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Star investigation: CHL claims questioned

Proposed law in Washington would exempt teams from paying minimum wage.



This is Exhibit HH referred to in the
affidavit of Andrew J. Eckert
sworn before me, this 20th
day of February, 20 15
[Signature]
A commissioner for taking affidavits

Don Denton / The Canadian Press

Lukas Walter during his time with the Tri-City Americans.

By: Robert Cribb Foreign, Published on Tue Feb 17 2015

Canadian Hockey League team officials in Washington gave incomplete — and what appears to be misleading — testimony before state lawmakers last week during debate over a proposed law exempting clubs from paying players minimum wage, a Star investigation has found.

“We are members of both Hockey Canada and USA Hockey which are the governing bodies for amateur hockey in North America and our players are 100 per cent amateurs,” Russ Farwell, president and GM of the CHL’s Seattle Thunderbirds testified last week, in support of the bill before the state’s house labor committee.

Documents and interviews with Hockey Canada and USA Hockey officials confirm CHL clubs, including those in Washington, are not members of the two governing amateur hockey associations. And the question of whether junior hockey players are truly amateurs under the law is a matter of intense and growing legal debate.

"We have had no communication with any CHL teams nor do I know of them being members," said John Vanbiesbrouck, junior hockey chair of USA Hockey for the past three years.

"I have no idea (why they would say that). . . . I don't know what their view of being members are. But their team at the junior level is not registered with USA Hockey."

Hockey Canada's current bylaws name the CHL as a "partner," meaning the junior hockey league is one of a dozen organizations, including the Canadian Armed Forces, the Canadian Deaf Ice Hockey Federation and the Aboriginal Sports Circle, that it recognizes as "significant stakeholders in the game of hockey."

But the bylaws expressly state that partners "shall not be deemed members of Hockey Canada" and have no voting rights with the governing body other than in councils, committees or work groups on which they serve.

Farwell and Hockey Canada officials did not respond to interview requests from the Star.

The proposed law — called Bill 1930 — came in response to a formal complaint to the state's department of labour alleging CHL teams in the state, and the league itself, were violating child labour laws by paying them below minimum wage.

If passed, the proposed legislation would make Washington the first North American jurisdiction to specifically exempt junior hockey players from labour laws dictating minimum wage.

The Seattle Thunderbirds, Everett Silvertips, Tri-City Americans and Spokane Chiefs have players aged 16 to 20 who play for less than minimum wage.

"The athletes are amateur," testified Gary Gelinis, president of the Everett Silvertips. "They are governed by the amateur body."

Without legal protections against having to pay players minimum wage, "we would have to evaluate whether or not we could continue to stay in the state of Washington," he said.

The proposed legislation adds to a mounting debate over the amateur status of junior hockey players in the 60-team CHL.

Late last year, the Star first reported the league was facing three class action lawsuits in Canada alleging the CHL's mostly teenage players are employees who have been denied minimum wage in accordance with provincial labour laws.

CHL officials have denied those allegations, saying their players are "amateur athletes" rather than employees and that the league supplies them with room, board, educational scholarships and other benefits.

Lukas Walter, a 22-year-old who spent two years with the Tri-City Americans in Washington between 2011 and 2013, says he was paid \$90 every two weeks.

"I think it should really be fair. I was in debt to my parents quite a bit of money," says Walter, who is the lead plaintiff in two of the three class-action suits filed in Canada against the CHL. "With \$90 every two weeks, you're not even covering gas money to get to the rink and back. They can definitely afford to give more."

Ted Charney, the Toronto lawyer behind the three Canadian class action suits, filed submissions Tuesday evening to members of Washington state's Senate Committee on Commerce and Labor, which is scheduled to hear testimony on the proposed law on Wednesday.

"On behalf of my clients, I...respectfully request that this Bill, as currently drafted, not be passed insofar as it attempts to limit the teams' obligations to pay their players minimum wages," it reads. "These players put in long, hard hours so that the teams' owners may gain revenues without receiving even the State's statutorily mandated minimum wages."

The Star's ongoing investigation has shown strong consensus among labour lawyers and hockey agents that junior players do meet the legal definition of employees working for private, for-profit businesses.

"Let's be honest, major junior is pro hockey," says Phil Lecavalier, a Montreal-based hockey agent whose company, MFIVE Sports, represents 40 NHL players.

"They're pro hockey players who happen to go to school. It's a business and employees should be paid. Do you see Tim Hortons or McDonald's saying their employees are amateurs and they don't want to pay them? No, they pay them."

The identity of junior players as amateurs is also challenged by the lofty contracts and signing bonuses that some receive.

More than 40 Western Hockey League players signed entry-level contracts with NHL clubs this season. Another 63 players in the Ontario Hockey League have signed NHL contracts.

Those contracts, some worth more than \$900,000 a year should they play in the NHL, come with signing bonuses that typically range from \$40,000 to more than \$90,000 a year for young players, according to interview with several player agents.

Seattle Thunderbird player Shea Theodore, a 19-year-old defenceman from B.C., has played several games with the American Hockey League's Norfolk Admirals for which he would have received payment as a professional along with a signing a three-year contract with the Anaheim Mighty Ducks worth \$925,000 per year, the Star has learned.

Agents interviewed by the Star say that while signing bonus amounts depend on how high a player is chosen in the draft or how badly a team wants them, 10 per cent of the contract amount is typical.

That makes the argument that the players on these clubs are "100 per cent amateurs" difficult to accept, says Toronto player agent Bill Markle who represents junior hockey players.

"When you get that kind of money, that's not an amateur. Once you've made that kind of money, whether or not you step into the lineup in the American or National league, that makes them professionals."