

SUBJECT: Penal Code offense for using 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
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. 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 1324 would amend the Penal Code to create the offense of employing, authorizing, inducing or permitting a child under the age of 14 to sell items or services. The offense would be a Class A misdemeanor, with a maximum penalty of one year in jail and a \$4,000 fine.

The offense would apply to anyone who employed, authorized, induced or permitted a child to sell or solicit donations if the child was unaccompanied by a parent, conservator, guardian or other person who had custody of the child by court order.

Activities done on behalf of certain organizations would be exempted from criminal penalty. These exempted organizations would include 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.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

CSHB 1324 would create a Penal Code offense for the same wrongdoing made subject to civil penalties in a related bill, HB 1323 by Romo, approved by the House on April 6. CSHB 1324 would amend the Penal Code, while HB 1323 would amend the Labor Code. Adding a Penal Code offense would allow the criminal justice system as well as the Texas Employment Commission to enforce this provision, which is needed to protect children from exploitation and potential harm.

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 presence 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 assault.

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 1324 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:

CSHB 1324 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 the time-related restrictions and added language prohibiting a child under 14 from working at any time of the day unless the work is for an exempt organization.

On April 6 the House passed a similar bill, CSHB 1323 by Romo, which would make the child labor provisions of HB 1324 a prohibited activity under the Labor Code. The bill has been referred to the Senate Economic Development Committee.

In 1993 the House passed two similar bills, HB 1390 and 1391 by Romo; both died in the Senate Economic Development Committee. The bills contained the time-related restriction on employment in the original version of HB 1324. HB 1390 provided civil penalties; HB 1391 would have created criminal penalties. Both bills would have exempted charitable organizations from the restriction on hiring children.