SB 345, relative to youth employment.

Hearing Date: January 13, 2022

Time Opened: 1:45 p.m.       Time Closed: 2:13 p.m.

Members of the Committee Present: Senators French, Gannon, Bradley, Soucy and Cavanaugh

Members of the Committee Absent: None

Bill Analysis: This bill makes certain changes to the laws governing employment of 14 and 15 year olds.

Sponsors:
Sen. Hennessey        Sen. Giuda

Who supports the bill: Senator Erin Hennessey, Senator Ruth Ward, Senator Bob Giuda, Representative Peter Torosian, Curtis Barry (NH Retail Lumber Association), Michael Sillon, Mike Somers (NH Lodging & Restaurant Association), Curtis Howland

Who opposes the bill: No one

Who is neutral on the bill: Deputy Commissioner Rudy Ogden (NH Department of Labor)

Summary of testimony presented in support:

Senator Erin Hennessey

- Senator Hennessey introduced Amendment 22-0093s, which would replace the bill in its entirety.
- Amendment 22-0093s has three parts:
  - First, Lines 3 through 9 would clarify that employees who are 14 years old can buss tables.
    - Currently, an employee cannot buss tables with alcohol glasses on them until they are 15 years old.
    - Further, an employee must be 16 years old before they can buss tables in a lounge area.
    - Senator Hennessey stated that the Liquor Commission supported this provision.
Second, it is clarified that employees who are 16 and 17 years old cannot work more than 30 hours if school is in session for 5 days that week. The remaining portions of the tiered approach are removed to avoid confusion.

- Finally, after consultation with the NH Department of Labor (DOL), the statute governing night work would be repealed.
  - Currently, RSA 276-A:13 limits the amount of hours that youth can work.
- On Lines 14 through 19 of the amendment, Senator Cavanaugh wondered if an employer could get employees that are 16 and 17 years old to work 60 hours.
  - If school is not in session, Senator Hennessey responded she believed so, but she was open to adjusting this area of the bill.
  - Senator Cavanaugh responded that he hoped so.
  - Senator Hennessey said that if an employer asked a 16 or 17 year old to work 60 hours and they did not want to, then they could go next door to another business.
- Senator Cavanaugh replied that might not always happen.

Senator Gannon asked how many hours a 14 year old could work.
- Senator Hennessey believed that it was 28 hours; however, all 14 and 15 year old employees are covered by federal labor laws, which Senator Hennessey stated she is not trying to adjust.

Senator Gannon said that he is scared because younger workers might value their job more than their academics. He said he did not want children to limit their careers; thus, he needed more time to think about this bill.
- Senator Hennessey said this bill would not change the amount of hours a 14 year old can work; instead, it would clarify that they can buss tables.

Senator Gannon asked how late a 14 year old could work.
- Senator Hennessey replied that she would be happy to get details on what hours are allowed to be worked, but this is federally regulated.

Senator Gannon asked if it is regulated on how late they are allowed to work.
- Senator Hennessey replied it is regulated on how late and how many hours during the week they are allowed to work.

Mike Somers, President & CEO, NH Lodging & Restaurant Association

- The NHLRA are in support of all of the changes being proposed by Senator Hennessey.
- Section 1 would allow for flexibility by permitting younger individuals to buss tables.
- A few years ago, Section 2 was put into statute, which has caused confusion.
- In Section 2, Mr. Somers said the industry wanted the 30 hour threshold to be raised. He did not know what the exact number should be, but he believed it could be between 32 and 35 hours.
  - There are situations where a youth may reach almost 30 hours during the week and they might not be able to work as much on the weekends.
Mr. Somers said that he heard from industry stakeholders that some youth will work as many hours as possible at one business, then they will go down the street to work another job. An individual business cannot police this, but raising the threshold will allow a business to have an employee for more hours.

- Mr. Somers said that Section 3, which is related to youth night work, has been a point of confusion for the industry. The change being proposed will provide for greater flexibility.
  - Currently, there may be a situation where an individual worked a couple of evenings; therefore, they are no longer able to work a weekend shift, even if it is available.

- Senator Bradley wondered what Mr. Somers preference would be on Line 13 of the amendment because he heard him say 32 or 35 hours.
  - Mr. Somers replied that he would be interested in 35 hours, but this would be up to the discretion of the Committee.

- Senator Gannon said he saw this as too many hours because the real picture should be education. Further, he was afraid that youth will work more hours, especially if money is put in front of them. He said he did not mind youth working, but he felt that 32 or 35 hours was equivalent to a full-time job and he wondered when they would be able to study.
  - Mr. Somers said that jobs teach youth basic skills in life, such as customer service and responsibility. If a 16 or a 17 year old is working two jobs to maximize potential earnings, he wondered what the difference would be if they worked in just one location. Throughout the pandemic, Mr. Somers said that younger workers have been reliable. He stated that he supported education and that this bill would give flexibility to businesses, students, and their parents to come to an arrangement.

