

SENATE BILL 403

Introduced by Stimatz, et al.

2/15	Introduced
2/16	First Reading
2/16	Referred to Labor & Employment Relations
2/21	Hearing
2/22	Fiscal Note Requested
2/25	Committee Report--Bill Passed as Amendment
2/26	2nd Reading Passed
2/27	3rd Reading Failed
3/04	Fiscal Note Requested

1 pursuits performed outside school hours in connection with a
2 home or a farm owned or operated by the minor's parent or by
3 a guardian; and

- 4 (b) employed directly by the parent or person;
- 5 (2) employed during periods of school vacations on a
6 campsite of a nonprofit corporation engaged in citizenship
7 training and character building;
- 8 (3) employed as an actor, model, or performer;
- 9 (4) employed outside school hours by a householder in
10 casual work usual to the home of the householder and not in
11 connection with the householder's business, trade, or
12 profession; or
- 13 (5) not employed in occupations specifically prohibited
14 by [sections 1 through 14].

15 NEW SECTION. Section 4. **Employment of minors under**
16 **fourteen.** (1) Except as provided in subsection (2), a minor
17 under 14 years of age may not be employed in or in
18 connection with any occupation.

19 (2) Nothing in this section prohibits the employment
20 outside school hours of a minor 12 or 13 years old:

- 21 (a) in the delivery of newspapers to the consumer;
- 22 (b) in agriculture or in occupations not otherwise
23 prohibited by [sections 1 through 14], with written consent
24 of the minor's parent or person standing in place of his
25 parent, or on a farm where the parent or person is also

1 employed.

2 NEW SECTION. Section 5. **Employment of minors under**
3 **sixteen.** (1) Except as provided in [section 10(2)], a minor
4 14 or 15 years of age may not be employed in any occupation
5 during school hours.

6 (2) A minor 14 or 15 years of age may be employed
7 outside school hours in:

- 8 (a) the distribution or sale of newspapers, magazines,
9 periodicals, or circulars; and
- 10 (b) the following occupations in retail, food service,
11 and gasoline service establishments:
 - 12 (i) office and clerical work, including the operation
13 of office machines;
 - 14 (ii) cashiering, selling, modeling, art work, work in
15 advertising departments, window trimming, and comparative
16 shopping;
 - 17 (iii) price marking and tagging by hand or by machine,
18 assembling orders, packing, and shelving;
 - 19 (iv) bagging and carrying out customers' orders;
 - 20 (v) errand and delivery work by foot, bicycle, or
21 public transportation;
 - 22 (vi) cleanup work, including the use of vacuum cleaners
23 and floor waxers, and maintenance of grounds, but not
24 including the use of power-driven mowers or cutters;
 - 25 (vii) kitchen work and other work involved in preparing

1 and serving food and beverages, including the operation of
 2 machines and devices used in the performance of the work,
 3 including but not limited to dishwashers, toasters,
 4 dumbwaiters, popcorn poppers, milkshake blenders, and coffee
 5 grinders;

6 (viii) work in connection with cars and trucks if
 7 confined to dispensing gasoline and oil; courtesy service;
 8 car cleaning, washing, and polishing; but not including work
 9 involving the use of pits, racks, or a lifting apparatus or
 10 involving the inflation of any tire mounted on a rim
 11 equipped with a removable ring; or

12 (ix) cleaning vegetables and fruits and wrapping,
 13 sealing, labeling, weighing, pricing, and stocking goods.

14 NEW SECTION. Section 6. Prohibited employment of
 15 minors under sixteen. Except as provided for in [section
 16 5(2)(b)], a minor 14 or 15 years of age may not be employed
 17 in:

- 18 (1) any manufacturing occupation;
 19 (2) any mining occupation;
 20 (3) processing occupations, such as filleting fish,
 21 dressing poultry, cracking nuts, or laundering and
 22 drycleaning;
 23 (4) occupations that require the performance of any
 24 duties in workrooms or workplaces where goods are
 25 manufactured, mined, or otherwise processed;

- 1 (5) the operation or tending of hoisting apparatus or
 2 of any power-driven machinery;
 3 (6) the operation of motor vehicles;
 4 (7) a public messenger service;
 5 (8) occupations in connection with:
 6 (a) transportation of persons or property by rail,
 7 highway, air, water, pipeline, or other means;
 8 (b) warehousing and storage;
 9 (c) communications and public utilities; or
 10 (d) construction or repair;
 11 (9) any of the following occupations in retail, food
 12 service, and gasoline service establishments:
 13 (a) work performed in or around boiler or engine rooms;
 14 (b) work in connection with maintenance or repair of
 15 the establishment, machines, or equipment;
 16 (c) outside window washing that involves working from
 17 windowsills and all work requiring the use of ladders,
 18 scaffolds, or their substitutes;
 19 (d) cooking, except at soda fountains, lunch counters,
 20 snack bars, or cafeteria serving counters;
 21 (e) baking;
 22 (f) occupations that involve operating, assembling,
 23 adjusting, cleaning, oiling, or repairing power-driven food
 24 slicers and grinders, food choppers and cutters, and
 25 bakery-type mixers;

