

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 795 (as enrolled)
Sponsor: Senator George A. McManus, Jr.
Senate Committee: Farming, Agribusiness and Food Systems
House Committee: Agriculture and Resource Management

PUBLIC ACT 418 of 2000

Date Completed: 1-17-01

RATIONALE

The Youth Employment Standards Act limits the number of hours per day and per week that minors may work. The standards depend, in part, on whether a minor is at least 16 years of age and whether the work is performed while the minor is in school. Also, separate standards apply to 16- and 17-year-olds who are employed in agricultural processing (such as cleaning, sorting, or packing fruit or vegetables) or farming operations involved in the production of seed (such as detasseling). Under certain conditions, and when school is not in session, these minors may work up to 62 hours a week. The Act however, set a six-week limit on the number of weeks a minor could work up to 62 hours during a calendar year; for the remainder of the year, the Act's 48-hour work week limit applied.

Evidently, the six-week limit has been problematic for the food processing industry. During particular times of the year, when a perishable crop such as cherries is being harvested, the demand for labor can be very intense. With the low unemployment rate in Michigan, apparently food processors are increasingly looking to minors to work on a seasonal basis. In order to permit minors to work more than 48 hours per week throughout the summer, as well as during school holidays, it was suggested that the six-week cap on minors' 62-hour work weeks be lifted.

CONTENT

The bill amended the Youth Employment Standards Act to delete the six-week limit on the number of hours a minor at least 16 years of age may work up to 62 hours per week in agricultural employment, under certain circumstances. The bill also allows students at least 16 years old to work until 11:30 p.m. on Fridays and Saturdays.

The bill is described in more detail below. (The following references to a "minor" apply to a person who is at least 16.)

Under the Act, except in regard to agricultural employment, a minor may not be employed for more than six days in one week; 10 hours in one day; a period longer than a weekly average of eight hours per day or 48 hours in one week; or, for a minor who is a student in school, a combined school and work week of more than 48 hours while school is in session. The bill retains these restrictions.

Also, except in regard to agricultural employment, a minor may not be employed between 10:30 p.m. and 6 a.m. A minor who is a student, however, may be employed until 11:30 p.m. during school vacation periods or when he or she is not regularly enrolled in school. The bill also allows a minor who is a student to work until 11:30 p.m. on Fridays and Saturdays.

If certain conditions are met, a minor may work up to 62 hours in any week if he or she is employed in farming operations involved in the production of seed or in agricultural processing. The bill deleted provisions under which this employment was limited to six weeks per calendar year. The bill specifies, however, that a minor may not be required by an employer to work more than 48 hours during any week without the minor's consent.

The bill retains the remaining conditions that must be met for a minor to work up to 62 hours during a week in agricultural employment. (The minor may not be employed for more than 11 hours in one day; the minor may not be employed between 2 a.m. and 5:30 a.m.; and the employer must maintain on file a written acknowledgment of the minor's parent or guardian consenting to the period of employment. Also, if the minor is a student in school, the period that exceeds the standard limits must occur when school is not in session.)

The Act defines "agricultural processing" as the cleaning, sorting, or packaging of fruits or vegetables. "Farming operations involved in the production of seed" means farming activities and research involved in the production of seed, including

plant detasseling, hand-pollination, roguing (removing undesirable plants), or hoeing, or any other similar farming activity required for commercial seed production.

MCL 409.111

BACKGROUND

Public Act 251 of 1995 amended the Youth Employment Standards Act to allow minors to work extended hours in agricultural processing, if certain conditions were met. For a number of years before Public Act 251 was passed, agricultural employers sought from the Department of Labor letters of deviation from the Act, in order to hire 16- and 17-year-olds to clean, sort, and package fruit and vegetables during the summer harvest. These exemptions allowed the minors to work up to 65 hours per week at food processing plants. Reportedly, the Department stopped granting the deviations in 1992; when the Department resumed doing so one year later, it limited the minors' agricultural employment to 54 hours per week. Public Act 251 of 1995 was enacted to allow minors to work in agricultural processing up to 62 hours per week for not more than four weeks (when school was not in session).

Public Act 499 of 1996 further amended the Youth Employment Standards Act to extend the agricultural processing exception to minors employed in farming operations involved in the production of seed. Public Act 499 also established the six-week cap on the number of weeks a minor could work up to 62 hours in agricultural employment.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In light of Michigan's low unemployment rate, food processors apparently have had trouble finding enough workers for seasonal employment. Removing the six-week cap will allow 16- and 17-year-olds to work up to 62 hours a week throughout the summer, during the typical two-week winter break, and any other time they are not in school. Apparently, in order to ensure that enough workers are available during the harvest time, food processing employers must hire students at the beginning of summer. As a result, because of the six-week limitation, the students' hours have had to be cut back at the height of the season.

Response: A food processor can hire a student at the beginning of summer to work up to 48 hours a

week, and then increase the hours to 62 only when the peak time arrives.

Opposing Argument

It has been only a few years since the agricultural employment standards were amended in order to accommodate the interests of the food processing industry. Removing the six-week limit on 62-hour work weeks represents a very significant expansion, and might lead to abuse.

Response: Under the law, a minor may work up to 62 hours a work week only while school is not in session, if the minor is a student. This will continue to be the case under the bill. If school is in session, a minor's combined school and work week still may not exceed 48 hours. Furthermore, the bill prohibits an agricultural employer from requiring a minor to work more than 48 hours in any week without the minor's consent.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.