

1 SENATE BILL NO. 201  
 2 INTRODUCED BY HEBRENS, LEE, HEALY, PETERSON  
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL  
 5 REVISION OF THE LAWS RELATING TO CHILD LABOR AND REPEALING  
 6 SECTIONS 10-201 THROUGH 10-210, B.C.M. 1947."  
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 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 9 Section 1. Short title. This act may be cited as the  
 10 "Child Labor Standards Act".  
 11 Section 2. Definitions. Unless the context requires  
 12 otherwise, in this chapter the following definitions apply:  
 13 (1) "Department" means the Montana department of labor  
 14 and industry.  
 15 (2) "Employed" includes permitted or suffered to work.  
 16 (3) "Employer" includes any individual, partnership,  
 17 association, corporation, business trust, or person or group  
 18 of persons acting directly or indirectly in the interest of  
 19 an employer in relation to an employee.  
 20 (4) "Minor" means any person under 18 years of age.  
 21 (5) "Occupation" means any occupation, service, trade,  
 22 business, industry, or branch or group of industries or  
 23 employment or class of employment in which employees are  
 24 employed.  
 25 (6) "Agriculture" includes farming in all its branches

1 and among other things includes the cultivation and tillage  
 2 of the soil, dairying, the production, cultivation, growing,  
 3 and harvesting of any agricultural or horticultural  
 4 commodities (including commodities defined as agricultural  
 5 commodities in section 15(g) of the Federal Agricultural  
 6 Marketing Act, as amended), the raising of livestock, bees,  
 7 fur-bearing animals, or poultry and any practices including  
 8 any forestry or lumbering operations performed by a farmer  
 9 or on a farm as an incident to or in conjunction with  
 10 farming operations, including preparation for market or  
 11 delivery to storage or to market or to carriers for  
 12 transportation to market.  
 13 Section 3. Exemptions. The provisions of this chapter  
 14 do not apply to:  
 15 (1) a minor engaged in domestic service or  
 16 agricultural pursuits performed outside school hours in  
 17 connection with the minor's own home or farm owned or  
 18 operated by his parent or by a person standing in place of  
 19 his parent and who is employed directly by the parent or  
 20 person;  
 21 (2) a minor employed on a camp site of a nonprofit  
 22 corporation engaged in citizenship training and character  
 23 building during periods of school vacations;  
 24 (3) a minor employed as an actor, model, or performer.  
 25 Section 4. Employment of minors under 14. (1) A minor

1 under 14 years of age may not be employed in or in  
2 connection with any occupation, except as otherwise provided  
3 in this section.

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

- 6 (a) in the delivery of newspapers to the consumer;
- 7 (b) in agriculture, in occupations not otherwise  
8 prohibited by this chapter, with written consent of the  
9 minor's parent or person standing in place of his parent, or  
10 on a farm where the parent or person is also employed.

11 Section 5. Employment of minors under 16. (1) A minor  
12 under 16 years of age may not be employed in any occupation  
13 during school hours.

14 (2) A minor 14 or 15 years of age may be employed  
15 outside school hours in the street trades occupations of  
16 bootblacking and the distribution or sale of newspapers,  
17 magazines, periodicals or circulars, or similar occupations.

18 (3) A minor 14 or 15 years of age may be employed  
19 outside school hours in the following occupations in retail,  
20 food service, and gasoline service establishments:

- 21 (a) office and clerical work, including the operation  
22 of office machines;
- 23 (b) cashiering, selling, modeling, art work, work in  
24 advertising departments, window trimming, and comparative  
25 shopping;

1 (c) price marking and tagging by hand or by machine,  
2 assembling orders, packing, and shelving;

3 (d) bagging and carrying out customers' orders;

4 (e) errand and deliver work by foot, bicycle, and  
5 public transportation;

6 (f) cleanup work, including the use of vacuum cleaners  
7 and floor waxers, and maintenance of grounds, but not  
8 including the use of power-driven mowers or cutters;

9 (g) kitchen work and other work involved in preparing  
10 and serving food and beverages, including the operation of  
11 machines and devices used in the performance of such work,  
12 such as but not limited to dishwashers, toasters,  
13 dumbwaiters, popcorn poppers, milk shake blenders, and  
14 coffee grinders;

15 (h) work in connection with cars and trucks if  
16 confined to the following: dispensing gasoline and oil;  
17 courtesy service; car cleaning, washing, and polishing;  
18 other occupations permitted by this subsection, but not  
19 including work involving the use of pits, racks, or lifting  
20 apparatus or involving the inflation of any tire mounted on  
21 a rim equipped with a removable retaining ring;

22 (i) cleaning vegetables and fruits and wrapping,  
23 sealing, labeling, weighing, pricing, and stocking goods  
24 when performed in areas physically separate from areas  
25 prohibited by this section.

