

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 26, 2001

3:25 p.m.

MEMBERS PRESENT

Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

Representative Lisa Murkowski, Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 128

"An Act relating to employment of certain minors in agriculture."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

HOUSE BILL NO. 67

"An Act requiring proof of motor vehicle insurance in order to register a motor vehicle; and relating to motor vehicle liability insurance for taxicabs."

- BILL HEARING POSTPONED

PREVIOUS ACTION

BILL: HB 128

SHORT TITLE:EMPLOYMENT OF MINORS IN AGRICULTURE

SPONSOR(S): REPRESENTATIVE(S)OGAN

Jrn-Date	Jrn-Page		Action
02/14/01	0317	(H)	READ THE FIRST TIME - REFERRALS
02/14/01	0317	(H)	L&C
02/14/01	0317	(H)	REFERRED TO LABOR & COMMERCE
03/26/01		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE SCOTT OGAN
Alaska State Legislature
Capitol Building, Room 108
Juneau, Alaska 99801

POSITION STATEMENT: Introduced the bill as the sponsor of HB 128.

RICHARD MASTRIANO, Director
Division of Labor Standards and Safety
Department of Labor and Workforce Development (DLWD)
3301 Eagle Street
Anchorage, Alaska 99503

POSITION STATEMENT: Testified for the division in opposition to HB 128.

LARRY DEVILBISS, Carrot Farmer;
State Board Member, Alaska Farm Bureau
HC04-9302
Palmer, Alaska 99645

POSITION STATEMENT: Testified on HB 128.

ACTION NARRATIVE

TAPE 01-40, SIDE A
Number 0001

VICE CHAIR ANDREW HALCRO called the House Labor and Commerce Standing Committee meeting to order at 3:25 p.m. Those present at the call to order included Representatives Halcro, Kott, Rokeberg, and Hayes; Representatives Meyer and Crawford arrived as the meeting was in progress.

HB 128-EMPLOYMENT OF MINORS IN AGRICULTURE

VICE CHAIR HALCRO announced that the committee would hear HOUSE BILL NO. 128, "An Act relating to employment of certain minors in agriculture."

Number 0053

REPRESENTATIVE SCOTT OGAN, Alaska State Legislature, sponsor of HB 128, stated that he introduced the bill because he lives in an agricultural district in Palmer and is surrounded by farms; farms require a great deal of labor, he said. One of [these farms], owned by Larry DeVilbiss, grows carrots. He stated that the Department of Labor and Workforce Development (DLWD) has to

sign a work permit for a person who is between the ages of fourteen and seventeen who wishes to work on a farm. There is a generation of kids that don't have a work ethic, he emphasized, and many get in trouble.

REPRESENTATIVE OGAN remarked that the labor laws are well-meaning and there are some appropriate reasons for them; however, in the long run, [these laws] have actually harmed our young people by not teaching them a good work ethic. Plus, he said, [farmers] are dependent on inexpensive labor that is undesired by adults. He recounted that many farmers have told him that they have had people quit working on the farm because they can make more money on the [Alaska Temporary Assistance Program (ATAP)].

REPRESENTATIVE OGAN asked the committee to seriously consider passing the bill out of committee, thereby doing something for Alaskan kids but also doing something to help an industry that isn't viable in this state. He commented that farming is a viable industry but it has gotten a bad reputation in past years because all of the big projects that the state tried to jump-start failed. There are some tenacious people out there who are making a living at this, and they work extremely hard, he said. If Alaska ever gets into a national security situation in the Pacific Rim and shipping is cut off from the Lower 48, [Alaska] is going to have some real problems and Alaskans will be glad that there are some people with [stockpiles of vegetables].

Number 0399

REPRESENTATIVE HAYES asked what information is available that indicates that this is a problem. In looking through the bill information, he said, he isn't seeing anything regarding problems that the farms are having with the time between when a person submits a work permit and when the commissioner of labor signs off on that permit. He referred to the sponsor statement where it says that a local [Matanuska-Susitna] Valley farmer had informed Representative Ogan of this, but other than that, he remarked, the information to justify the bill [is absent].

REPRESENTATIVE OGAN responded that the committee's packet should have included a list from the Farmers Association of things it would like to see accomplished. He deferred the question to Larry DeVilbiss, carrot farmer.

REPRESENTATIVE KOTT asked Representative Ogan if he envisioned children over fourteen years of age picking vegetables or also operating machinery.

