

Date of Hearing: April 12, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 800 (Ortega) – As Amended, April 3, 2023

[Note: This bill is double referred to the Assembly Labor and Employment Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Workplace Readiness Week: work permits

SUMMARY: Designates “Workplace Readiness Week” in April and requires all secondary schools to annually observe that week by providing information to students about their rights as workers; and requires that schools provide students seeking a work permit a document that clearly explains basic labor rights extended to workers. Specifically, **this bill:**

- 1) Designates the week in April that includes April 28th as “Workplace Readiness Week.”
- 2) Requires all secondary schools to annually observe that week by providing information to students on their rights as workers, with the topics to include, but not be limited to, the following:
 - a) Local, state, and federal laws regarding each of the following:
 - i) Child labor;
 - ii) Wage and hour protections;
 - iii) Worker safety;
 - iv) Workers’ compensation;
 - v) Paid sick leave;
 - vi) Prohibitions against retaliation; and
 - vii) The right to organize a union in the workplace.
 - b) The labor movement’s role in winning the protections and benefits described above.
 - c) An introduction to state-approved apprenticeship programs in California, how to access them, and how they can provide an alternative career path for those who don’t attend college.
- 3) Requires, for students in grades 11 and 12, the observances required by this section to be integrated into the regular school program, as per the most recent California History Social Science Framework, and also authorizes special events after school hours. Encourages, but does not require, the integration to occur during Workplace Readiness Week.

- 4) Requires school officials, prior to authorizing a minor's work permit, as specified, to issue a document clearly explaining basic labor rights extended to workers, including those covered during Workplace Readiness Week, as specified in (2) above.
- 5) Requires the document to be available in any language spoken by 5% or more of the students enrolled in the school, and to express these rights in plain, natural terminology easily understood by the student.
- 6) Authorizes the document to be in a physical form or to be provided electronically.
- 7) Encourages the University of California Labor Center to produce, with input from bona fide labor organizations, a draft template for the document to be provided to minors, including the translations, as specified.
- 8) Requires the Superintendent of Public Instruction (SPI) to annually send a notice to every secondary school at least one month prior to Workplace Readiness Week, detailing the requirements of the week, as well as how teachers may access related instructional materials and other resources.

EXISTING LAW:

- 1) Designates the month of May as Labor History Month throughout the public schools and encourages school districts to commemorate this month with appropriate educational exercises that make pupils aware of the role the labor movement has played in shaping California and the United States. (Education Code (EC) 51009)
- 2) Provides that specified school district, charter school, and private school officials may issue a minor a work permit if requested by the minor's parent, guardian, foster parent, or caregiver. Any principal issuing a work permit must provide a self-certification that he or she understands the requirements in existing law for issuing a work permit and submit a copy of each work permit he or she issues along with a copy of the application for each work permit to the superintendent of the school district in which the school is located. (EC 49110)
- 3) Specifies that a permit to work may be issued to any minor over the age of 12 years and under the age of 18 years to be employed on a school holiday or during the regular vacation of the school. (EC 49111)
- 4) Authorizes the provision of a work permit to a minor who has completed the equivalent of the 7th grade to work outside of school hours for not more than three hours per day on days when school is in session if the minor is 14 or 15 years of age; four hours per day if the minor is 16 or 17 years of age; or for a minor who is 16 years or older, up to eight hours in any day which is immediately prior to a non-school day. (EC 49112)
- 5) Provides exceptions to the allowable hours of work per day if the minor is 14 or 15 years of age and enrolled in and employed pursuant to a school-supervised and school-administered work experience and career exploration program, and specifies that the minor may be employed for no more than 23 hours per week, any portion of which may be during school hours; or if the minor is 16 or 17 years of age and is employed in personnel attendance occupations as defined, school-approved work experience, or cooperative vocational education programs. (EC 49116)