1 (4) A minor 14 or 15 years of age may not be employed  
2 in any of the following occupations in retail, food service,  
3 and gasoline service establishments:

4 (a) work performed in or about boiler or engine rooms;

5 (b) work in connection with maintenance or repair of  
6 the establishment, machines, or equipment;

7 (c) outside window washing that involves working from  
8 window sills and all work requiring the use of ladders,  
9 scaffolds, or their substitutes;

10 (d) cooking, except at soda fountains, lunch counters,  
11 snack bars, or cafeteria serving counters, and baking;

12 (e) occupations which involve operating, setting up,  
13 adjusting, cleaning, oiling, or repairing power-driven food  
14 slicers and grinders, food choppers and cutters, and  
15 bakery-type mixers;

16 (f) work in freezers and meat coolers and all work in  
17 preparation of meats for sale except as permitted in  
18 subsection (3) (i) of this section;

19 (g) loading and unloading goods to and from trucks,  
20 railroad cars, or conveyors;

21 (h) all occupations in warehouses except office and  
22 clerical work;

23 (i) all occupations otherwise prohibited by this  
24 chapter.

25 (5) Except as provided for in subsection (3) of this

1 section, a minor under 16 years of age may not be employed  
2 in:

3 (a) any manufacturing occupation;

4 (b) any mining occupation;

5 (c) processing occupations such as filleting fish,  
6 dressing poultry, cracking nuts, or laundering and dry  
7 cleaning;

8 (d) occupations requiring the performance of any  
9 duties in workrooms or workplaces where goods are  
10 manufactured, mined, or otherwise processed;

11 (e) the operation or tending of hoisting apparatus or  
12 of any power-driven machinery;

13 (f) the operation of motor vehicles or service as  
14 helpers on such vehicles;

15 (g) public messenger service;

16 (h) occupations in connection with transportation of  
17 persons or property by rail, highway, air, or water,  
18 pipeline or other means, with warehousing and storage, with  
19 communications and public utilities, and with construction  
20 or repair;

21 (i) any of the following occupations in agriculture:

22 (i) operating a tractor of over 20 PTO horsepower or  
23 connecting or disconnecting an implement or any of its parts  
24 to or from such a tractor or any machinery used in  
25 agriculture that is driven by any motor; operating includes

1 operating and assisting in operating the various machines  
2 including starting, stopping, adjusting, feeding, or any  
3 other activity involving physical contact associated with  
4 the operations of machinery;

5 (ii) working with livestock used for breeding purposes  
6 or with livestock with young offspring;

7 (iii) felling, bucking, skidding, loading, or unloading  
8 timber with butt diameter of more than 6 inches;

9 (iv) picking or pruning, or repairing a building, from  
10 a ladder or scaffold at a height of over 20 feet;

11 (v) driving a bus, truck, or automobile when  
12 transporting passengers or riding on a tractor as a  
13 passenger or helper;

14 (vi) working inside: a fruit, forage, or grain storage  
15 designed to retain an oxygen deficient or toxic atmosphere,  
16 an upright silo within 2 weeks after silage has been added  
17 or when a top unloading device is in operating position, a  
18 manure pit, or a horizontal silo while operating a tractor  
19 for packing purposes;

20 (vii) handling agricultural chemicals classified as  
21 poison;

22 (viii) handling or using a blasting agent, including  
23 but not limited to dynamite, black powder, sensitized  
24 ammonium nitrate, blasting caps, and primer cord;

25 (ix) transporting, transferring, or applying anhydrous

1 ammonia.