Number 0568

REPRESENTATIVE OGAN replied that it would depend on the kid; however, he wouldn't want young kids that weren't his own working on dangerous machinery because of the possibility of a liability suit if an injury occurred. There is a lot of "hand" work that needs to be done; for example, Mr. DeVilbiss grows organic carrots, which are picked by hand and then sorted and washed.

REPRESENTATIVE KOTT stated that there is a [limitation] in statute that a combination of school and work hours can't exceed nine hours a day. And he pointed out that there is also a prohibition in AS 23.10.350 that precludes employment of a person under eighteen in an occupation dangerous to life or limb. He said driving a tractor or working around a combine would fall into that category, so [kids] would be precluded from doing those jobs.

Number 0714

VICE CHAIR HALCRO stated that Representative Ogan had made the comment about kids growing up without a work ethic. He referred to an article he came across last night, which he provided for the committee, showing that minors in the workplace are a growing problem in most of the states. Currently, an estimated 5.5 million students between the ages of twelve and seventeen work, which represents about two-thirds of the high school kids, compared to less than 5 percent, 50 years ago. Due to the low unemployment rate, employers are going out trying to hire younger kids. It appears that this bill gives a "blanket" approval for any minor at least fourteen years of age who can get written permission from his or her parents to work on a farm. He expressed approval if the minor is picking vegetables; however, if [these minors] will be working around [machinery], it is cause for alarm. He asked Representative Ogan if he is aware of what is required when an employer fills out the [work permit].

Number 0820

REPRESENTATIVE OGAN deferred the question to Mr. DeVilbiss. He added that the timeliness of the DLWD is an obvious problem or else the Farmers Association wouldn't have asked for it.

Number 0840

VICE CHAIR HALCRO mentioned that this brings up a larger issue: the training wage and the effectiveness with which the DLWD handles the requests from various employers.

REPRESENTATIVE ROKEBERG pointed out that the committee is looking at youth employment, the training wage, and the problems revolving around the departments. He said he has been told that the use of a conveyor belt would be restricted under the Occupational Safety and Health Administration (OSHA) or other standards, which, he said, he finds very disconcerting. Philosophically, he supports the bill; however, he asked Representative Ogan if it is his intention that there be no hourly restrictions and so forth. He said he is unsure as to how this all fits into the whole statutory scheme.

REPRESENTATIVE OGAN explained that [the bill] would allow the parent to give permission for the kid to work on a farm, which he said should be good enough. The state isn't the parents.

REPRESENTATIVE ROKEBERG stated that if [a kid] is under seventeen years of age, he or she could only work 30 hours [a week]. He asked if this is in the same statute, because this is not in the Wage and Hour Act.

REPRESENTATIVE OGAN pointed out that this doesn't change any laws; he said there are adequate protections in place. All the [legislation does] is this: instead of the commissioner or the department playing the parent, the parents are making the judgment call.

VICE CHAIR HALCRO pointed out that the formality is put in place to make sure that rules are followed and kids are protected.

REPRESENTATIVE OGAN agreed but said he would also assume that this doesn't exclude people from following the law or limiting liability if they don't.

Number 1000

REPRESENTATIVE KOTT said this doesn't do anything to upset the remaining portion of Title 23 that deals with children in

employment. He said his concern is that if, for example, there was a new OSHA requirement, how would the parent know that he or she wasn't in violation of that OSHA regulation or rule?

REPRESENTATIVE OGAN asked: How does a bureaucrat that approves the permit know whether [infractions to OSHA regulations] are there unless they go out and inspect [work sites]? He expressed confidence that [the division] could go around and do this anyway to make sure that workers are safe; it doesn't change anything.

Number 1074

REPRESENTATIVE HAYES asked who would be liable if something happened to the child; he said it sounds as if [the legislature is] taking away the state's responsibility and putting the onus on the parent. So if the child was working with machinery, for example, would the state be liable if something happened?

REPRESENTATIVE OGAN said logic tells him that the employer would be liable because the business has to maintain workers' compensation for workers.

Number 1153

RICHARD MASTRIANO, Director, Division of Labor Standards and Safety, Department of Labor and Workforce Development (DLWD), via teleconference, stated that he, too, lives in the Matanuska Valley and said Mr. DeVilbiss is his borough assembly representative; he is familiar with the farming situation out in the valley; however, he is charged with the enforcement of child labor laws. And one of the tools that the division uses to enforce those laws is the work permit.