1 (g) work in freezers and meat coolers and all work in
 2 preparation of meats for sale except as permitted by
 3 [section 5(2)(b)(ix)];

4 (h) loading and unloading goods to and from trucks,
 5 railroad cars, or conveyors;

6 (i) all occupations in warehouses, except office and
 7 clerical work; or

8 (j) all occupations otherwise prohibited by [sections 1
 9 through 14]; or

10 (10) except as provided in [section 7], any of the
 11 following occupations in agriculture:

12 (a) operating a tractor of over 20 horsepower with
 13 power take-off or connecting or disconnecting an implement
 14 or any of its parts to or from such a tractor or any
 15 machinery used in agriculture that is driven by any motor.
 16 As used in this subsection (a), the term "operating"
 17 includes operating and assisting in operating the machines
 18 mentioned in this subsection (a), including starting,
 19 stopping, adjusting, feeding, or any other activity
 20 involving physical contact associated with the operations of
 21 machinery;

22 (b) working with livestock used for breeding purposes
 23 or with livestock with young offspring;

24 (c) felling, bucking, skidding, loading, or unloading
 25 timber with butt diameter of more than 6 inches;

1 (d) picking fruit, pruning trees, or repairing a
 2 building from a ladder or scaffold at a height of over 20
 3 feet;

4 (e) driving a bus, truck, or automobile when
 5 transporting passengers or riding on a tractor as a
 6 passenger or helper;

7 (f) working inside:

8 (i) a fruit, forage, or grain storage structure
 9 designed to retain an oxygen-deficient or toxic atmosphere;

10 (ii) an upright silo within 2 weeks after silage has
 11 been added or when a top unloading device is in operating
 12 position;

13 (iii) a manure pit; or

14 (iv) a horizontal silo while operating a tractor for
 15 packing purposes;

16 (g) handling or using agricultural chemicals classified
 17 as poisonous;

18 (h) handling or using a blasting agent, including but
 19 not limited to dynamite, black powder, sensitized ammonium
 20 nitrate, blasting caps, and primer cord; or

21 (i) transporting, transferring, or applying anhydrous
 22 ammonia.

23 NEW SECTION. Section 7. Exemptions from prohibited
 24 occupations in agriculture. (1) The prohibitions in [section
 25 5(10)] do not apply to the employment of a student-learner

1 14 or 15 years of age in the occupations enumerated in
2 [section 6(10)(a) through (10)(d)] if the following
3 requirements are met:

4 (a) the student-learner is enrolled in a vocational
5 education training program in agriculture under a recognized
6 state or local educational authority or in a substantially
7 similar program conducted by a private school;

8 (b) the student-learner is employed under a written
9 agreement, providing that:

10 (i) the work is incidental to his training;

11 (ii) the work is intermittent, for short periods of
12 time, and under the direct and close supervision of a
13 qualified and experienced person;

14 (iii) safety instruction is given by the school and
15 correlated by the employer with on-the-job training; and

16 (iv) a schedule of organized and progressive work
17 processes to be performed on the job has been prepared;

18 (c) the written agreement contains the name of the
19 student-learner and is signed by the employer and by a
20 person authorized to represent the educational authority or
21 school; and

22 (d) copies of each agreement are kept on file by both
23 the educational authority or school and by the employer.

24 (2) The prohibitions in [section 6(10)] do not apply to
25 the employment of a minor 14 or 15 years of age in those

1 occupations in which he has successfully completed a work
2 training program, including safety instruction and training
3 in the use of machinery, under the 4-H program of the
4 federal extension service, a program of the United States
5 department of education, or a similar program if the safety
6 program has been approved by the department and if the minor
7 is employed outside school hours on the equipment for which
8 he has been trained.

9 NEW SECTION. Section 8. Prohibited employment of
10 minors under eighteen. Except as provided in [section 9], a
11 minor 16 or 17 years of age may not be employed in or in
12 connection with any of the following occupations:

13 (1) manufacturing or storing explosives or articles
14 containing explosive components;

15 (2) logging and the operation of a sawmill, lath mill,
16 shingle mill, or cooperage-stock mill;

17 (3) the operation of power-driven woodworking machines;

18 (4) occupations involving exposure to radioactive
19 substances or ionizing radiation;

20 (5) the operation of elevators and other power-driven
21 hoisting apparatus;

22 (6) the operation of power-driven metal forming,
23 punching, and shearing machines;

24 (7) occupations in connection with any kind of mining,
25 other than coal;

1 (8) slaughtering, meatpacking, processing, or
 2 rendering;
 3 (9) the operation of power-driven bakery machines;
 4 (10) the operation of power-driven paper products
 5 machines;
 6 (11) the manufacture of brick, tile, and kindred
 7 products;
 8 (12) the operation of circular saws, bandsaws, and
 9 guillotine shears;
 10 (13) wrecking, demolition, and shipbreaking operations;
 11 (14) roofing operations; and
 12 (15) excavation operations.