- 6) Authorizes the school official who has issued the work permit to revoke the permit if evidence is shown that the schoolwork or the health of the minor is being impaired by the employment. (EC 49116)
- 7) Prohibits any person, firm or corporation from employing any minor under the age of 18 years to work in or in connection with any establishment or occupation without a permit to employ, issued by the proper educational officers in accordance with law. (EC 49160)
- 8) Prohibits any employer employing a minor 15 years of age or younger for more than 8 hours in one day or more than 40 hours in one week, or before 7 am or after 7 pm. Prohibits an employer from employing a minor 16 or 17 years of age for more than 8 hours in one day or more than 48 hours in one week or before 5 am or after 10 pm on any day preceding a schoolday. (Labor Code (LAB) 1391)
- 9) Prohibits the employment of a minor in any occupation declared particularly hazardous for minors between 16 and 18 years of age, or declared detrimental to their health or well-being, as defined. (LAB 1294.1)
- 10) Provides that any person employing either directly or indirectly through third persons, or who employs, or permits any minor to be employed in violation of the law, is guilty of a misdemeanor, and subject to a fine of \$1,000 to \$5,000 or imprisonment in the county jail for not more than six months, or both. (LAB 1303)
- 11) Requires employers who are employing minors directly or indirectly through third persons, to maintain files of all work and employment permits and certificates issued and to make this available at all times to inspection by school attendance and probation officers, the State Board of Education (SBE), and officers of the Division of Labor Standards Enforcement. (LAB 1299).

FISCAL EFFECT: The Office of Legislative Counsel has keyed this as a possible state-mandated local program.

COMMENTS:

Need for the bill. According to the author, “As we have seen in the news recently, teenage workers are often hired to perform dangerous work with disastrous consequences, where they are likely to injure themselves or even lose their lives on the job. Teenage workers are also more open to exploitation by their employers due to their naivety around workplace rights. To address this pervasive issue, AB 800 establishes a Workplace Readiness Week in California high schools to educate students on their rights as workers, and their explicit rights as employed minors. This information will empower young workers, new to the workforce, to advocate for themselves when faced with unsafe working conditions, exploitation, discrimination, harassment, and retaliation. Additionally, it would provide them with resources as to where they should go in case of workplace complaints, and how to join or form a union to protect their workers’ rights.”

Young workers have high rates of job-related injury. According to the Centers for Disease Control and Prevention’s National Institute for Occupational Safety and Health (NIOSH), young worker injuries are often the result of the many hazards present in the places they typically work, such as sharp knives and slippery floors in restaurants. Limited or no prior work experience and

a lack of safety training also contribute to high injury rates. Middle and high school workers may be at increased risk for injury since they may not have the strength or cognitive ability needed to perform certain job duties. They also note the following national data:

- In 2020, there were about 17.3 million workers under the age of 25. These workers represented 11.7% of the total workforce;
- In 2020, 352 workers under the age of 25 died from work-related injuries;
- In 2020, there were 26 deaths to workers under 18 years of age;
- In 2020, the incidence rate for non-fatal injuries for workers, ages 16–19, was 149.8 per 10,000 full-time employees (FTE) and 141.8 per 10,000 FTE for workers, ages 20–24; and
- In 2020, the rate of work-related injuries treated in emergency departments for workers, ages 15–24, was 1.5 times greater than the rate for workers 25 years of age and older.

Unpaid wages are an issue in California. Filing a claim for unpaid wages with the Labor Commissioner’s Office is one option workers have to recover unpaid wages their employer owes them. According to the Legislative Analyst’s Office (LAO), each year, about 30,000 workers file wage claims. In 2017, workers filed claims for a total of \$320 million in unpaid wages—about \$10,000 per claim on average—and recovered about \$40 million in total. Most wage claims allege several employment law violations, including waiting time penalties, failure to pay regular or minimum wages, and rest and meal period violations. The author notes that the LAO data from 2017 shows that the fields in which young people tend to be concentrated, including food service, retail, childcare, and office support, accounted for 44.2% of the wage theft claims.

Sexual harassment in the workplace is concentrated in industries employing young people.

According to data on sexual harassment claims filed with the U.S. Equal Employment Opportunity Commission from 2005 to 2015, more than one-quarter of sexual harassment charges were filed in industries with large numbers of service-sector workers, including many low-wage jobs that are often occupied by women. The largest number of claims were found in the accommodation and food services industry, followed by retail trade, manufacturing, and health care industries.