MR. MASTRIANO went on to answer some of the questions raised by committee members. The work permit is the vehicle to find out what the employer is going to have the child doing: what equipment the child will be working with; what the rate of pay will be; and when payday is. Another part of the permit is an authorization that the parent signs after reviewing the upper half of the work permit to see what the kid will be doing. [The parents] fill it out, and it becomes the parent's authorization to the commissioner or the department to allow the child to work. Then the permit is submitted to the department for review. It is reviewed for hazardous orders and whether the individual, in his or her age group, can perform the work listed on the permit.

Number 1266

MR. MASTRIANO gave an example. There are a number of kids who have driver's licenses and drive back and forth to school. He said [kids] work to help finance cars, insurance, and so forth. One of the things prohibited in state and federal law is minors under eighteen years of age driving a tractor that is over 20 horsepower. Most of the tractors that he sees in the fields are usually over 20 horsepower, so a kid wouldn't be able to drive a tractor unless that child was the child of the owner of the farm. If parents were just going to be authorized to allow their kids to work for a farm, they might not know about that particular hazard. Agriculture is one of the most grueling and hazardous occupations in the United States, he said, and Alaska's laws are more stringent than those in other states. [Alaska] requires a work permit for children from age fourteen until the seventeenth birthday. Once the seventeenth birthday is reached, the child only needs proof of age to show that he or she is over sixteen. At that point, he said, it becomes the responsibility of the department to go out and ensure that the child isn't doing something that is a health hazard.

Number 1368

MR. MASTRIANO explained that the work permit also allows [the division] to review other potential hazardous such as toxins used in farm work, and gives [the division] the opportunity to warn a farmer of potential muscular or skeletal repetitive-motion injuries.

Number 1425

MR. MASTRIANO stated that [the division] is generally able to turn a faxed work permit around in a matter of hours if proof of the individual's age is submitted along with the permit. However, one of the things that employers like to fax is a driver's permit, but since it has a hologram on it, it blurs out the birth date unless the lightest setting is used when copies are made. He said many employers think that [the division] wants to be able to see what the minor looks like, but that really isn't the concern. When the division sends [the work permit] back saying that it is illegible, [an employer] will try to get the picture to come out right without reading the statement that says it is the birth date that is needed.

MR. MASTRIANO said a number of [employers] fax in birth certificates and [the division] is able to turn those around almost immediately. If the work permit comes to the office overnight or past 4 p.m., it may not be returned until the next day. He added that [the division] has three offices that review and sign work permits; and across the state, the job service offices fax work permits [to the division]. People can go there to have one sent if they don't have a fax machine.

MR. MASTRIANO explained that it is important that [the employer] give [the division] the fax number or address where the work permit can be sent. He stated that [the division] tries to accommodate the employer. Allowing parents to authorize work without the department's review could place kids in a harmful situation without the knowledge of the parent or even the employer, because the employers don't know all of the hazardous orders. As long as there are hazardous orders, [the division] is required to enforce them, he explained.

Number 1554

VICE CHAIR HALCRO pointed out that one of the reasons for this legislation is the concern that "by the time the request works its way through the maze of beuracracy, the harvest season is over." He sought verification that Mr. Mastriano had said that [the work permits] are normally turned around in a couple of hours unless there is a problem.

MR. MASTRIANO replied affirmatively. In the summertime, he said, because the fax machine is so popular, it may take longer than an hour because on some days [the division] processes 200 to 300 work permits. The fax machine can't keep up; there is one person assigned to handle nothing but work permits and get them to an investigator to review.

Number 1602

VICE CHAIR HALCRO asked: If the situation occurs in which the fax doesn't come in clearly or information needs to be followed up on, what is the average timeframe for a response of approval or denial?

MR. MASTRIANO said it depends on what [the division is] looking for; ordinarily, a form will be faxed back telling the employer what is needed for approval. This generally goes back about the same time that the work permit would, but, again, is based on how busy the telephone is at the time.

VICE CHAIR HALCRO asked if there has ever been a situation in which [the division] denied a permit because a minor was going to be working around harmful chemicals or unsafe machinery.

Number 1681

MR. MASTRIANO replied that there have been several occasions, none that he could recall in the farm industry regarding chemicals, but situations in which kids were going to work on a potato digger, which is equipment considered hazardous for anyone under the age of eighteen. [The division] has denied several work permits to have kids doing other types of work such as slicing food, or working with bakery machinery or construction equipment not authorized for minors to be around. He said [the division] has also had parents come in and withdraw their authorization for their child to work, and those are handled in the same expeditious manner.

REPRESENTATIVE KOTT asked: If a child works under the direct supervision of a parent in a business owned and operated by the parent, is he or she exempt from that permitting process?