13 NEW SECTION. Section 9. Exemptions from prohibited
 14 employment of minors under eighteen. (1) The prohibitions in
 15 [section 8(3), (6), (8), (10), (12), (14), and (15)] do not
 16 apply to the employment of an apprentice or student-learner
 17 of 16 or 17 years of age if he is employed under the
 18 following conditions:

19 (a) for an apprentice if:

20 (i) he is employed in a craft recognized as an
 21 apprenticeable trade;

22 (ii) the work is incidental to his training;

23 (iii) the work is intermittent, for short periods of
 24 time, and under the direct and close supervision of a
 25 journeyman as a necessary part of the apprentice training;

1 and
 2 (iv) he is registered by the bureau of apprenticeship
 3 and training of the United States department of labor as
 4 employed in accordance with the standards established by
 5 that bureau or is registered by the department as employed
 6 in accordance with the standards of the department;

7 (b) for a student-learner if:

8 (i) the student-learner is enrolled in a course of
 9 study and training in a cooperative vocational training
 10 program under a recognized state or local educational
 11 authority or in a course of study in a substantially similar
 12 program conducted by a private school; and

13 (ii) the student-learner is employed under a written
 14 agreement, providing that:

15 (A) the work of the student-learner is incidental to
 16 his training;

17 (B) the work is intermittent, for short periods of
 18 time, and under the direct and close supervision of a
 19 qualified and experienced person;

20 (C) safety instruction is given by the school and
 21 correlated by the employer with on-the-job training; and

22 (D) a schedule of organized and progressive work
 23 processes to be performed on the job has been prepared;

24 (iii) the written agreement contains the name of the
 25 student-learner and is signed by the employer and the school

1 coordinator or principal; and

2 (iv) copies of each agreement are kept on file by both
3 the educational authority or school and by the employer.

4 (2) This exemption for the employment of
5 student-learners may be revoked by the department in any
6 situation if the department finds that reasonable
7 precautions have not been observed for the safety of minors
8 employed under the exemption.

9 (3) A high school graduate of 16 or 17 years of age may
10 be employed in an occupation in which he has completed
11 training as a student-learner as provided in this section.

12 NEW SECTION. Section 10. Working hours. (1) Except as
13 provided in subsections (2) and (3), a minor 14 or 15 years
14 of age:

15 (a) may not be employed before 7 a.m. or after 7 p.m.,
16 except that he may be employed until 9 p.m. from June 1
17 through Labor Day; or

18 (b) may not be employed more than:

19 (i) 3 hours on any school day;

20 (ii) 18 hours in any week when school is in session;

21 (iii) 8 hours in any day when school is not in session;

22 (iv) 40 hours in any week when school is not in session;

23 or

24 (v) 6 days a week.

25 (2) Notwithstanding the provisions of [section 5(1)] or

1 subsection (1) of this section, a minor 14 or 15 years of
2 age who is enrolled in and employed pursuant to a
3 school-supervised and school-administered work experience or
4 career exploration program approved by the department may be
5 employed up to 23 hours in any 1 week when the program is in
6 session, any portion of which may be during school hours.

7 (3) Notwithstanding the provisions of subsection (1), a
8 minor between 12 and 16 years of age engaged in delivering
9 newspapers to a consumer may work starting at various hours,
10 but for not more than 4 hours on any school day or more than
11 28 hours in any 1 week when school is in session or more
12 than 5 hours on any day when school is not in session and
13 not later in the evening than is prescribed in subsection
14 (1).

15 (4) A minor 16 or 17 years of age enrolled in school
16 may not be employed:

17 (a) during those hours in the day when school is in
18 session;

19 (b) between the hours of 10 p.m. and 6 a.m. on Sunday
20 through Thursday evenings preceding a school day unless the
21 minor submits to the employer a signed and notarized
22 statement of consent from his parents or guardians, on a
23 form provided by the department, granting the minor
24 permission to work on no more than two occasions during any
25 1 week between the hours of 10 p.m. and midnight on Sunday

1 through Thursday evenings preceding a school day. Upon
 2 accepting the signed consent form, the employer shall retain
 3 the original signed consent form where the minor is employed
 4 and shall forward a copy to the commissioner of labor and
 5 industry. The consent form is valid until the end of the
 6 school year in which it was submitted or until the minor
 7 reaches age 18, whichever occurs first. Consent may be
 8 rescinded at any time upon submission to the employer of a
 9 signed recision statement by the parents or guardian.

10 (c) in two or more establishments or employed more
 11 than:

- 12 (i) 4 hours on any school day;
- 13 (ii) 28 hours in any week when school is in session;
- 14 (iii) 8 hours in any day when school is not in session;
- 15 (iv) 48 hours in any week when school is not in session;

16 or

- 17 (v) 6 days a week.
- 18 (5) A minor may not be permitted to work more than 5
 19 hours continuously without an interval of at least 30
 20 minutes for a lunch period. A period of less than 30 minutes
 21 is not considered to interrupt a continuous period of work.

