

HOUSE BILL NO. 957

3/29 Introduced  
3/29 Referred to Appropriations  
3/30 Hearing  
3/30 Committee Report-Bill Do Pass  
4/01 2nd Reading Pass  
4/01 3rd Reading Pass

Transmitted to Senate

Died in Process

1                    HOUSE BILL NO. 957  
2 INTRODUCTION BY Winkler

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE EMPLOYEES OF  
5 CERTAIN GROUP HOMES FOR MINORS FROM THE MINIMUM WAGE AND  
6 OVERTIME COMPENSATION LAWS; AMENDING SECTION 39-3-406, MCA;  
7 AND PROVIDING AN EFFECTIVE DATE."

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

10        Section 1. Section 39-3-406, MCA, is amended to read:  
11        "39-3-406. Exclusions. (1) The provisions of 39-3-404  
12 and 39-3-405 shall not apply with respect to:

13        (a) students participating in a distributive education  
14 program established under the auspices of an accredited  
15 educational agency;

16        (b) persons employed in private homes whose duties  
17 consist of menial chores such as babysitting, mowing lawns,  
18 cleaning sidewalks;

19        (c) persons employed directly by the head of a  
20 household to care for children dependent upon the head of  
21 the household;

22        (d) immediate members of the family of an employer or  
23 persons dependent upon an employer for half or more of their  
24 support in the customary sense of being a dependent;

25        (e) any persons not regular employees thereof who

1 voluntarily offer their services to a nonprofit organization  
2 on a fully or partially reimbursed basis;

3        (f) handicapped workers engaged in work which is  
4 incidental to training or evaluation programs or whose  
5 earning capacity is so severely impaired that they are  
6 unable to engage in competitive employment;

7        (g) apprentices or learners, who may be exempted by  
8 the commissioner for a period not to exceed 30 days of their  
9 employment;

10        (h) learners under the age of 18 who are employed as  
11 farm workers, provided that such exclusion shall not exceed  
12 a period of 180 days from their initial date of employment  
13 and further provided that during this exclusion period wages  
14 paid such learners may not be less than 50% of the minimum  
15 wage rate established in this part;

16        (i) retired or semiretired persons performing  
17 part-time incidental work as a condition of their residence  
18 on a farm or ranch;

19        (j) any individual employed in a bona fide executive,  
20 administrative, or professional capacity as these terms are  
21 defined and delimited by regulations of the commissioner;

22        (k) persons employed by a nonprofit private  
23 organization to operate a group home for minors placed in  
24 the home by a state agency or court because the minors are  
25 abused, neglected, in need of care or supervision,



1 delinquent, dependent, or for other purposes related to  
 2 their best interests or welfare;

3       (\*)(1) any individual employed by the United States of  
 4 America.

5       (2) The provisions of 39-3-405 do not apply to:

6       (a) an employee with respect to whom the United States  
 7 Secretary of Transportation has power to establish  
 8 qualifications and maximum hours of service pursuant to the  
 9 provisions of 49 U.S.C. 304;

10       (b) an employee of an employer subject to the  
 11 provisions of part I of the Interstate Commerce Act;

12       (c) an individual employed as an outside buyer of  
 13 poultry, eggs, cream, or milk, in their raw or natural  
 14 state;

15       (d) a salesman, partsman, or mechanic paid on a  
 16 commission or contract basis and primarily engaged in  
 17 selling or servicing automobiles, trucks, mobile homes,  
 18 recreational vehicles, or farm implements if he is employed  
 19 by a nonmanufacturing establishment primarily engaged in the  
 20 business of selling such vehicles or implements to ultimate  
 21 purchasers;

22       (e) a salesman primarily engaged in selling trailers,  
 23 boats, or aircraft if he is employed by a nonmanufacturing  
 24 establishment primarily engaged in the business of selling  
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1       (f) an employee employed as a driver or driver's  
 2 helper making local deliveries who is compensated for such  
 3 employment on the basis of trip rates, or other delivery  
 4 payment plan, if the commissioner finds that such plan has  
 5 the general purpose and effect of reducing hours worked by  
 6 such employees to or below the maximum workweek applicable  
 7 to them under 39-3-405;

8       (g) an employee employed in agriculture or in  
 9 connection with the operation or maintenance of ditches,  
 10 canals, reservoirs, or waterways not owned or operated for  
 11 profit and not operated on a sharecrop basis and which are  
 12 used exclusively for supply and storing of water for  
 13 agricultural purposes;

14       (h) an employee with respect to his employment in  
 15 agriculture by a farmer, notwithstanding other employment of  
 16 such employee in connection with livestock auction  
 17 operations in which such farmer is engaged as an adjunct to  
 18 the raising of livestock, either on his own account or in  
 19 conjunction with other farmers, if such employee is:

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 21 agriculture by such farmer; and

22       (ii) paid for his employment in connection with such  
 23 livestock auction operations at a wage rate not less than  
 24 that prescribed by 39-3-404;

25       (i) an employee of an establishment commonly

1 recognized as a country elevator, including an establishment  
2 which sells products and services used in the operation of a  
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4 establishment;

5 (j) a driver employed by an employer engaged in the  
6 business of operating taxicabs;

7 (k) an employee who is employed with his spouse by a  
8 nonprofit educational institution to serve as the parents of  
9 children who are orphans or one of whose natural parents is  
10 deceased or who are enrolled in such institution and reside  
11 in residential facilities of the institution so long as the  
12 children are in residence at the institution and so long as  
13 such employee and his spouse reside in such facilities and  
14 receive, without cost, board and lodging from the  
15 institution and are together compensated, on a cash basis,  
16 at an annual rate of not less than \$10,000;

17 (l) an employee employed in planting or tending trees;  
18 cruising, surveying, or felling timber; or transporting logs  
19 or other forestry products to a mill, processing plant,  
20 railroad, or other transportation terminal if the number of  
21 employees employed by his employer in such forestry or  
22 lumbering operations does not exceed eight;

23 (m) an employee of a sheriff's department who is  
24 working under an established work period in lieu of a  
25 workweek pursuant to 7-4-2509(1);

1 (n) an employee of a municipal or county government  
2 who is working under a work period not exceeding 40 hours in  
3 a 7-day period established through a collective bargaining  
4 agreement when a collective bargaining unit represents the  
5 employee or by mutual agreement of the employer and employee  
6 where no bargaining unit is recognized. Employment in  
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9 hourly wage rate for the employee.

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19 compensated for at a rate of not less than 1 1/2 times the  
20 hourly wage rate for the employee.

21 (p) a firefighter who is working under a work period  
22 established in a collective bargaining agreement entered  
23 into between a public employer and a firefighters'  
24 organization or its exclusive representative;

25 (q) an officer or other employee of a police

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1 department in a city of the first or second class who is  
2 working under a work period established by the chief of  
3 police under 7-32-4118."

4 NEW SECTION. Section 2. Effective date. This act is  
5 effective July 1, 1985.

-End-

APPROVED BY COMMITTEE  
ON APPROPRIATIONS

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9    employment;  
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10 (b) an employee of an employer subject to the  
 11 provisions of part I of the Interstate Commerce Act;

12 (c) an individual employed as an outside buyer of  
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