2 Section 6. Exemptions from prohibited occupations in  
3 agriculture. (1) The prohibition in [section 5(5)(i)] does  
4 not apply to the employment of a student-learner in the  
5 occupations enumerated in subsections (5)(i)(i), (5)(i)(ii),  
6 (5)(i)(iii), or (5)(i)(iv) of [section 5] when each of the  
7 following requirements are met:

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

12 (b) the student-learner is employed under a written  
13 agreement which provides that the work is incidental to his  
14 training; that such work shall be intermittent, for short  
15 periods of time, and under the direct and close supervision  
16 of a qualified and experienced person; that safety  
17 instruction shall be given by the school and correlated by  
18 the employer with on-the-job training; and that a schedule  
19 of organized and progressive work processes to be performed  
20 on the job has been prepared;

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

25 (d) copies of each such agreement are kept on file by

1 both the educational authority or school and by the  
2 employer.

3 (2) The prohibitions in [section 5(5) (i)] do not apply  
4 to the employment of a minor in those occupations in which  
5 he has successfully completed a work training program,  
6 including safety instruction and training in the use of  
7 machinery, under the 4-H federal extension service or the  
8 United States office of education or a similar program,  
9 provided that such safety program has been approved by the  
10 department and provided further that the minor is employed  
11 outside school hours on the equipment for which he has been  
12 trained.

13 Section 7. Prohibited employment of minors under 18.  
14 Except as provided for in [section 8], a minor under 18  
15 years of age may not be employed in or in connection with  
16 any of the following occupations:

17 (1) plants or establishments manufacturing or storing  
18 explosives or articles containing explosive components;

19 (2) motor-vehicle driver and outside helper;

20 (3) coal-mining;

21 (4) logging and the operation of any sawmill, lath  
22 mill, or cooperate-stock mill;

23 (5) the operation of power-driven woodworking  
24 machines;

25 (6) exposure to radioactive substances and to ionizing

1 radiations;

2 (7) the operation of elevators and other power-driven  
3 hoisting apparatus;

4 (8) the operation of power-driven metal forming,  
5 punching, and shearing machines;

6 (9) occupations in connection with mining, other than  
7 coal;

8 (10) slaughtering, meat-packing, processing, or  
9 rendering;

10 (11) the operation of power-driven bakery machines;

11 (12) the operation of power-driven paperproducts  
12 machines;

13 (13) the manufacture of brick, tile, and kindred  
14 products;

15 (14) the operation of circular saws, band saws, and  
16 guillotine shears;

17 (15) wrecking, demolition, and ship-breaking  
18 operations;

19 (16) roofing operations;

20 (17) excavation operations.

21 Section 8. Exemptions from prohibited employment of  
22 minors under 18. The prohibitions in subsections (5), (8),  
23 (10), (12), (14), (16), and (17) of [section 7] do not apply  
24 to the employment of apprentices and student-learners of 16  
25 or 17 years of age, if they are employed under the following

1 conditions:

2 (1) apprentices, if:

3 (a) the apprentice is employed in a craft recognized  
4 as an apprenticeable trade;

5 (b) the work of the apprentice is incidental to his  
6 training;

7 (c) the work is intermittent and for short periods of  
8 time and is under the direct and close supervision of a  
9 journeyman as a necessary part of the apprentice training;  
10 and

11 (d) the apprentice is registered by the bureau of  
12 apprenticeship and training of the U.S. Department of labor  
13 as employed in accordance with the standards established by  
14 that bureau or is registered by the Department as employed  
15 in accordance with the standards of that agency;

16 (2) student-learners, if:

17 (a) the student-learner is enrolled in a course of  
18 study and training in a cooperative vocational training  
19 program under a recognized state or local educational  
20 authority or in a course of study in a substantially similar  
21 program conducted by a private school; and

22 (b) the student-learner is employed under a written  
23 agreement which provides:

24 (i) that the work of the student-learner shall be  
25 incidental to his training;

1 (ii) that the work shall be intermittent and for short  
2 periods of time and under the direct and close supervision  
3 of a qualified and experienced person;

4 (iii) that safety instructions shall be given by the  
5 school and correlated by the employer with on-the-job  
6 training; and

7 (iv) that a schedule of organized and progressive work  
8 processes to be performed on the job shall have been  
9 prepared; and

10 (c) each student-learner agreement shall contain the  
11 name of the student-learner and shall be signed by the  
12 employer and the school coordinator or principal. Copies of  
13 each agreement shall be kept on file by both the school and  
14 the employer. This exemption for the employment of  
15 student-learners may be revoked by the department in any  
16 individual situation where it is found that reasonable  
17 precautions have not been observed for the safety of minors  
18 employed thereunder.