22 NEW SECTION. Section 11. **Employment certificate.**
 23 Before a minor is employed in any occupation except in
 24 domestic service in a private home, the employer of the
 25 minor shall obtain and keep on file, accessible to any

1 officer charged with enforcement of [sections 1 through 14],
 2 an employment certificate issued by a superintendent of
 3 schools or the department, attesting to the age of the
 4 minor. A superintendent of schools who issues a certificate
 5 under this section shall refer a copy of the certificate to
 6 the department, and the department shall retain a copy of
 7 each certificate issued by it.

8 NEW SECTION. Section 12. **Enforcement -- right to enter
 9 and inspect premises and records -- subpoena power.** The
 10 department shall enforce the provisions of [sections 1
 11 through 14] and make complaints against persons violating
 12 its provisions. The department may at any time enter and
 13 inspect any place or establishment governed by the
 14 provisions of [sections 1 through 14] and have access to
 15 employment or age certificates kept on file by the employer
 16 and other records that may aid in the enforcement of
 17 [sections 1 through 14]. The department may subpoena the
 18 production of all documentary evidence relating to an
 19 investigation under [sections 1 through 14].

20 NEW SECTION. Section 13. **Power to adopt rules.** The
 21 department shall adopt rules, including definitions of
 22 terms, to carry out the purposes of [sections 1 through 14]
 23 and to prevent the circumvention or evasion of [sections 1
 24 through 14].

25 NEW SECTION. Section 14. **Penalties.** An employer who

1 violates any of the provisions of [sections 1 through 14] is
2 guilty of a misdemeanor and is punishable as provided in
3 46-18-212. Each day during which any violation of [section 1
4 through 14] continues constitutes a separate and distinct
5 offense, and the employment of any minor in violation of
6 [sections 1 through 14] constitutes, with respect to each
7 minor so employed, a separate and distinct offense.

8 NEW SECTION. Section 15. **Repealer.** Sections 41-2-101,
9 41-2-111, 41-2-113, 41-2-114, and 41-2-121, MCA, are
10 repealed.

11 NEW SECTION. Section 16. **Codification instruction.**
12 [Sections 1 through 14] are intended to be codified as an
13 integral part of Title 41, chapter 2, part 1, and the
14 provisions of Title 41, chapter 2, part 1, apply to
15 [sections 1 through 14].

16 NEW SECTION. Section 17. **Severability.** If a part of
17 [this act] is invalid, all valid parts that are severable
18 from the invalid part remain in effect. If a part of [this
19 act] is invalid in one or more of its applications, the part
20 remains in effect in all valid applications that are
21 severable from the invalid applications.

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

SENATE BILL NO. 403

INTRODUCED BY STIMATZ, HARPER, DARKO, MAZUREK, PIPINICH,
MANNING, BLAYLOCK, JACOBSON, KENNEDY, VAUGHN, WEEDING,
SQUIRES, RANEY, STRIZICH, FRANKLIN, WANZENRIED, O'KEEFE,
MENAHAN, SCOTT, WHALEN, COCCHIARELLA, MEASURE, REAM,
HARRINGTON, WYATT, DRISCOLL, MCCULLOCH, SCHYE, DOWELL,
COHEN, GALVIN, SOUTHWORTH, GERVAIS, KILPATRICK, S. RICE,
VAN VALKENBURG, B. BROWN, QUILICI, RUSSELL, HALLIGAN,
D. BROWN, LYNCH

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
LAWS RELATING TO CHILD LABOR; AND REPEALING SECTIONS
41-2-101, 41-2-111, 41-2-113, 41-2-114, AND 41-2-121, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 13] requires the department of labor and industry
to adopt rules to define terms, to implement the purposes of
the child labor laws, and to prevent the circumvention or
evasion of the child labor laws.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Short title. [Sections 1
through 14] may be cited as the "Child Labor Standards Act".

NEW SECTION. **Section 2.** Definitions. As used in

[sections 1 through 14], the following definitions apply:

(1) "Agriculture" means:

(a) all aspects of farming, including the cultivation
and tillage of the soil;

(b) dairying; and the production, cultivation, growing,
and harvesting of any agricultural or horticultural
commodities, including commodities defined as agricultural
commodities in the federal Agricultural Marketing Act (12
U.S.C. 1141j(g));

(c) the raising of livestock, bees, fur-bearing
animals, or poultry; and

(d) any practices, including forestry or lumbering
operations, performed by a farmer or on a farm as an
incident to or in conjunction with farming operations,
including preparation for market or delivery to storage, to
market, or to carriers for transportation to market.

(2) "Department" means the department of labor and
industry provided for in 2-15-1701.

(3) "Employed" includes permitted or suffered to work.

(4) "Employer" includes any individual, partnership,
association, corporation, business trust, or person or group
of persons, acting directly or indirectly in the interest of
an employer in relation to an employee.

(5) "Minor" means any person under 18 years of age.

(6) "Occupation" means any occupation, service, trade,



1 business, or industry in which employees are employed; any
 2 branch or group of industries in which employees are
 3 employed; or any employment or class of employment in which
 4 employees are employed.

