Affairs for the PA Newspaper Association. Welcome; and you may proceed when you're ready.

MR. ORAVEC: Thank you very much. Good afternoon, Chairman Miller, Chairman Keller, Representative Delozier, and members of the House Labor Relations Committee. My name is Bernard Oravec. I'm publisher of the *Williamsport Sun Gazette* located in downtown Williamsport, Pennsylvania. The *Williamsport Sun Gazette*, along with our sister publications, the *Altoona Mirror*, the *Lewistown Sentinel*, the *Lock Haven Express*, *Muncy Luminary*, and *Times Observer* of Warren are all owned by Ogden Newspapers. The *Williamsport Sun Gazette* has been serving Pennsylvania readers since 1801 and is currently the fourth-oldest newspaper in Pennsylvania and the tenth-oldest in America. This fall, the *Williamsport Sun Gazette* will celebrate 210 years of newspaper publishing in Lycoming County, Pennsylvania. Before I get into the written testimony, just a quick clarification. There was just a discussion a few minutes ago about the five a.m. versus six a.m. start time. Five a.m. is current law. We're not changing to five a.m.; it's been five a.m. for years and years and years. So, I just wanted to make sure all the committee members are aware of that. Okay?

I had the honor of appearing before this committee to discuss youth labor issues pertaining to newspaper carriers last year, I believe it was last fall, and I appreciate the opportunity to comment again today on this year's comprehensive revision and reenactment of the child labor laws. With me today is Deborah Musselman, Director of Government Affairs for the Pennsylvania Newspaper Association, which will be referenced as PNA through most of the testimony.

The PNA is a non-profit, dues-supported organization with approximately three hundred newspapers and affiliate members established in 1925 and based in Harrisburg. Its mission is to protect freedom of the press and promote members' business interests and professional development.

In addition to legislative monitoring and representation, PNA provides its members with meetings and events planning, awards and training programs, publications, research, and legal assistance, as well as technical support and general guidance and assistance. The PNA's Foundation is a separate, non-profit corporation charged with the mission of providing training and resources to newspapers to develop the next generation of readers and journalists and to educate the public on the importance of the First Amendment and the role of a free press in America. MANSI Media is the for-profit entity that manages PNA operations and promotes advertising in newspapers. Just a brief note on my background. I am not a lobbyist or legislative individual. I'm coming here strictly as a private employee of private sector business manager and publisher of the newspaper.

These components of our organization illustrate the fact that newspapers' business concerns as part of our free market economy and their role as advocates of the First Amendment both complement and support each other. The bill before you today governing the employment

of minors under the age of 18 reflects society's interest in fostering a positive work ethic in young people and in protecting their health and safety. The membership of my organization supports these goals. The Pennsylvania Newspaper Association Foundation honors outstanding youth carriers every year and confers awards on the basis of academic excellence, community service, and outstanding service to youth carriers. Now, normally, when I'm personally brought to Harrisburg to testify before a committee of either House Members or the Senate, it's usually to come here to oppose something or to defend the position. Today, I'm happy to say, we're here to actually support this bill in its current configuration, and I'm going to give you a few reasons why and show you why the way we believe the way it's set up is good.

As you know, House Bill 927 is written to create a new and updated Child Labor Law. Its provisions regarding youth carriers who deliver newspapers continue Pennsylvania law that has been in place for many, many years. Under existing law, Pennsylvania youth carriers may start to work at the age of 11. They are excluded from the definition of "youth peddling," and minors over age 16 who deliver newspapers are not required to obtain a work permit. Finally, their five a.m. start time allows morning paper subscribers to receive their paper prior to leaving for work in the morning. These provisions have appeared in the law for many, many years, and like child labor laws of many other states, they also reflect Federal law. It's important to note in our case statewide there's about 25 hundred carriers under the age of 18; I could be off a few here or there. In our particular paper, it's under a dozen that are actually under age 18. We've seen over the years a, a diversification of young carriers, 30 to 40 year-old carriers, and, of course, believe it or not, we have a lot of carriers over 60, who do it not only for some extra money but, really, for the exercise and to get out. Rarely, I mean, I've been in the business for 25 years, I do not of know of any particular instances when an 11 year-old was allowed to walk

the streets privately and throw newspapers on doorsteps. It may happen. We're not aware of it. I've never seen it. In most instances, parents go out with the children, either driving the car or walking along a bike route, or actually, delivering with them as a father-son, mother-daughter type activity, because many of the parents who allow their children under 18 to be carriers, especially the younger children, do it to try and create a work ethic, a little bit of character building, and an interest in, in how business works, in addition to be able to earn a couple of hundred dollars a month to put towards other things that they might like to buy.

MS. MUSSELMAN: May, may I just add also, we've been, we've been advised that all of the papers that use youth carriers require parents to sign the permits and application papers for their children that are looking to become carriers.