High school curriculum includes labor history and worker rights. The California History-Social Science Content Standards, adopted by the SBE in 1998, include numerous references to labor history and the rights of workers for students in grades 11 to 12, including, but not limited to, the following:

- 11.2 - Students analyze the relationship among the rise of industrialization, large-scale rural-to-urban migration, and massive immigration from Southern and Eastern Europe. Know the effects of industrialization on living and working conditions, including the portrayal of working conditions and food safety in Upton Sinclair’s *The Jungle*.
- 11.6 - Trace the advances and retreats of organized labor, from the creation of the American Federation of Labor and the Congress of Industrial Organizations to current issues of a postindustrial, multinational economy, including the United Farm Workers in California.

- 12.2 - Explain how economic rights are secured and their importance to the individual and to society (e.g., the right to acquire, use, transfer, and dispose of property; right to choose one's work; right to join or not join labor unions; copyright and patent).
- 12.4 - Understand the operations of the labor market, including the circumstances surrounding the establishment of principal American labor unions, procedures that unions use to gain benefits for their members, the effects of unionization, the minimum wage, and unemployment insurance.

This bill, encourages but does not require, that the curriculum related to labor history and worker rights be covered during the designated Workplace Readiness Week.

Work permits are issued by school officials. Minors employed in the state of California must have a Permit to Employ and Work (commonly referred to as a “work permit”). Work permits are typically issued by the school where the student is enrolled. Work permits indicate the duties and location where the work will be done as well as the number of hours a minor may work. In most cases it is a two-step process, the minor along with the parent/guardian and employer fill out the B1-1 form and submit to the school local to the minor's address. The school district reviews the form and issues the work permit.

As the laws relating to the issuance of work permits are permissive, it is solely within the discretion of the authorized school official to determine whether a minor, who is subject to compulsory education laws, may obtain a work permit in order to be employed to work. Schools have the discretion to impose additional requirements for the issuance of a work permit, such as a requirement that the pupil maintain a certain grade point average. In addition, the school issuing the work permit may reduce maximum work hours and impose additional occupational restrictions not specified in statute or regulation, but may not extend hours beyond the maximum hours specified, or waive any occupational restrictions in statute or regulation.

According to the CDE, “the current system has protective laws in place that regulate the times at which the minor may work (not too early and not late at night nor overnight) and the duration of the employment (not too many hours). All of these laws prevent exploitation and ensure the minor is able to attend school and graduate. Then, there are also the laws concerning the regulation of the content of the work performed by the minor where equipment and job duties not appropriate for minors are prohibited. All of these protections are made possible by labor inspectors from the Division of Labor Standards Enforcement (DLSE) of the Department of Industrial Relations and inspectors from the federal Wage and Hour Division of the US Department of Labor physically inspecting worksites.

The present California work permit system helps prevent child labor exploitation by being able to access work sites where the minor is working so that state inspectors from DLSE can check to see that minors are not working more hours than are allowed for their age and that they are not working overnight nor before 5 a.m. They can also check to see if the minors are working during school hours and check the working conditions for unsafe practices like having minors operate dangerous equipment they should not have access to.”

Arguments in support. The California Federation of Labor, sponsor of the bill, states “California law allows young people ages 14 years and older to work with certain restrictions, including having a state work permit. Schools issue work permits to students, but are not required to

provide workplace readiness training or information on workers' rights. Young workers disproportionately work in low-paid, high turnover industries like food service and retail. Every year, nearly 30 teens under 18 die from work injuries in the United States. Another 27,000 get hurt badly enough that they go to a hospital emergency room.

Teen workers often tolerate poor working conditions because their families depend on their income to make ends meet. They do not have the luxury of quitting because of unsafe conditions or wage theft. To get a driver's license, teens have to take a driver education course. Yet, to get a job at 14, and often work in dangerous situations, all they need is a permit without the same extensive training.

Rather than workplace readiness, many high school students take entire classes focused on business law with little mention of labor law from the workers' perspective. Many students learn a great deal about management, marketing, finance, accounting, or entrepreneurship yet, enter the workforce unaware of their legal right as workers to organize a union. Some hear repeated statements to the effect that college is the only path to financial stability but go their entire high school careers without hearing one word about high road apprenticeship programs.