5 NEW SECTION. Section 3. Exemptions. The provisions of
 6 [sections 1 through 14] do not apply to a minor who is:

7 (1) (a) engaged in domestic service or agricultural
 8 pursuits performed outside school hours in connection with a
 9 home or a farm owned or operated by the minor's parent or by
 10 a guardian; and

11 (b) employed directly by the parent or person;

12 (2) employed during periods of school vacations on a
 13 campsite of a nonprofit corporation engaged in citizenship
 14 training and character building;

15 (3) employed as an actor, model, or performer;

16 (4) employed outside school hours by a householder in
 17 casual work usual to the home of the householder and not in
 18 connection with the householder's business, trade, or
 19 profession; ~~or~~

20 (5) not employed in occupations specifically prohibited
 21 by [sections 1 through 14]; OR

22 (6) EMPLOYED BY THE LEGISLATURE AS A LEGISLATIVE AIDE
 23 OR PAGE.

24 NEW SECTION. Section 4. Employment of minors under
 25 fourteen. (1) Except as provided in subsection (2), a minor

1 under 14 years of age may not be employed in or in
 2 connection with any occupation.

3 (2) Nothing in this section prohibits the employment
 4 outside school hours of a minor 12 or 13 years old:

5 ~~(a) in the delivery of newspapers to the consumer;~~

6 (A) IN THE DISTRIBUTION OR SALE OF OR IN THE COLLECTION
 7 FOR NEWSPAPERS, PERIODICALS, OR CIRCULARS;

8 (b) in agriculture or in occupations not otherwise
 9 prohibited by [sections 1 through 14], with written consent
 10 of the minor's parent or person standing in place of his
 11 parent, or on a farm where the parent or person is also
 12 employed.

13 NEW SECTION. Section 5. Employment of minors under
 14 sixteen. (1) Except as provided in [section 10(2)], a minor
 15 14 or 15 years of age may not be employed in any occupation
 16 during school hours.

17 (2) A minor 14 or 15 years of age may be employed
 18 outside school hours in:

19 (a) the distribution or sale of OR IN THE COLLECTION
 20 FOR newspapers, magazines, periodicals, or circulars; and

21 (b) the following occupations in retail, food service,
 22 and gasoline service establishments:

23 (i) office and clerical work, including the operation
 24 of office machines;

25 (ii) cashiering, selling, modeling, art work, work in

1 advertising departments, window trimming, and comparative
 2 shopping;
 3 (iii) price marking and tagging by hand or by machine,
 4 assembling orders, packing, and shelving;
 5 (iv) bagging and carrying out customers' orders;
 6 (v) errand and delivery work by foot, bicycle, or
 7 public transportation;
 8 (vi) cleanup work, including the use of vacuum cleaners
 9 and floor waxers, and maintenance of grounds, ~~but--not~~
 10 including the use of power-driven mowers or cutters;
 11 (vii) kitchen work and other work involved in preparing
 12 and serving food and beverages, including the operation of
 13 machines and devices used in the performance of the work,
 14 including but not limited to dishwashers, toasters,
 15 dumbwaiters, popcorn poppers, milkshake blenders, and coffee
 16 grinders;
 17 (viii) work in connection with cars and trucks if
 18 confined to dispensing gasoline and oil; courtesy service;
 19 car cleaning, washing, and polishing; but not including work
 20 involving the use of pits, racks, or a lifting apparatus or
 21 involving the inflation of any tire mounted on a rim
 22 equipped with a removable ring; or
 23 (ix) cleaning vegetables and fruits and wrapping,
 24 sealing, labeling, weighing, pricing, and stocking goods.
 25 NEW SECTION. **Section 6.** Prohibited employment of

1 minors under sixteen. Except as provided for in {section
 2 5(2)(b)}, a minor 14 or 15 years of age may not be employed
 3 in:
 4 (1) any manufacturing occupation;
 5 (2) any mining occupation;
 6 (3) processing occupations, such as filleting fish,
 7 dressing poultry, cracking nuts, or laundering and
 8 drycleaning;
 9 (4) occupations that require the performance of any
 10 duties in workrooms or workplaces where goods are
 11 manufactured, mined, or otherwise processed;
 12 (5) the operation or tending of hoisting apparatus or
 13 of any power-driven machinery;
 14 ~~{6}--the-operation-of-motor-vehicles;~~
 15 ~~{7}~~{6} a public messenger service;
 16 ~~{8}~~{7} occupations in connection with:
 17 (a) transportation of persons or property by rail,
 18 highway, air, water, pipeline, or other means;
 19 (b) warehousing and storage;
 20 (c) communications and public utilities; or
 21 (d) construction or repair;
 22 ~~{9}~~{8} any of the following occupations in retail, food
 23 service, and gasoline service establishments:
 24 (a) work performed in or around boiler or engine rooms;
 25 (b) work in connection with maintenance or repair of

1 the establishment, machines, or equipment;

2 (c) outside window washing that involves working from
3 windowsills and all work requiring the use of ladders,
4 scaffolds, or their substitutes AT A HEIGHT OF OVER 20 FEET;

5 (d) ~~cooking, except at soda fountains, lunch counters,~~
6 ~~snack bars, or cafeteria serving counters;~~

7 (e) (D) baking;