MR. MASTRIANO replied that [the parents] are exempt from the child labor law altogether. What the parent is told is that [the division] hopes that the child isn't going to be placed in a situation that is going to cause injury or harm. He explained that one of the caveats for that is that [the child] must be in the direct supervision of the parent; the parent can't leave the child in someone else's supervision.

Number 1759

REPRESENTATIVE KOTT referred to Section 2, paragraph (2), of the bill, "The minor performs the work in the physical presence of one of the minors parents or legal guardians". He asked whether [Alaska] has any provisions that would afford that same opportunity if custody of that minor has been set by court order to another person who is granted legal custody of that minor.

MR. MASTRIANO responded that the work permit says that the parent or legal guardian must authorize the work. If a child comes in to [the division office] and says that he or she isn't getting along with his or her parents, and is living with someone else - unless the guardian is court-appointed - [the division] won't issue a work permit.

REPRESENTATIVE KOTT asked if Section 2, paragraph (2), is even necessary.

Number 1848

MR. MASTRIANO stated that if the work permit requirement is eliminated, then it is necessary in agriculture because the parent is authorizing [the child] to work. For paragraph (2), no written authorization would need to be given to the farmer; just the presence of the parent would be enough to allow the child to work with the parent.

VICE CHAIR HALCRO pointed out that the provision in law that says it has to be a legal guardian makes sense because if there was a minor who disconnected from his or her family and was living with someone else, and the minor was injured or killed, certainly the parents could bring suit against the state for allowing the minor to do that.

MR. MASTRIANO went on to another point. He said one of the questions asked was regarding ages of minors and work requirements. He explained that fourteen- and fifteen-year olds do have an hour requirement. When school is not in session, they are allowed to work up to 40 hours a week, no more than 8 hours a day, and cannot start before 5 a.m. or work after 9 p.m. When school is in session, the requirement is stricter and becomes 7 a.m. to 7 p.m., no more than 18 hours a week, and no more than 9 hours a day combining school and work. For fourteen- and fifteen-year-olds, [the division] really restricts hours, but for sixteen- and seventeen-year-olds, the only restriction is that they cannot work more than six days a week.

Number 1963

MR. MASTRIANO said [the division] has had a number of requests from schools to try to change that, but at this point it remains. People under the age of eighteen are the only employees currently in the state that are required to have a 30-minute break if required to work six consecutive hours.

REPRESENTATIVE KOTT asked Mr. Mastriano to direct him to the section that deals with the hours that a minor under sixteen can work.

MR. MASTRIANO stated that he didn't have this information with him, but said it is in the child labor section; he offered to

get it for the committee. He added that the hours are listed on the front page of the work permit so there is no [confusion].

Number 2011

VICE CHAIR HALCRO asked Mr. Mastriano if the department opposes HB 128.

MR. MASTRIANO replied affirmatively. He said there are other ways to help the farmers if they are having difficulty with the work permit process, and he said he would be willing to work with them to eliminate [the problems]. When asked what [that assistance might] be, he replied that he has offered to go out to the [Matanuska-Susitna] Valley, particularly at harvest time, and be available for the farmers hiring help. He understood that when [a farmer] needs help, it is needed right away.

MR. MASTRIANO explained that the same thing was encountered in the fish processing [industry], where a number of sixteen- and seventeen-year-olds are hired. [The division] makes itself available; the employer goes out and hires the kids that it thinks it's going to need for fish processing; and [the division] signs the work permits, reviews the work, and goes out to each of the processing plants and walks the slime line to see where these individuals will be employed before starting work. This affords the opportunity to point out anything hazardous to the employer, and the employer then has the work permits ready so when the time comes, the kids can be called to work.

Number 2061

MR. MASTRIANO pointed out that [the division] offered to do the same thing for the farmers. [The division] will go out and make itself available in the valley prior to harvest time and get all the workers hired; when it's time to harvest, [the employer] will be ready to go. He expressed a concern that if a lot of these kids are going to be used for harvest help, and won't be full-time employees, they may not be covered by workers' compensation [insurance]. Workers' compensation has an exemption for harvest and part-time help, he said, so there may be a liability there for the farmer that he or she may not be aware of.

VICE CHAIR HALCRO asked what percentage of these work permits take longer than a couple of hours to process.

MR. MASTRIANO replied that this includes very few. This is the first time he has ever had a complaint about the work permit turnaround [time], although he has had a complaint about the fact that [the division] requires proof of age. [The division] has made every accommodation possible, he said, and has even gone so far as to go out to the Alaska State Fair and sit there for two days before the fair opens to ensure that any child who wants to work at the fairgrounds is afforded the opportunity to come in and get a work permit.