MR. ORAVEC: This legislation also incorporates several important amendments to the act regarding newspaper carriers. The law currently prohibits minors from employment for more than six consecutive days in a single week, and we appreciate your drafting HB 927 to prevent minors engaged in newspaper delivery, specifically, to work seven consecutive days. For daily papers that publish a Sunday edition, a seven day work week permits a youth carrier to complete his or her entire route. This recognizes the practical reality involved in having a true paper route and supports the availability of newspaper delivery as a work opportunity for youth. The seven day language supports youth who want to deliver newspapers and should be enacted into law. Just to give you a brief side note, in most cases, a youth carrier, especially children from 11 to 16, have routes that number about 30 to 50 houses, and most are in suburban settings. On a good day, provided there's no rain, hail, or really bad weather, they can deliver these routes in the area of 45 to 60 minutes. The reason the five a.m. start time is so important to the newspaper industry is in most cases, when the evening paper's being printed for the next day, it's printed between

midnight and three a.m. From the period of three to four-thirty in the morning, inside the newspaper itself, the employees are getting them bundled and ready to go out to the carriers, with most carriers arriving between five and five-thirty in the morning to pick up or to get their papers for delivery, so it's important that this type of a time plan stays in place for those youth carriers.

Finally, this bill addresses the independent contractor status of newspaper carriers. The PA Department of Labor and Industry initially posted a statement of policy on its website in 2004 that provides guidance on this issue. Minors under age 16 do not need to obtain a work permit if they can demonstrate that they are working as independent contractors. This policy, along with the 2005 recommendation to enact it into law, reflects Federal law, and it appears on the Department's web site under Safety and Compliance. The policy interpretation is included with our testimony.

In addition to their earnings, young people who work as newspaper carriers gain a strong sense of community. They learn about job responsibilities and gain a strong work ethic. Last fall, just before I addressed this committee on behalf of these concerns, the NBC Today show showcased the Pennsylvania youth carrier in a segment based on Matt Lauer's first job, in which he was a newspaper carrier. Rachel Denny, then 15 years old, still delivers the *Beaver County Times*. She is a two-time Pennsylvania Carrier of the Year and 2009 National Finalist. She taped a segment in which she and host Matt Lauer competed in a newspaper delivery contest. Ms. Denny is an outstanding carrier, and she actually saved enough money from delivering newspapers to buy a car before she was old enough to drive. Her story is not atypical in Pennsylvania. We've heard of many instances where youth carriers have earned enough money at the tune of anywhere from 150 to 250 or so per month to put away money for things such as iPod's, laptops, bicycles, all the way up to cars, depending on how thrifty they are. We're

always very pleased to hear about how many prominent individuals, including many Legislators, who were once paperboy and papergirls, and how that was their first introduction to the working world.

On behalf of the PNA, in conclusion, we appreciate your support for all of Pennsylvania's youth carriers and their local newspapers and the communities that they serve daily. The specific points I have addressed today have come before this committee in legislation that passed the House of Representatives with no negative votes in both 2003 and again in 2005. We urge the Labor Relations Committee to advance legislation that incorporates these specific concerns to the full House of Representatives and, ultimately, to the Governor's Desk. We appreciate your attention and interest, and we'll be pleased to respond to any questions you might have about our industry.

CHAIRMAN MILLER: Thank you for your testimony. Chairman Keller for a question, please?

CHAIRMAN KELLER: Yes, thank you, Mr. Chairman. I was just wondering; are all workers engaged in newspaper delivery considered independent contractors?

MR. ORAVEC: Yes, all. Yes. We have no employees that deliver, physically deliver, the newspapers. It's all independent contractors, from youth up to adult.

CHAIRMAN KELLER: Just curious. I used to deliver newspapers. What do they get now in newspaper?

MR. ORAVEC: I don't know an exact number, because every paper is different, but you're looking at a few cents per paper is how it adds up. If you, if you have a driving route, it's going to be a little bit more.

CHAIRMAN KELLER: Ten cents?

MR. ORAVEC: A little below that, little below that.

CHAIRMAN KELLER: To make \$250 a month, you got to do a lot of papers.

MR. ORAVEC: Well, yeah, yeah. What happens, in addition to that, they're also available for tips, which we find a lot of communities, a lot of residents will tip these carriers, not only on a holidays, but also during the month, and if we add it all up, we're looking at about 250 or so for some routes. Some routes a little more, some routes a little less.

CHAIRMAN KELLER: You also have the possibility that Mrs. Murphy doesn't pay you, either, so.

MR. ORAVEC: That could happen, yeah. We could cancel a subscription if we're not paid. Mrs. Murphy could be angry with the carrier, because as independent contractors, they're responsible for negotiating the delivery deals with their individual home owners or subscribers. So, depending on how nice they play or how good they get along with their actual delivery clientele will determine how many extra papers they can sell, how big their tips are, so it's really a character-building, you know, real quick introduction into economics for these kids.