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

22 Section 9. Working hours. (1) A minor under 16 years  
23 of age, enrolled in school, may not be employed:

24 (a) more than 3 hours on any school day;

25 (b) more than 18 hours in any one week when school is

1 in session;

2 (c) more than 8 hours in any one day when school is  
3 not in session;

4 (d) more than 40 hours in any one week when school is  
5 not in session;

6 (e) more than 6 days a week; or

7 (f) before 7 a.m. or after 7 p.m., except that minors  
8 may be employed until 9 p.m. from June 1 through Labor Day.

9 (2) Notwithstanding the provisions of subsection (1)  
10 and of [section 5(1)], a minor 14 or 15 years of age who is  
11 enrolled in and employed pursuant to a school-supervised and  
12 school-administered work experience or career exploration  
13 program, approved by the department, when such program is in  
14 session, may be employed up to 23 hours in any one week, any  
15 portion of which may be during school hours.

16 (3) Notwithstanding the provisions of subsection (1),  
17 a minor between 12 and 16 years of age engaged in delivering  
18 newspapers to the consumer may be so engaged starting at 6  
19 a.m., but not more than 4 hours on any school day or more  
20 than 28 hours in any one week when school is in session or  
21 more than 5 hours on any day when school is not in session  
22 and not later in the evening than is prescribed in  
23 subsection (1)(f) of this section.

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

1 (a) more than 4 hours on any school day;

2 (b) more than 28 hours in any one week when school is  
3 in session;

4 (c) more than 8 hours in any one day when school is  
5 not in session;

6 (d) more than 48 hours in any one week when school is  
7 not in session;

8 (e) more than 6 days a week;

9 (f) in two or more establishments.

10 (5) A minor may not be permitted to work more than 5  
11 hours continuously without an interval of at least 30  
12 minutes for a lunch period, and no period of less than 30  
13 minutes shall be considered to interrupt a continuous period  
14 of work.

15 Section 10. Employment certificate. (1) Before a minor  
16 is employed in any occupation, except in domestic service in  
17 a private home, the employer of the minor shall obtain and  
18 keep on file, accessible to any officer charged with  
19 enforcement of this chapter, an employment certificate  
20 issued by a superintendent of schools or the department  
21 attesting as to the age of the minor. A superintendent of  
22 schools who issues a certificate under this section shall  
23 refer a copy of this certificate to the department, and the  
24 department shall retain a copy of all certificates issued by  
25 it.

1 Section 11. Enforcement of act -- right to enter and  
 2 inspect premises and records -- subpoena power. The  
 3 department shall enforce the provisions of this chapter and  
 4 make complaints against persons violating its provisions.  
 5 The department may enter and inspect at any time any place  
 6 or establishment covered by this chapter and have access to  
 7 employment or age certificates kept on file by the employer  
 8 and such other records as may aid in the enforcement of this  
 9 chapter. The department may subpoena the production of all  
 10 documentary evidence relating to its investigation under  
 11 this chapter.

12 Section 12. Power to adopt rules. The department shall  
 13 adopt rules, including definitions of terms, to carry out  
 14 the purposes of this chapter and to prevent the  
 15 circumvention or evasion thereof.

16 Section 13. Penalties. An employer who violates any of  
 17 the provisions of this chapter is guilty of a misdemeanor.  
 18 Each day during which any violation of this chapter  
 19 continues shall constitute a separate and distinct offense,  
 20 and the employment of any minor in violation of the chapter  
 21 shall, with respect to each minor so employed, constitute a  
 22 separate and distinct offense.

23 Section 14. Severability. If a part of this act is  
 24 invalid, all valid parts that are severable from the invalid  
 25 part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect  
 2 in all valid applications that are severable from the  
 3 invalid applications.

4 Section 15. Repealer. Sections 10-201 through 10-210,  
 5 B.C.M. 1947, are repealed.

-End-