The effect of this oversight is a massive population of young workers unaware of the 8-hour day, minimum wage, overtime, occupational safety and health standards, and a variety of other rights that activists before them fought and literally died for. This leaves young workers far less prepared to stand up for themselves when facing such wrongs as wage theft or unsafe workplaces and far more likely to be victimized by such crimes.

Young workers are concentrated in the service sectors which have seen a surge in unionization and worker activism. Support for unions is high among young people—74% support a union in their workplace. The 2022 strike by UAW union represented academic workers at the University of California demonstrated that even when teens go to college, they are still entering the workforce and can benefit from knowing their rights, including the right to join a union.”

Arguments in opposition. The California Chamber of Commerce states, “California has historically struggled to keep up with national averages in student performance. But the COVID-19 pandemic pushed students further behind – making every educational moment critical. According to the CDE, about half of all California students tested did not meet state standards in English language arts and about two-thirds did not meet standards in math. The scores of Black, Latino and economically disadvantaged students were significantly lower, with more than 60% not meeting English standards and about 80% not meeting math standards.

AB 800 compels additional educational time to be spent on the Labor Movement – including a compulsory favorable view of its historical contributions. While some may debate the relative importance of these topics compared to other social and historical trends (and whether they are, in fact, already covered by existing curriculum), one point cannot be debated: educational time is not unlimited. Every newly-mandated lesson takes time which educators could use to teach existing curriculum. Given the troubling test scores of California students in critical skills – which were only made worse by COVID-19's educational disruptions – we are concerned that AB 800 would take time and educational resources from addressing those issues.

When weighing the value of AB 800, it is important to note that the Labor Movement and its role in American history is already covered by existing curriculum. In fact, there is already a week of

schooling dedicated to the Labor Movement provided in the curriculum – “Labor History Week” – which is the first week of April. Put simply – AB 800 appears to be adding material to a topic that is already covered in curriculum.

AB 800 would also require any minor who is seeking a work permit to receive a “document clearly explaining basic labor rights extended to workers.” Notably, we are not opposed to students who seek a work permit receiving such information in a clear and easy-to-read form. However, we are opposed to the limitation that AB 800 seems to create – that the University of California Labor Center, with input from bona fide labor organizations, is the chosen entity to create such a form. Law firms, the Labor Commissioner’s Office, or a host of other entities would be well-qualified to create such a summary – and “encouraging” one organization seems to be more a statement of favoritism or virtue-signaling than anything based in policy.”

Related legislation. AB 640 (Lee) of the 2023-24 Session authorizes an employer to use the current Uniform Resource Locator (URL) for the employer’s website in place of the address of the place of employment in the notification to employ a minor, subject to a parent or guardian signing an informed consent form identifying the potential dangers to the minor of online work.

SB 1428 (McGuire) Chapter 420, Statutes of 2018, prohibits a school from denying a work permit for a minor on the basis of the pupil's grades, grade point average, or school attendance, if the permit would allow the pupil to participate in a government-administered employment and training program that will occur during the regular summer vacation of the school that the pupil attends.

SB 702 (McGuire) Chapter 775, Statutes of 2016, extends a Lake County-specific exemption of child labor law that allows minors to work during the peak agricultural season when school is not in session.

AB 2269 (Swanson) Chapter 584, Statutes of 2012, substitutes the first week of April as Labor History Week with the month of May as Labor History Month and encourages school districts to commemorate that month with appropriate educational exercises that make pupils aware of the role that the labor movement has played in shaping California and the United States.

REGISTERED SUPPORT / OPPOSITION:

Support

California Labor Federation (Sponsor)
AFSCME
Alliance for Boys and Men of Color
California College Democrats
California Federation of Teachers
California High School Democrats
California Labor Federation
California Nurses Association
California School Employees Association
California State Council of Service Employees International Union
California State Parent Teacher Association
GenUp

San Francisco Youth Commission
Service Employees International Union, Local 1000
State Building and Construction Trades Council of California
UFCW - Western States Council
University of California Student Association

Opposition

California Chamber of Commerce

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