CHAIRMAN MILLER: Yeah, well, I did it, so it's not as rosy as you'd think.

MR. ORAVEC: Well, I think it's better – maybe it's a lot better now. It's good when you're the publisher.

CHAIRMAN MILLER: What did you do to Mrs. Murphy? It wasn't only Mrs. Murphy.

MR. ORAVEC: Mrs. Murphy would be calling about some things, I'm sure, but no, that's a great point. Thanks for the question.

CHAIRMAN KELLER: Yeah, okay. Thank you.

CHAIRMAN MILLER: Thank you. Representative Parker.

REPRESENTATIVE PARKER: Thanks, Mr. Chair. You just --- because I pictured Chairman Keller was one of those newspaper deliverers who started immediately when school was finished in June and finished right before school started in September --- Is it Oravec?

MR. ORAVEC: Oravec, Oravec.

REPRESENTATIVE PARKER: Oravec.

MR. ORAVEC: Oravec, yes.

REPRESENTATIVE PARKER: Okay, could you just sort of clarify for me for the record, because I just read in Mr. Stefan's testimony that there was a change in the start time from six a.m. to five a.m., and you just clarified, and you were very adamant in your belief that five a.m. is current law. I sort of just had the Department of Labor and Industry say that it is six a.m., but I see two people conferring over here saying that they see something that says five, another one that says six. Help me here.

MR. ORAVEC: I think I can help you. Number one, they're wrong, and number two, six a.m. may go for other jobs, but for newspaper carriers there has been an exception for years and years and years for a five a.m. start time.

REPRESENTATIVE PARKER: Okay, so in, in that exception is, you know, sort of written into law, into statute, or in the sort of a practice that has more sort of leeway that's been given to the industry? How is that? Thank you.

MR. ORAVEC: I'm going to pass this off.

MS. MUSSELMAN: Hi, Representative. It is in the law. If you look in the current youth labor law, the specific newspaper-related provisions they're sort of threaded throughout the law. Like, there would be a section on start time or early morning times, whatever, for newspaper delivery. Same thing for minimum age sections of the act. Same thing for the

consecutive day's section, which is why we have the separate section in the bill that does refer to the seven day delivery for the Sunday paper.

REPRESENTATIVE PARKER: Okay, and just a refresher for me, because remembering back to the [19]80s, I don't remember how much we were paid, but tell me, are the minors who work for you make minimum wage, those who deliver the papers? How does that work? Because, I don't think we made minimum wage.

MR. ORAVEC: No. I'm going to say no because the way it's set up they're not, they're not technically employees. They are independent contractors. It's what they do; how much they earn is really up to them.

MS. MUSSELMAN: Size of the route.

MR. ORAVEC: Yeah, and many of these folks also can deliver our competition if they wish. We cannot stipulate as independent contractors, you know, what order to follow for delivery, whether they can or can't take competition. We have some, some adult delivery folks who will deliver competition plus take things for the post office. I mean, there's all kinds of opportunities to make money. We're just one of many part-time opportunities, if you will, or small opportunities for these folks to make some money.

REPRESENTATIVE PARKER: And, and tell me, based on our sort-of neighboring states, and you may be familiar with familiar with this in the Newspaper Association, is our law sort of tangent with like New York and Jersey, Ohio? Are we very different? Where do we stand?

MS. MUSSELMAN: This is standard, just about nationally, and many, many states it goes back to exceptions and provisions in Federal law, as well.

REPRESENTATIVE PARKER: Listen, thank you for your testimony. I just want to say for the record that I have a great deal of respect and admiration of the sponsors of this legislation. Some of these are questions or concerns that were mentioned earlier. I look forward to working with the sponsor in attempting to assist and help in any way I possibly can. Thank you.

MR. ORAVEC: Thank you for the great questions.

CHAIRMAN MILLER: Chairman Keller for a comment.

CHAIRMAN KELLER: I have one comment, Mr. Chairman. I'd just like to point out this is the first meeting I have ever attended that was on schedule, so congratulations. We could go a little longer.

CHAIRMAN MILLER: We are trying very hard. I would note that – thank you for your testimony.

MR. ORAVEC: Thank you. I appreciate that.

CHAIRMAN MILLER: But I would note that we were given testimony, written testimony, by the Pennsylvania Farm Bureau, which will become part of the transcript of today, and also, note for the committee members that we have two hearings next week, Tuesday and Wednesday, on less controversial issues. With that, this hearing's adjourned.

Meeting is adjourned.

(Whereupon, the meeting adjourned at 2:14 p.m.)

The above is a full and accurate transcript of proceedings produced by the Archives and Records Center of the Pennsylvania House of Representatives.

Erin E. Miller, House Archives and Records Center