8 (f) (E) occupations that involve operating, assembling,
9 adjusting, cleaning, oiling, or repairing power-driven food
10 slicers and grinders, food choppers and cutters, and
11 bakery-type mixers;

12 (g) (F) work in freezers and meat coolers and all work
13 in preparation of meats for sale except as permitted by
14 [section 5(2)(b)(ix)];

15 (h) (G) loading and unloading goods to and from trucks,
16 railroad cars, or conveyors;

17 (i) (H) all occupations in warehouses, except office and
18 clerical work; or

19 (j) (I) all occupations otherwise prohibited by
20 [sections 1 through 14]; or

21 (k) (9) except as provided in [section 7], any of the
22 following occupations in agriculture:

23 (a) ~~operating a tractor of over 20 horsepower with~~
24 ~~power take-off or connecting or disconnecting an implement~~
25 ~~or any of its parts to or from such a tractor or any~~

1 ~~machinery used in agriculture that is driven by any motor;~~
2 ~~As used in this subsection (a), the term "operating"~~
3 ~~includes operating and assisting in operating the machines~~
4 ~~mentioned in this subsection (a), including starting,~~
5 ~~stopping, adjusting, feeding, or any other activity~~
6 ~~involving physical contact associated with the operations of~~
7 ~~machinery;~~

8 (b) ~~working with livestock used for breeding purposes~~
9 ~~or with livestock with young offspring;~~

10 (c) (A) felling, bucking, skidding, loading, or
11 unloading timber with butt diameter of more than 6 inches;

12 (d) (B) picking fruit, pruning trees, or repairing a
13 building from a ladder or scaffold at a height of over 20
14 feet;

15 (e) (C) ~~driving a bus, truck, or automobile when~~
16 ~~transporting passengers or riding on a tractor as a~~
17 ~~passenger or helper;~~

18 (f) (D) working inside:

19 (i) a fruit, forage, or grain storage structure
20 designed to retain an oxygen-deficient or toxic atmosphere;
21 OR

22 (ii) an upright silo within 2 weeks after silage has
23 been added or when a top unloading device is in operating
24 position;

25 (iii) ~~a manure pit; or~~

~~(iv)-a-horizontal-silo-while--operating--a--tractor--for
packing-purposes;~~

~~(g)(E)~~ handling or using agricultural chemicals classified as poisonous;

~~(h)(F)~~ handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or

~~(i)(G)~~ transporting, transferring, or applying anhydrous ammonia.

NEW SECTION. Section 7. Exemptions from prohibited occupations in agriculture. (1) The prohibitions in [section 6(10)(9)] do not apply to the employment of a student-learner 14 or 15 years of age in the occupations enumerated in [section 6(10)(a) through AND (10)(B)] if the following requirements are met:

(a) the student-learner is enrolled in a vocational education training program in agriculture under a recognized state or local educational authority or in a substantially similar program conducted by a private school;

(b) the student-learner is employed under a written agreement, providing that:

(i) the work is incidental to his training;

(ii) the work is intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) safety instruction is given by the school and correlated by the employer with on-the-job training; and

(iv) a schedule of organized and progressive work processes to be performed on the job has been prepared;

(c) the written agreement contains the name of the student-learner and is signed by the employer and by a person authorized to represent the educational authority or school; and

(d) copies of each agreement are kept on file by both the educational authority or school and by the employer.

(2) The prohibitions in [section 6(10)(9)] do not apply to the employment of a minor 14 or 15 years of age in those occupations in which he has successfully completed a work training program, including safety instruction and training in the use of machinery, under the 4-H program of the federal extension service, a program of the United States department of education, or a similar program if the safety program has been approved by the department and if the minor is employed outside school hours on the equipment for which he has been trained.

NEW SECTION. Section 8. Prohibited employment of minors under eighteen. Except as provided in [section 9], a minor 16 or 17 years of age may not be employed in or in connection with any of the following occupations:

(1) manufacturing or storing explosives or articles

1 containing explosive components;

2 (2) logging and the operation of a sawmill, lath mill,

3 shingle mill, or cooperage-stock mill;

4 (3) the operation of power-driven woodworking machines;

5 (4) occupations involving exposure to radioactive

6 substances or ionizing radiation;

7 (5) the operation of elevators and other power-driven

8 hoisting apparatus;

9 (6) the operation of power-driven metal forming,

10 punching, and shearing machines;

11 (7) occupations in connection with any kind of mining;
 12 ~~other than coal;~~

13 (8) slaughtering, meatpacking, processing, or

14 rendering;

15 (9) the operation of power-driven bakery machines;

16 (10) the operation of power-driven paper products

17 machines;

18 (11) the manufacture of brick, tile, and kindred

19 products; AND

20 (12) the operation of circular saws, bandsaws, and

21 guillotine shears;
 22 ~~(13) wrecking, demolition, and shipbreaking operations;~~

