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Cracks In The Ice Under Proposed Labor Law Exemption For Hockey

By [Tom Banse](#)



Are the 16 to 20 year old players in the Western Hockey League amateurs or professional athletes?

Some legislators in Olympia say they're having second thoughts about exempting [Western Hockey League](#) teams from state labor laws.

The managers of the four affected teams in Washington said again Tuesday their survival depends on players being treated as amateur athletes, not workers.

The general managers of the Seattle Thunderbirds, Spokane Chiefs, Everett Silvertips and Tri-City Americans teamed up in Olympia for what they hoped would be a scoring play at the Washington Legislature. Each of them told a state House panel that the junior hockey business model would fail if they had to pay their players minimum wage, overtime and [observe work hour limits](#).

"Without this bill, we would not be able to operate in a fair and competitive league and would have to look at relocation out of the state," said Robert Tory of the Tri-Cities team.

The reason this comes up now is because the Washington State Department of Labor and Industries received a child labor complaint about the Western Hockey League. Department spokesman Matthew Erlich confirmed there is a "continuing and ongoing" investigation. Possible wage and teen work hours violations seem to be at issue.

"We take child labor cases very seriously," Erlich said. The agency has been tight-lipped about the source of the complaint it received.

Amateurs or pros?

In response, the league's Washington teams are pushing legislation to short-circuit the investigation and preserve the status quo of its 16 to 20 year old players, whom the league considers to be amateur athletes. The proposed measure would specifically exempt athletes on WHL teams from the Minimum Wage Act and other work conditions laws.

Teresa Mosqueda blew the whistle on the idea at the same committee hearing Tuesday. She represents organized labor as a lobbyist for the Washington State Labor Council.

"We think the league can afford to pay these players at least minimum wage and that these players ought to be able to have the same protections as other workers in Washington state," Mosqueda said.

Mosqueda said she appreciates the importance of the hockey teams to their communities, but the labor council's position is that the legislature should hold back until the Labor and Industries investigation is completed.

What once seemed like an easy skate for the hockey league, now looks on thinner ice.

"We're all struggling with how do we do this and do it fairly," said state House Labor Committee chair Mike Sells, a Democrat.

"The companies they work for do make profits," he said. "It may not be a heck of a lot of profit. They may do it for the love of the game. But still it is a profit making company and that is different than an institution that is nonprofit."

"Whether the votes are there, I'm not sure they are," concluded Sells. In the state Senate earlier this month, [the labor law exemption for the hockey league](#) passed 47-0.

'We were treated like pros. We had to act like pros'

The Western Hockey League and its member teams face a separate lawsuit filed in Alberta seeking back wages, unpaid overtime and vacation pay allegedly due to current and former players. That again hinges on whether the teenage players should be classified as student athletes or employees.

Luke Walter of Langley, British Columbia, is the lead plaintiff in the proposed class action. He played for the Tri-City Americans for two seasons (2011-13) and a third season for the Saint John Sea Dogs. Walter now works for his father's wholesale meat company near Vancouver, Canada.

"We were treated like pros. We had to act like pros," Walter said. "We had to follow all these rules and do everything. Then at the end of the day, we were paid \$90 every two weeks."

Walter, now 22, said his overall hockey experience was "really good," but he maintains the top level junior players deserve a better deal.

"It is a business and we are professional athletes so we deserve definitely more and need more say," he said.

That kind of perspective brought an older, former Seattle Thunderbirds player off the bench. Al Kinisky drove to Olympia to urge lawmakers "to keep WHL hockey alive in Washington state."

"I thought I would come by to add my own story because I know this is a great program for young players," Kinisky said. "I am proof that it works for all players."

Kinisky was drafted by the Philadelphia Flyers in 1990 but did not play professionally. He instead used college scholarship credits earned in junior hockey to launch a career in high tech in Seattle.

Scholarships and stipends

Team owners lately have emphasized that while they don't pay salaries to their players, they provide one year of college tuition and fees for each year of playing service. A standard player contract includes those college scholarship credits along with a weekly stipend and free room and board. Teen players from out-of-town typically attend a local high school and live with a host family.

By any measure, dividing their stipends by the hours spent in practice, travel and roughly three games per week results in a pay rate well below Washington's current minimum wage of \$9.47 per hour. In addition, there is no question players who are minors devote far more time to practice and games than the maximum 20 hours per week permitted if the activity were considered work under Washington's child labor law.

"If viewed as employees, 16 and 17 year olds couldn't play on a team in Washington state," said Seattle Thunderbirds general manager Russ Farwell. "On our team this year, 13 players wouldn't qualify."

The WHL has 22 teams spread across western Canada and the northwestern U.S. Games draw thousands of fans who buy tickets typically costing between \$8 to \$30. All four WHL teams in Washington are the anchor tenants of their arenas.

A spokesman for Oregon's Bureau of Labor and Industries said that agency is monitoring the controversy surrounding the classification of junior hockey players. The Portland Winterhawks are one of the most successful teams in the WHL.

"We do not have any open investigations into the Winterhawks," BOLI spokesman Charlie Burr said on Tuesday.