

SUBJECT: Prohibiting child labor for sales or solicitation

COMMITTEE: Economic Development — committee substitute recommended

VOTE: 6 ayes — Oliveira, Yarbrough, Davis, Luna, Raymond, Solomons

0 nays

3 absent — Moffat, Shields, Van de Putte

WITNESSES: For — Davie Jean Swanson; Ted Roberts, Texas Association of Business and Chamber of Commerce

Against — None

On — Ed Davis, Texas Employment Commission

BACKGROUND: Labor Code, Subchapter B, Chapter 51, allows the Texas Employment Commission to restrict the employment of children under the age of 14. Under SB 939, enacted by the 73rd Legislature, violations of child labor restrictions are classified as class B misdemeanors, punishable by a maximum penalty of 180 days in jail and a fine of \$2,000.

DIGEST: CSHB 1323 would define as a prohibited hazardous occupation the employment of a child under the age of 14 who sells items or services, or who solicits donations for any person or entity, when the child is unaccompanied by a parent, conservator, guardian or other person who has custody of the child by court order.

Activities done on behalf of certain organizations would not be defined as prohibited hazardous occupations by children under 14. The exemption would apply to charitable organizations, organizations regulated under the Election Code Title 15 (political funds and campaigns) or activities by a club, organization, or group if the activity was sponsored by a public or private primary or secondary school.

A violation would constitute a Class A misdemeanor, maximum penalty of one year in jail and a \$4,000 fine. The penalties would apply to offenses committed on or after the effective date of the bill, September 1, 1995.

**SUPPORTERS
SAY:**

The Texas child labor law sets 14 as the minimum age that a child can begin work. Children under 14 are exempt from this restriction if the employment is casual, nonhazardous and is done with parental consent, such as newspaper delivery. A growing number of children, however, are being used to sell candy and household items door-to-door on behalf of profit-making businesses without the supervision of an adult or parent. The children are usually dropped off in an area and picked up at a later designated time. The children involved in this type of work are being placed in potentially dangerous situations, subject to accidents, abductions or assaults.

Many of the children employed by door-to-door businesses come from low-income families, particularly in large urban areas, and are being exploited by their employers. Many are taught unethical sales techniques including how to mislead consumers in order to get a sale.

The bill would not affect charitable organizations or school-sponsored drives. Children could still sell Girl Scout cookies or candy bars on behalf of the local school football team. These types of activities, which help rather than exploit children, would be clearly exempted.

**OPPONENTS
SAY:**

CSHB 1323 would prevent honest, hardworking and enterprising children from working for themselves, despite having their parents' consent, unless their work was done for an organization exempted under the provisions of this bill or the child was accompanied by a parent or guardian.

Children, especially those from low-income families, who have the desire and drive to work should be encouraged to do so. The state should not prevent these children from working, but should instead crack down on those unethical employers who exploit child workers for fraudulent or unethical purposes.

NOTES:

HB 1323 as originally filed provided that a child under the age of 14 could not sell items or services for any person other than an exempt organization during the period beginning one-half hour after sundown and ending one-half hour before sunrise. The committee substitute removed these time-related restrictions and would instead prohibit a child under 14 from working at any time of the day unless the work is for exempt organization.

A technical amendment may be offered to correct a reference to Labor Code sec. 51.041 in Section 2, line 5, to sec. 51.014.

A related bill, HB 1324 by Romo, as substituted in the Economic Development Committee, would make the child labor provision of CSHB 1323 a criminal offense in the Penal Code.

In 1993 the House passed two similar bills, HB 1390 and 1391, both by Rep. Romo; both died in the Senate Economic Development Committee. The bills contained the time-related restriction on employment in the original version of HB 1323. HB 1990 provided civil penalties; HB 1991 would have created criminal penalties. Both bills would have exempted charitable organizations from the restriction on hiring children.