23 ~~(14) roofing operations; and~~

24 ~~(15) excavation operations;~~

25 NEW SECTION. Section 9. Exemptions from prohibited

1 employment of minors under eighteen. (1) The prohibitions in

2 [section 8(3), (6), (8), (10), AND (12)]~~(14) and (15)]~~ do

3 not apply to the employment of an apprentice or

4 student-learner of 16 or 17 years of age if he is employed

5 under the following conditions:

6 (a) for an apprentice if:

7 (i) he is employed in a craft recognized as an

8 apprenticeable trade;

9 (ii) the work is incidental to his training;

10 (iii) the work is intermittent, for short periods of

11 time, and under the direct and close supervision of a

12 journeyman as a necessary part of the apprentice training;

13 and

14 (iv) he is registered by the bureau of apprenticeship

15 and training of the United States department of labor as

16 employed in accordance with the standards established by

17 that bureau or is registered by the department as employed

18 in accordance with the standards of the department;

19 (b) for a student-learner if:

20 (i) the student-learner is enrolled in a course of

21 study and training in a cooperative vocational training

22 program under a recognized state or local educational

23 authority or in a course of study in a substantially similar

24 program conducted by a private school; and

25 (ii) the student-learner is employed under a written

1 agreement, providing that:

2 (A) the work of the student-learner is incidental to
3 his training;

4 (B) the work is intermittent, for short periods of
5 time, and under the direct and close supervision of a
6 qualified and experienced person;

7 (C) safety instruction is given by the school and
8 correlated by the employer with on-the-job training; and

9 (D) a schedule of organized and progressive work
10 processes to be performed on the job has been prepared;

11 (iii) the written agreement contains the name of the
12 student-learner and is signed by the employer and the school
13 coordinator or principal; and

14 (iv) copies of each agreement are kept on file by both
15 the educational authority or school and by the employer.

16 (2) This exemption for the employment of
17 student-learners may be revoked by the department in any
18 situation if the department finds that reasonable
19 precautions have not been observed for the safety of minors
20 employed under the exemption.

21 (3) A high school graduate of 16 or 17 years of age may
22 be employed in an occupation in which he has completed
23 training as a student-learner as provided in this section.

24 NEW SECTION. **Section 10.** Working hours. (1) Except as
25 provided in subsections (2) and (3), a minor 14 or 15 years

1 of age:

2 (a) may not be employed before 7 a.m. or after 7 p.m.,
3 except that he may be employed until 9 p.m. from June 1
4 through Labor Day; or

5 (b) may not be employed more than:

6 (i) 3 hours on any school day;

7 (ii) 18 hours in any week when school is in session;

8 (iii) 8 hours in any day when school is not in session;

9 (iv) 40 hours in any week when school is not in session;

10 or

11 (v) 6 days a week.

12 (2) Notwithstanding the provisions of [section 5(1)] or
13 subsection (1) of this section, a minor 14 or 15 years of
14 age who is enrolled in and employed pursuant to a
15 school-supervised and school-administered work experience or
16 career exploration program approved by the department OR THE
17 OFFICE OF PUBLIC INSTRUCTION may be employed up to 23 hours
18 in any 1 week when the program is in session, any portion of
19 which may be during school hours.

20 (3) Notwithstanding the provisions of subsection (1), a
21 minor between 12 and 16 years of age engaged in delivering
22 newspapers to a consumer may work ~~starting-at-various--hours~~
23 BEFORE 7 A.M. AND AFTER 7 P.M., but for not more than 4
24 hours on any school day or more than 28 hours in any 1 week
25 when school is in session or more than 5 hours on any day

1 when school is not in session ~~and not later in the evening~~
2 ~~than is prescribed in subsection (i).~~

3 (4) A minor 16 or 17 years of age enrolled in school
4 may not be employed:

5 (a) during those hours in the day when school is in
6 session, UNLESS SPECIFICALLY RELEASED BY THE SCHOOL;

7 (b) between the hours of 10 p.m. and 6 a.m. on Sunday
8 through Thursday evenings preceding a school day unless the
9 minor submits to the employer a signed and notarized
10 statement of consent from his parents or guardians, on a
11 form provided by the department, granting the minor
12 permission to work on no more than two occasions during any
13 1 week between the hours of 10 p.m. and midnight on Sunday
14 through Thursday evenings preceding a school day. Upon
15 accepting the signed consent form, the employer shall retain
16 the original signed consent form where the minor is employed
17 and shall forward a copy to the commissioner of labor and
18 industry. The consent form is valid until the end of the
19 school year in which it was submitted or until the minor
20 reaches age 18, whichever occurs first. Consent may be
21 rescinded at any time upon submission to the employer of a
22 signed recision statement by the parents or guardian.

23 (c) in two or more establishments or employed more
24 than:

25 (i) 4 hours on any school day;

1 (ii) 28 hours in any week when school is in session;
2 (iii) 8 hours in any day when school is not in session;
3 (iv) 48 hours in any week when school is not in session;
4 or
5 (v) 6 days a week.

6 (5) A minor may not be permitted to work more than 5
7 hours continuously without an interval of at least 30
8 minutes for a lunch period. A period of less than 30 minutes
9 is not considered to interrupt a continuous period of work.

