

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE EMPLOYMENT OF  
5 MINORS; ALLOWING STUDENT-EMPLOYEES 16 YEARS OF AGE OR OLDER TO PERFORM WORK  
6 FUNCTIONS UNDER CERTAIN CIRCUMSTANCES; REVISING EXEMPTIONS IN AGRICULTURE TO  
7 ALLOW A STUDENT-LEARNER TO PERFORM REGULAR WORK FUNCTIONS; AND AMENDING  
8 SECTIONS 41-2-103, 41-2-107, 41-2-109, AND 41-2-110, MCA."

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

11  
12 **Section 1.** Section 41-2-103, MCA, is amended to read:

13 **"41-2-103. Definitions.** As used in this part, the following definitions apply:

14 (1) "Agriculture" means:

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

16 (b) (i) dairying; and

17 (ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities,  
18 including commodities defined as agricultural commodities in the federal Agricultural Marketing Act, 12 U.S.C.  
19 1141j(g);

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

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

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

25 (3) "Domestic service" means an occasional, irregular, or incidental nonhazardous occupational  
26 activity related to and conducted in or around a private residence, including but not limited to babysitting, pet  
27 sitting or similar household chore, and manual yard work. Domestic service specifically excludes industrial  
28 homework.

1 (4) (a) "Employed" or "employment" means an occupation engaged in, permitted, or suffered, with or  
2 without compensation in money or other valuable consideration, whether paid to the minor or to some other  
3 person, including but not limited to occupations as servant, agent, subagent, or independent contractor.

4 (b) The term does not include casual, community service, nonrevenue raising, uncompensated  
5 activities.

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

8 (6) "Minor" means an individual under 18 years of age, except for an individual who:

9 (a) has received a high school diploma or a high school equivalency diploma; ~~or~~

10 (b) is 16 years of age or older and is enrolled in a registered state or federal apprenticeship program;

11 or

12 (c) is 16 years of age or older and is a student-employee under the direct and close supervision of a  
13 qualified and experienced person with experience in the occupation in which the minor is employed as provided  
14 in 41-2-110.

15 (7) "Occupation" means:

16 (a) an occupation, service, trade, business, or industry in which employees are employed;

17 (b) any branch or group of industries in which employees are employed; or

18 (c) any employment or class of employment in which employees are employed."  
19

20 **Section 2.** Section 41-2-107, MCA, is amended to read:

21 **"41-2-107. Prohibited employment of minors who are 16 and 17 years of age.** Unless working as  
22 an apprentice, ~~or student-learner,~~ or student-employee under the provisions of 41-2-110, a minor 16 or 17  
23 years of age may not be employed in or in connection with any of the following occupations:

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

25 (2) logging and the operation of a sawmill, lath mill, or shingle mill;

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

27 (4) an occupation involving exposure to a radioactive substance or ionizing radiation;

28 (5) the operation of a freight elevator, except for a freight elevator permitted for use under the child

- 1 labor provisions of the federal Fair Labor Standards Act of 1938, or other power-driven hoisting apparatus;
- 2 (6) the operation of a power-driven metal forming, punching, and shearing machine;
- 3 (7) a mining occupation;
- 4 (8) slaughtering, meatpacking, meat processing, or rendering;
- 5 (9) the operation of a power-driven bakery machine;
- 6 (10) the operation of a power-driven paper products machine;
- 7 (11) the manufacture of brick, tile, or similar products;
- 8 (12) the operation of a circular saw, bandsaw, or guillotine shears;
- 9 (13) a wrecking or demolition operation;
- 10 (14) an excavation operation;
- 11 (15) a roofing operation;
- 12 (16) riding outside a motor vehicle to assist in transporting or delivering goods; and
- 13 (17) a coal mining operation."

14

15 **Section 3.** Section 41-2-109, MCA, is amended to read:

16 **"41-2-109. Exemptions from prohibited occupations in agriculture.** (1) The prohibitions from  
17 employment in agricultural operations provided for in 41-2-106(7) do not apply to the employment of a student-  
18 learner who is 14 or 15 years of age if all of the following requirements are met:

19 (a) The student-learner is enrolled in a K-12 career and vocational/technical education training  
20 program in agriculture under a recognized state or local educational authority or in a substantially similar  
21 program conducted by a private school.

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

23 (i) the work is incidental to training;

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

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

27 and

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

1 prepared.

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

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

6 (2) The prohibitions in 41-2-106(7) do not apply to the employment of a minor who is 14 or 15 years of  
7 age in those occupations in which the minor has successfully completed a work training program, including  
8 safety instruction and training in the use of machinery, under the 4-H program of the federal extension service,  
9 a program of the United States department of education, or a similar program if the safety program has been  
10 approved by the department and if the minor is employed outside school hours on the equipment for which the  
11 minor has been trained."  
12

13 **Section 4.** Section 41-2-110, MCA, is amended to read:

14 **"41-2-110. Exemptions from prohibited employment of minors who are 16 or 17 years of age.**

15 (1) The prohibitions in 41-2-107 do not apply to the employment of an apprentice, ~~or student-learner,~~ or  
16 student-employee who is 16 or 17 years of age if the minor is employed under the following conditions:

17 (a) for an apprentice, if:

18 (i) the minor is employed in a craft recognized as an apprenticeable trade;

19 (ii) the work is incidental to the minor's training;

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

22 (iv) the minor is registered by the bureau of apprenticeship and training of the United States  
23 department of labor as employed in accordance with the standards established by that bureau or is registered  
24 by the department as employed in accordance with the standards of the department;

25 (b) for a student-learner, if:

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

- 1 (ii) the student-learner is employed under a written agreement, providing that:
- 2 (A) the work of the student-learner is incidental to the student-learner's training;
- 3 (B) the work is ~~intermittent, for short periods of time, and~~ under the direct and close supervision of a
- 4 qualified and experienced person;
- 5 (C) safety instruction is given by the school and correlated by the employer with on-the-job training;
- 6 and
- 7 (D) a schedule of organized and progressive work processes to be performed on the job has been
- 8 prepared;
- 9 (iii) the written agreement contains the name of the student-learner and is signed by the employer and
- 10 the school coordinator or principal; and
- 11 (iv) copies of each agreement are kept on file both by the educational authority or school and by the
- 12 employer; ;
- 13 (c) (i) for a student-employee, if:
- 14 (A) the student-employee is under the direct and close supervision of a qualified and experienced
- 15 person with experience in the occupation in which the minor is employed; and
- 16 (B) safety instruction is given by the employer of the student-employee.
- 17 (ii) A student-employee that qualifies under this subsection (1)(c) may perform any work function as
- 18 required by the occupation.
- 19 (2) This exemption for the employment of student-learners may be revoked by the department in any
- 20 situation if the department finds that reasonable precautions have not been observed for the safety of minors
- 21 employed under the exemption.
- 22 (3) A high school graduate who is 16 or 17 years of age may be employed in an occupation in which
- 23 the graduate has completed training as a student-learner as provided in this section."

24 - END -