Number 2178

LARRY DeVILBISS, Carrot Farmer; State Board Member, Alaska Farm Bureau; via teleconference, thanked the committee and Representative Ogan for considering this legislation. Up until last summer he was operating in ignorance about a lot of the state laws, he said; there are probably not a lot of other farmers testifying because they were shocked to find out what the law was. By the time the education process is over, more will be coming forward; however, at this point they are afraid to incriminate themselves. He said when he called the DLWD last summer and was told about the work permit conditions and restrictions, he said he didn't have any problems; however, he had difficulty with the forms. [His farm] is about five miles from the end of an optic line, so the fax machine [output] is dirty, and every time he tried to fax a permit, he'd get a fax back from [the division] saying that it couldn't be signed because it was illegible. He was informed that he'd have to go to Anchorage or to an office in Wasilla.

Number 2331

MR. DeVILBISS exclaimed that he frankly threw his hands in the air and decided it wasn't going to work because he couldn't drive to Anchorage everytime he had a kid who wanted to work. And a lot of times, he said, he isn't looking for workers; it's the parents coming to him wanting their kids to start to learn how to work. He stated that all "we" are asking for is a waiver on requiring the commissioner's signature because a lot of these situations come up with short notice, oftentimes racing a rainstorm when trying to put in hay, and a person isn't going to be messing with paperwork then.

MR. DeVILBISS said "we're" willing to take the forms, sign them, get the proper signatures from the parents, and conform to all of the restrictions. He mentioned that all of the other farm states use the federal exemption, which isn't even noted on the

back of the work permit or applied in Alaska. This completely waives the hazardous restriction for kids ages sixteen to eighteen working in agriculture. At this time, he said, "we" only want to be able to have the work permits on file, the same for as payroll information and so forth.

Number 2395

MR. DeVILBISS stated that he's had many parents get angry when he has told them that they had to get a signature from the commissioner of labor before their kids can work for him. He said he doesn't come to the committee with a bad attitude, but expressed that there is a tough labor situation, which really became apparent last year. He said he is growing organic carrots, which require approximately 1,000 man-hours for every acre to keep the weeds out; this doesn't have anything to do with harvesting and bagging the carrots, he expressed. What was typically done was to give a section of a field to a family to tend, and [the family] would get half of the gross proceeds. He was consoled to hear that when kids are working with their parents in that situation, it is all right, although he said it was difficult [to decipher] that from reading the state law.

MR. DeVILBISS said he is forwarding the federal regulation, and the state regulations from a couple of other states, to Representative Ogan's office; those show how difficult [Alaska has] made it for agricultural [endeavors]. What is being asked for is very minimal, he said, and he asked the committee to consider the bill.

TAPE 01-40, SIDE B
Number 2474

VICE CHAIR HALCRO asked Mr. DeVilbiss whether he knows every year when his crops are going to be harvested.

MR. DeVILBISS replied that he knows within certain parameters but said most of it is weather-related. When asked whether he knows the approximate timeframe, he answered affirmatively. And when asked about Mr. Mastriano's offer to come out and make himself available, and whether that might be better than eliminating the provision altogether, he responded that it would certainly help. This fall when the carrot harvest started, he had no clue how he was going to get the carrots in. At one point, he'd just about decided that it wouldn't happen, because by then, he knew the kids had to have this paperwork; most of them show up unannounced, because they've heard word-of-mouth.

He said if Mr. Mastriano happened to be there, then it would work.

Number 2385

MR. DEVILBISS surmised that his farm would be open to Mr. Mastriano's inspection anyway, so he didn't know why the work permit information couldn't just be on file.

REPRESENTATIVE MEYER asked how dangerous it is to harvest carrots, and asked how the youths are being used in the carrot harvesting process.

MR. DEVILBISS explained that almost all of the labor that goes into harvesting carrots is in the weeding, which is done on hands and knees; there are no chemicals, and it is tedious work. Part of [the family's] agreement in taking care of that section of the field is that it gets harvested as well, which involves pulling the carrots out and putting them into 1,000-pound boxes, which are carried into the root cellar. It is certainly not more dangerous than [harvesting] hay. Most of the parents that come out are not concerned and are well aware of what their children are capable of. He reiterated that he just wants to hold the paperwork and mail it at a later date. He said "we" are also not asking to be exempt from workers' compensation. He said he's never had a problem collecting workers' compensation on seasonal farm labor.

MR. DEVILBISS expressed that he has had a few claims over the years, and there was never a problem; his workers' compensation says exactly what people are going to be doing and the seasonal nature of it.