- Senator Soucy wondered if there was a bright line for ease of administration that the industry might suggest in recognition of the difference between a night-time limit during the week versus the weekend.
  - Mr. Somers replied that he was hesitant to offer a recommendation because he had not thought deeply about what that bright line might be. Some workplaces, such as grocery stores, have employees working until 9:00 p.m. or until close, so he thought it might have to be later than that. He reiterated that he was hesitant to offer a bright line without consulting with industry professionals.

- Senator Soucy responded that was fair, but she wondered if he would believe that she would be open to hearing whether there is a bright line for a school night versus a weekend or a holiday.
  - Mr. Somers said that it would be fair to consider school days and weekends separately and his Association would be open to further discussion.
Michael Sillon, Aroma Joe’s

- Mr. Sillon and his brother own and operate 13 Aroma Joe’s in NH.
- Over 700 employees are employed in stores across the state.
- As stated by others, the current rules have been confusing to employers, parents, young workers, school administrators, and guidance counselors. As currently written, this bill would address this confusion.
- Mr. Sillon said they schedule around their workers and their schoolwork. The longest shift they schedule for is 4 hours.
- Under existing statute, if someone does get out of school, complete their homework, and work from 5:00 p.m. to 9:00 p.m. for two nights a week, then they are limited on what they can work on the weekend.
- Given the labor shortage, this bill would be beneficial to both employers and employees because young workers are willing to work extra and during all hours of the day.
- This bill would allow young workers to stay at one employer, instead of working two jobs to get more hours.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Rudy Ogden, Deputy Commissioner, NH Department of Labor

- Section 1, which is relative to bussing tables, is overseen by the Liquor Commission; therefore, the Department had no input or guidance on this provision.
- The hours youth can work are split into 2 categories: those who are 16 and 17 years old and those who are under 16 years old.
  - Under federal law, those who are 14 and 15 years old can only work between 7:00 a.m. and 7:00 p.m., 3 hours on a school day, 18 hours in a school week, and 40 hours in the summer.
    - Deputy Commissioner Ogden stated that federal law has certain requirements that are stricter than those in NH.
  - As Senator Hennessey stated, this bill would not change any of the existing laws in NH. Young workers would still be able to work between 7:00 a.m. and 9:00 p.m., 3 hours on a school day, 23 hours in a school week, and 48 hours on a vacation week.
- From the experience of the Department, most hospitality employers and employees are covered under federal requirements. Federal requirements apply to those who have a revenue threshold over $500,000 or to those who engage in interstate commerce. Most employers engage in interstate commerce because they accept credit cards.
A few sessions ago, Deputy Commissioner Ogden believed the intent was to cap a student who may only have 3 days of school a week at 30 hours. The Department has heard from employers that this provision has been confusing.

Deputy Commissioner Ogden said that the night work provision of the statute has been frustrating.

- While he did not advocate for a policy position, he said a night work protection would be simpler if it stated that those who are 16 or 17 years old cannot work past midnight or they can only work so many hours per week after 10:00 p.m.
- Currently, if you work between 8:00 p.m. and 6:00 a.m. two times in a week, then you cannot work longer than an 8 hour shift during that week.
- Originally, the intent was to protect younger workers from extra long shifts and to guard against night shifts.

Senator Soucy asked if the Department received a lot of complaints on night work and if there were a lot of enforcement actions taken. Also, she wondered if it were too complicated for people to know if a violation has occurred.

- Deputy Commissioner Ogden said it is frequently a violation because a youth may have a shift that ends at 9:00 p.m. a few times a week and they may be scheduled for an 8 hour shift, which puts them over their allowable hours. In terms of complaints, they receive calls from parents who ask if their 16 year old can work until 10:00 p.m., which is not permissible. He said that complaints are generally about something that does not exist in law.

Senator Soucy said that it seemed like a bright line might be easier to enforce whether it is a certain time or limiting hours across the board.

- Deputy Commissioner Ogden acknowledged that this law is difficult to enforce, especially when it is hard to explain exactly what it is trying to achieve.

On Lines 14 through 19, Senator Cavanaugh was concerned that it stated that on a vacation week a youth can work 6 consecutive days or more than 40 hours in a week work. If this section were eliminated, he wondered if there were any restrictions still in place to prevent youth from working up to 80 hours.

- Under RSA 276-A:11, Deputy Commissioner Ogden said that no youth, including those who are 16 and 17 years old, shall work more than 10 hours in a day or 40 hours in a week.