

SUBJECT: Regulating the use of a child for sales and solicitation

COMMITTEE: Economic Development — committee substitute recommended

VOTE: 5 ayes — Jim Solis, Deshotel, Homer, Keffer, Seaman
0 nays
4 absent — Van de Putte, Luna, McClendon, Yarbrough

WITNESSES: For — Loretta Towne, Texas PTA
Against — None
On — Chester Skorupa, Texas Workforce Commission

BACKGROUND: Texas' child labor statute restricts the age at which a child may be employed, the hours a child may be employed, and the type of work a child may be employed to perform. Certain businesses employ minors to sell products in shopping malls and door-to-door. Also, many school organizations and nonprofit organizations organize fundraisers in which children sell cookies, candy, or other products.

Fourteen states regulate door-to-door sales by minors. Texas prohibits door-to-door sales by children under age 14, unless accompanied by an adult. Alaska prohibits door-to-door sales by children under 18, and Florida and North Dakota prohibit them for children under 16.

DIGEST: HB 160 would add sec. 51.0145 to the Labor Code to regulate the use of a child for sales and solicitation. The bill would define solicitation as selling goods or services, requesting donations, or distributing items, information, or advertising. The employment of a child to solicit would be considered a hazardous occupation for purposes of this chapter of the code.

Before employing a child to solicit, a person would have to:

- ! at least seven days before the child began employment, obtain the signed consent of the child's parent or guardian or other person who had

possession of the child;

- ! provide a map of the route the child would follow during each solicitation trip and the name of each individual who would be supervising each solicitation trip; and
- ! limit each solicitation trip to hours between 10 a.m. and 5 p.m. and to days when the child was not required to attend school.

HB 160 would authorize the Texas Workforce Commission to impose additional requirements by rule to protect the safety, health, or well-being of the child.

The bill would exempt from these requirements a charitable organization as defined by Civil Practice and Remedies Code, sec. 84.003; an organization regulated under Title 15, Election Code; a club, organization, or other group engaged in a fundraising activity if the activity is sponsored by a public or private primary or secondary school; and a business owned by a parent, conservator, guardian, or other person who has possession of the child under a court order.

A person who employed a child in violation of these requirements would commit a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000.

This bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

HB 160 would protect Texas children from unscrupulous business practices. Some businesses employ minority children from low-income families to sell products door-to-door with promises of winning trips, money, and other prizes. These companies often hire underage children and work them too many hours, after dark, in unfamiliar neighborhoods with little or no supervision. These companies often start up and disband in a short time, making it hard for local authorities to monitor them.

The federal government, in most cases, does not have jurisdiction over these companies. Often the business is not engaged in interstate commerce or does not gross the \$500,000 a year required for federal jurisdiction.

HB 160 would not outlaw door-to-door sales by children. However, it would require those who employ children for sales or solicitation to comply with

specific safety measures.

Nonprofit organizations such as the Girl Scouts and school organizations provide guidelines for children who participate in fundraising activities that involve sales. These guidelines include selling only before dusk in the child's neighborhood and that parents should accompany children at all times. HB 160 would not prohibit school-sponsored organizations and other nonprofit clubs from allowing children to sell items in their neighborhoods as part of fundraising efforts.

OPPONENTS
SAY:

Sales and solicitation programs provide income opportunities for teens, particularly those from disadvantaged environments. For most teens, part-time selling is their first job experience, and it teaches them work ethics, how to greet the public, and how to handle objections. This helps teens gain self-confidence and self-esteem.

HB 160 would restrict hours that employed children could work, lowering their potential income opportunities. Because children who need to work come from disadvantaged areas, the bill would restrict these children more than those from middle- and upper-income areas.

This bill would not deter unscrupulous businesses who target children for employment that is dangerous. These businesses are not easy to locate or monitor by authorities. Instead this bill would unfairly harm legitimate businesses who employ teenagers and abide by existing labor laws.

HB 160 also would discriminate against for-profit businesses that employ children for sales. This bill would not require non-profit or school organizations to follow these guidelines. Children who participate in fundraising efforts that include selling items would still be allowed to sell in unfamiliar neighborhoods, without supervision.

OTHER
OPPONENTS
SAY:

HB 160 would not go far enough to protect children. It should require parents to accompany children if they are going door-to-door. It also should hold a corporation liable for civil penalties, in addition to the criminal penalty imposed on an individual, for violating the bill's provisions.

HB 160
House Research Organization
page 4

For a true measure of protection, Texas should prohibit children under age 17 from all sales and solicitation. School organizations and clubs should find alternative means for fundraising.

NOTES:

The committee substitute amended the original bill by removing references to “door-to-door” from the caption and the text. It also added the provision that an offense under this section would be a Class A misdemeanor.