Number 2179

REPRESENTATIVE ROKEBERG asked for verification from Mr. DeVilbiss that he doesn't use conveyor belts or machinery when harvesting carrots.

MR. DEVILBISS replied affirmatively. He said the carrots are pulled out of the ground by hand; once in a while, however, if the ground is hard, he'll drive a lifter through that goes underneath the carrot bed and lifts the bed up. The only thing that moves at any stage, he said, is when the carrots are being bagged. There is a conveyor, which moves at one revolution every ten minutes that moves the carrots along so they can be stuffed into bags. Upon being asked if the processing and

packaging is as labor-intensive as the harvesting, Mr. DeVilbiss replied that it is not as labor-intensive but goes on a lot longer and there are less people involved. During the carrot harvest, there are days when 100 to 250 people are working in the field; when the carrot bagging is done, a half a dozen people normally do it.

Number 2081

REPRESENTATIVE ROKEBERG commented that the commissioner of labor came before this committee and indicated that there are problems with minors working in agriculture as it relates to conveyor belts and other machinery, which, Representative Rokeberg said, is of great concern to him. He asked Mr. DeVilbiss if he is familiar with the federal requirements for minors working.

MR. DEVILBISS said he would be sending it to Representative Ogan's office. The most educational tool that a person could have is the work permit, which he thought could be obtained in Juneau. He explained that on the front side of the form the parents, the employer, and the commissioner have to sign; there is also a requirement to sign as well a notice in big black print up at the top that says that it must be completed and approved before minor children begin work. The back of the form lists all of the prohibitions for minors and has the state and federal laws that apply. He invited Mr. Mastriano out to view his operation and let him know what kids could do, although he thought he was complying with [the law].

Number 1991

REPRESENTATIVE ROKEBERG said the DLWD has the ability to write any regulations that it wants on child activities, and he said he is concerned about that; the testimony from various businesses throughout the state has been that it has become almost impossible to employ underaged people.

MR. DEVILBISS offered his assistance. Upon being asked whether he uses hazardous chemicals on his organic carrot farm, he responded that [his farm] went completely organic this year, but up to this time his farm only had certain fields that were certified organic. On the organic fields, the only labor is "hand" labor, and the same acre that takes 1,000 man-hours to weed in an organic field can be weeded with \$35 of chemicals in a non-organic field.

Number 1883

REPRESENTATIVE KOTT asked Mr. Mastriano if there are any occupations in [Alaska] for which work permits are not required.

MR. MASTRIANO replied in the negative, unless the parent of the minor owns the business. And when asked whether there are occupations in which children under the age of fourteen can work, he responded that these children can babysit, deliver newspapers, and even be their own employer, such as taking his or her father's lawnmower and cutting lawns; however, it can't be done for a business. And when asked what would be the difference between a child under the age of fourteen picking carrots or working in a cannery casing cans, Mr. Mastriano said minors under the age of sixteen can no longer work in [fish] processing plants. Those under sixteen can work in an office in a processing plant if the office is away from the plant.

REPRESENTATIVE KOTT stated that he is not seeing the amendment that deleted this from the statute.

Number 1806

REPRESENTATIVE ROKEBERG asked Mr. Mastriano if that was changed by regulation.

MR. MASTRIANO remarked that he believed so.

REPRESENTATIVE HAYES said if this legislation passes, this doesn't just address farms that don't use a lot of equipment; this would open it up to any farm that uses industrial equipment or anything else. He asked whether that is correct.

MR. MASTRIANO responded affirmatively and said it would affect farms all over the state.

VICE CHAIR HALCRO closed public testimony on HB 128.

REPRESENTATIVE ROKEBERG said this fits right in with the issue of working minors and the training wage situation. He said maybe people just throw their hands up in the air and don't even want to deal with the DLWD. He said probably most of the farmers in the state are knowingly or unknowingly breaking the law because of the difficulties. He said [the legislature] had better look into that. This needs to be expanded beyond just agriculture, and this is a critical industry that [the legislature] needs to be able to support. [The state] has been

so concerned about protecting people that [people] can't even get jobs.

Number 1685

REPRESENTATIVE KOTT stated that he agrees with the concerns expressed by Representative Rokeberg; however, even if the permitting process is eliminated, the same problems will exist because most of those farmers won't know the parameters under which children under eighteen can be hired. Unless the restrictions are on the permit itself when receiving it, most of the farmers will still be operating outside the confines of the law.