10 (6) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (4), A
11 MINOR 16 OR 17 YEARS OF AGE ENGAGED IN DELIVERING NEWSPAPERS
12 TO A CONSUMER MAY WORK BEFORE 6 A.M. AND AFTER 10 P.M., BUT
13 NOT FOR MORE THAN 4 HOURS ON ANY SCHOOL DAY OR MORE THAN 28
14 HOURS IN ANY 1 WEEK WHEN SCHOOL IS IN SESSION OR MORE THAN 8
15 HOURS ON ANY DAY WHEN SCHOOL IS NOT IN SESSION.

16 NEW SECTION. Section 11. Employment certificate.
17 Before a minor is employed in any occupation except in
18 domestic service in a private home, the employer of the
19 minor shall obtain and keep on file, accessible to any
20 officer charged with enforcement of {sections 1 through 14},
21 an employment certificate issued by a superintendent of
22 schools or the department, attesting to the age of the
23 minor. A superintendent of schools who issues a certificate
24 under this section shall refer a copy of the certificate to
25 the department, and the department shall retain a copy of

1 agreement, providing that:

2 (A) the work of the student-learner is incidental to
3 his training;

4 (B) the work is intermittent, for short periods of
5 time, and under the direct and close supervision of a
6 qualified and experienced person;

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23 minor. A superintendent of schools who issues a certificate
24 under this section shall refer a copy of the certificate to
25 the department, and the department shall retain a copy of

1 each certificate issued by it.

2 NEW SECTION. Section 12. Enforcement -- right to enter
 3 and inspect premises and records -- subpoena power. The
 4 department shall enforce the provisions of [sections 1
 5 through 14] and make complaints against persons violating
 6 its provisions. The department may at any time enter and
 7 inspect any place or establishment governed by the
 8 provisions of [sections 1 through 14] and have access to
 9 employment or age certificates kept on file by the employer
 10 and other records that may aid in the enforcement of
 11 [sections 1 through 14]. The department may subpoena the
 12 production of all documentary evidence relating to an
 13 investigation under [sections 1 through 14].

14 NEW SECTION. Section 13. Power to adopt rules. The
 15 department shall adopt rules, including definitions of
 16 terms, to carry out the purposes of [sections 1 through 14]
 17 and to prevent the circumvention or evasion of [sections 1
 18 through 14].

19 NEW SECTION. Section 14. Penalties. An employer who
 20 violates any of the provisions of [sections 1 through 14] is
 21 guilty of a misdemeanor and is punishable as provided in
 22 46-18-212. Each day during which any violation of [section 1
 23 through 14] continues constitutes a separate and distinct
 24 offense, and the employment of any minor in violation of
 25 [sections 1 through 14] constitutes, with respect to each

1 minor so employed, a separate and distinct offense.

2 NEW SECTION. Section 15. Repealer. Sections 41-2-101,
 3 41-2-111, 41-2-113, 41-2-114, and 41-2-121, MCA, are
 4 repealed.

5 NEW SECTION. Section 16. Codification instruction.
 6 [Sections 1 through 14] are intended to be codified as an
 7 integral part of Title 41, chapter 2, part 1, and the
 8 provisions of Title 41, chapter 2, part 1, apply to
 9 [sections 1 through 14].

10 NEW SECTION. Section 17. Severability. If a part of
 11 [this act] is invalid, all valid parts that are severable
 12 from the invalid part remain in effect. If a part of [this
 13 act] is invalid in one or more of its applications, the part
 14 remains in effect in all valid applications that are
 15 severable from the invalid applications.

-End-

1 SENATE BILL NO. 403
 2 INTRODUCED BY STIMATZ, HARPER, DARKO, MAZUREK, PIPINICH,
 3 MANNING, BLAYLOCK, JACOBSON, KENNEDY, VAUGHN, WEEDING,
 4 SQUIRES, RANEY, STRIZICH, FRANKLIN, WANZENRIED, O'KEEFE,
 5 MENAHAN, SCOTT, WHALEN, COCCHIARELLA, MEASURE, REAM,
 6 HARRINGTON, WYATT, DRISCOLL, MCCULLOCH, SCHYE, DOWELL,
 7 COHEN, GALVIN, SOUTHWORTH, GERVAIS, KILPATRICK, S. RICE,
 8 VAN VALKENBURG, B. BROWN, QUILICI, RUSSELL, HALLIGAN,
 9 D. BROWN, LYNCH

10
 11 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 12 LAWS RELATING TO CHILD LABOR; AND REPEALING SECTIONS
 13 41-2-101, 41-2-111, 41-2-113, 41-2-114, AND 41-2-121, MCA."
 14

15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because
 17 [section 13] requires the department of labor and industry
 18 to adopt rules to define terms, to implement the purposes of
 19 the child labor laws, and to prevent the circumvention or
 20 evasion of the child labor laws.
 21

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 23 NEW SECTION. **Section 1.** Short title. [Sections 1
 24 through 14] may be cited as the "Child Labor Standards Act".
 25 NEW SECTION. **Section 2.** Definitions. As used in

There are no changes in this bill, and will not be reprinted. Please refer to yellow copy for complete text.