REPRESENTATIVE ROKEBERG emphasized that he would like to know what the federal law is and how it is handled. He said he thinks it is up to this committee, if it can come up with a new format outlining the commissioners' responsibilities. He said he thought Mr. DeVilbiss was suggesting that the names be submitted [to the division] and then kept on record along with a description of the type of employment. And if there is a clear need for the DLWD to look into it, [then that can happen], but just to say no or delay the process, in his opinion, doesn't work.

Number 1611

VICE CHAIR HALCRO said when he first read the bill packet he thought it was alarming because there was an assertion here that by the time [the work permit] worked its way through the bureaucracy the harvest season was over; yet, the testimony from Mr. Mastriano was that it takes a couple of hours. If something is faxed in and there is an immediate response, or if the only reason one doesn't get an immediate response is because the form is either incomplete or illegible, he said he doesn't see why [the legislature] should eliminate all of these important protections. And as Mr. Mastriano stated, [the division] has denied applications in the past where minors were working around hazardous chemicals or machinery. He said he doesn't see the need for it. There was only testimony from one person, and this person had problems with a fax machine. [If this legislation passes] it would eliminate all of the requirements and conditions allowing any minor who is at least fourteen and who can get consent from his or her parents to start working on a farm without any oversight from the DLWD.

Number 1560

VICE CHAIR HALCRO said he agrees with less bureaucracy; however, this puts some protections in place to protect those under eighteen working in environments that may or may not be hazardous. He said he doesn't see the overwhelming need.

REPRESENTATIVE MEYER said he agreed with Representative Rokeberg and thought that a lot of people are out there breaking the law who feel as [Mr. DeVilbiss] does. There are enough factors working against farmers without having to deal with a bureaucracy.

Number 1471

REPRESENTATIVE OGAN said he suspected that Representative Meyer was correct. When an entire year's income is lying in a field and [the farmer] is required to fax 100 work permits [for minors] to pull carrots out of the ground, how asinine is that, he asked. He said in one night, a whole year's income could freeze in the ground, and 100 faxes have to be faxed in to get help? Some of these people are the biggest risk takers in the world, he exclaimed - they and fisherman.

VICE CHAIR HALCRO expressed his understanding, but asked if throwing out the entire set of regulations as it pertains to getting approval for those under seventeen is the way to do it. Mr. DeVilbiss had stated that he knows every year when harvest season is, he has ample time to plan, and as Mr. Mastriano testified, it takes a couple of hours for turnaround. And Mr. Mastriano has demonstrated the ability to go out and process applications right there on-site. However, when getting down to the question of whether regulations should be eliminated, he said, "No." Not everyone has the same type of farm, and eliminating these regulations will put workers at risk, without proper protection. He said he isn't sure where the headache is. He said if it is being said that 100 workers are going to be needed immediately, then any business is going to need to plan a little more in advance.

Number 1237

REPRESENTATIVE HAYES asked about the hiring pattern.

REPRESENTATIVE OGAN said it depends on the situation; the weather could change very quickly, and when that happens, he bets that the farmers are just getting on the phone and calling workers. He said he would like to see if there is some way to

streamline this. For example, at the beginning of the season [a minor] applies for a permit, there is sign-off on what [the employer] can do with the [minors]; everyone knows the rules, and protections are in place. Once that is done, [the farm owner] is subject to inspection. If the parents want to let their kid work, why should the state become the parent, he asked.

REPRESENTATIVE HAYES requested verification of his understanding that fourteen-year-olds can't do this work without being under the direct supervision of their parents unless the parent owns the business.

Number 1114

REPRESENTATIVE OGAN referred to Section 2(c), which read in part:

A minor who is at least fourteen years of age may be employed in agriculture without the written authorization of the commissioner [under (a)] of this section if: [(1) the employer] receive[s] consent form [(A) both] the minor's parents or guardian[s]; or from paragraph (2): the minor performs the work in the physical presence of one of the minors presence or [legal guardians].

REPRESENTATIVE OGAN explained that it is "either or." [Minors] could [work] as defined under subsection (c) or under paragraph (2).

Number 1075

REPRESENTATIVE KOTT said this bill removes the commissioner's responsibility to sign off on the work permit, but it doesn't eliminate statutory requirements regarding the hours or the times that minors can work. He said if his livelihood was dependant on the time of year that he could pick his crops, he would probably "throw caution to the wind" on those statutes. He expressed that there are probably a lot of farmers out there who are not aware of the statutory requirements or the permitting requirement. He asked Mr. Mastriano whether the work permit includes a copy of the statutes dealing with the five or six areas that [the committee] has been talking about. He also asked whether the data on the permit is used for statistical analysis to determine how many seasonal farm workers [Alaska] has.

MR. MASTRIANO said he knows of no statistical data that is used or gleaned from the process. [The division] keeps copies of the work permits, and the original is sent back to the employer along with the proof of age if an original birth certificate was used. When asked how long the work permits are good for, he stated that a [new work permit is required] every time a minor obtains a new job. He said each work permit is job-specific, and [the division] needs to know that the minor isn't in a life-threatening or hazardous situation.

REPRESENTATIVE KOTT, referring to Mr. DeVilbiss' situation, asked Mr. Mastriano if he would be authorized to go to the high school and recruit so that when the picking season began, Mr. DeVilbiss would just call [the minors] to work.

Number 0879

MR. MASTRIANO commented that that is exactly what the fish processors do. [Processors] get a contact number from these people and call them in when they are needed. He said they can certainly get the work permits on file, and [the permits] should be in place before the child starts to work. When asked how long the work permits are good for, and whether a farmer could submit work permits in May for the picking season in September, he replied affirmatively, as long as the child is "your" employee. [The division] has several employers that hire kids at fourteen with the same work permit; the duties don't change, and the employee is still working there at age sixteen or seventeen under the same work permit. The only thing that may have changed is the rate of pay, which can be corrected on the work permit.

MR. MASTRIANO explained that the only time the work permit ceases to be any good is if the employee quits the job and goes to work elsewhere.

Number 0685

VICE CHAIR HALCRO asked Mr. Mastriano about compliance from other areas of agricultural.

MR. MASTRIANO said he thought that Representative Ogan was probably right: there are probably a number of farmers who don't submit work permits. There are a number of employers that don't believe in the work permit process, he said, and the only time [the division] finds that out is by going out and

investigating. If a minor is found working without a work permit, the employer is given the appropriate paperwork in order to get them right with the law. He said the division has no penalty under statute; however, if it is a hazardous order, [the DLWD] turns it into the United States Department of Labor (USDOL), and [USDOL] would also do an investigation.

REPRESENTATIVE ROKEBERG asked Mr. Mastriano on what grounds work permits are denied.

MR. MASTRIANO clarified that it could be either from [an inspection done or from the information on the work permit], but most of the time it is from the information that the employer puts down. For example, [the division] has had a number of fifteen-year-olds employed in restaurants that have a restaurant designation. They can't be employed in that [category], he explained, under the Alcoholic Beverage Control Board (ABC) rules until sixteen years of age. Generally, [the division] stamps "denied" on the application and calls the employer to inform him or her of the reason that the application was denied. If it is [denied] due to [a restriction on] certain equipment and the employer can allow the kid to do something else, [the division] will ask the employer to resubmit the work permit after eliminating the hazardous order on the permit. In that case, there is a box on the permit showing an amended work permit.

Number 0532

MR. MASTRIANO, upon being asked if that is done over the phone or out in the field, responded that both are done. If it is a faxed application and can be addressed over the phone, that can be done; however, sometimes [the division] will go out and do an inspection on-site. Oftentimes, the employer tells [the division] about a piece of equipment that [the division] isn't sure about, so the inspector will go out and do an inspection to determine whether the piece of equipment is hazardous. Since Alaska uses the hazardous order guidelines set forth by the USDOL, if there are any questions [the division] will contact the USDOL's child labor representative and explain the equipment.

MR. MASTRIANO, responding to a question about the number of work permits issued by the DLWD last year, stated that there were close to 11,000. And he surmised that less than 200 were denied. He reiterated that a minor can't work in a restaurant with a restaurant designation until sixteen years of age, and he

stressed that this is not a DLWD regulation but an ABC regulation.

Number 0367

REPRESENTATIVE HAYES said the statute states that only the commissioner of labor can sign off on work permits. He asked if it could be the commissioner's designee.

MR. MASTRIANO responded affirmatively. He said there is a designee in the offices in Juneau, Fairbanks, and Anchorage.

REPRESENTATIVE ROKEBERG said he wanted to hold the bill over to compare Alaska's work permits to those in federal regulations, to possibly come up with a more streamlined system that might save money.

VICE CHAIR HALCRO asked Representative Rokeberg if he was volunteering to chair a subcommittee.

REPRESENTATIVE ROKEBERG replied affirmatively.

VICE CHAIR HALCRO announced that HB 128 was being sent to a subcommittee chaired by Representative Rokeberg that would also include Representatives Meyer and Hayes.

[HB 128 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Committee meeting was adjourned at 5:00 p.m.