



A Comparison of Indonesian and US Labor Law Regarding the Economic Exploitation of Child Labor in the Entertainment Industry

Tasya Shavina Putri^{1*}, Elisabeth Septin Puspoayu²

¹ Faculty of Law, State University of Surabaya, Indonesia

² Faculty of Law, State University of Surabaya, Indonesia

* tasyashavina.20081@mhs.unesa.ac.id

Article	Abstract
Keywords: Child Labor; Economic Exploitation; Entertainment Industry	<i>Children working in the entertainment industry have a high potential for economic exploitation by parents and employers. Parents and employers often do not realize that they have exploited children, because they consider the work to develop talents and interests. The problem formulations in this research are: (1) How is the comparison of labor law in Indonesia and the United States related to the economic exploitation of child labor in the entertainment industry, (2) How is the comparison of formulations related to the economic exploitation of child labor in entertainment between Indonesian and United States labor law? The purpose of this study is to analyze the comparison of labor law in Indonesia and the United States related to the economic exploitation of child labor in the entertainment industry. The research method used is legal research using a statutory approach and a comparative approach. The results of the study can be concluded that in Indonesia itself the regulations related to economic exploitation of child labor are still vague, there are no concrete limits related to economic exploitation, while one of the states of California has the Coogan Law which protects child artists from economic exploitation. Changes to laws and regulations in Indonesia are carried out by inserting or adding material to laws and regulations and deleting or replacing some of the material of laws and regulations, while in the United States it is done by members of the House of Representatives or Senate distributing the Draft Law or asking other members through Dear Colleague Letters to sign the draft.</i>

INTRODUCTION

In Indonesian labor law, based on Article 1 number (2) of Law Number 13 of 2003 concerning Manpower (hereinafter referred to as the Manpower Law), the definition of labor is every person who can do work with the aim of producing goods and / or services to meet his own needs and for the community. Based on Article 1 number (1) of Law Number 23 of 2003 concerning Child Protection (hereinafter referred to as the Child Protection Law), a child is defined as someone who is not yet 18 (eighteen) years old, including children who are still in the womb. Child labor can

be defined as a child who performs any type of work that has a nature or intensity that can interfere with education, endanger safety, health and growth and development.

Child labor refers to children who work when they are 5-17 years old. In Indonesia, regulations related to the protection of child labor are listed in the Manpower Law, the Child Protection Law, and the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number: KEP. 115/MEN/VII/2004 on the Protection of Children Performing Work to Develop Talents and Interests (hereinafter referred to as Kepmenakertrans 115/2004).

Child labor in the entertainment industry is usually referred to as child artists, child stars, and *kid fluencers* consisting of child singers, child actors and actresses, child dancers, child models and so on. Some of the digital entertainment industries at the micro level in Indonesia that support the phenomenon of child labor include *Instagram*, *Tiktok*, *Youtube*, *Facebook* and *Twitter* which allow *endorsement* of children (Ekklesia 2021).

The role of parents, society and government is very important in protection efforts to realize the welfare of children by providing guarantees for the fulfillment of their rights without discriminatory treatment. Although there are regulations that protect child labor, the reality is that until now child laborers still receive adequate protection both in terms of legal and social aspects, especially child labor in the entertainment industry. According to Terry E. Lawson in the theory of child exploitation states that child exploitation refers to discriminatory attitudes or arbitrary treatment of children by families and communities (Huraerah 2018).

Based on Explanation of Article 66 of Law No.23 of 2002 concerning Child Protection "What is meant by "economically exploited" is an act with or without the consent of the child who is a victim which includes but is not limited to prostitution, forced labor or service, slavery or practices similar to slavery, oppression, extortion, physical, sexual, reproductive organs, or unlawfully transferring or transplanting organs and / or body tissues or utilizing the power or ability of the child by other parties to obtain material gain".

Article 13 paragraph (1) of the Child Protection Law states that " every child while in the care of parents, guardians, or other parties is entitled to protection from discrimination; exploitation, both economic and sexual; neglect; cruelty, violence, and abuse; injustice; and other mistreatment ". It can be concluded that parents, guardians, and other parties who care for children are fully responsible for the protection of children from economic exploitation. In civil law, children are not yet capable of performing a legal act (Meliala 2007) .

One of the cases of economic exploitation in Indonesia was experienced by Misca Fortuna, she is a child artist who starred in the soap opera "Emak Pngen Naik Haji". After successfully collecting money from her hard work, her savings worth 100 million were taken away by her biological father. Misca's savings were used by her father for gambling and spree, not only stealing Misca's money the father also changed the name on the ownership letter of Misca's land which was bought with the money she earned (Theva Nithy 2020) .

The regulation on economic exploitation of children in Indonesia is still incomplete because Law No. 23 of 2002 on Child Protection does not provide concrete limits on economic exploitation of children. Whereas in developed countries such as the United States, there is a legal regulation on child labor income so that it can prevent economic exploitation of child labor, especially child labor in the entertainment industry.

The Fair Labor Standards Act of 1938 (hereafter FLSA) was the first time Congress generally prohibited child labor (Colihan 2015). For over eighty years, the FLSA has protected child laborers in the United States from hazardous and exploitative work. When enacted, the FLSA only pertained to children working in perhaps the most oppressive and dangerous conditions, children working in the entertainment industry were excluded. (Schuman 2017). In some states in the United States, the presence of child labor in the entertainment industry is accompanied by legal protection of children's rights. Of the 50 states, 36 states have regulations regarding *child entertainment* and most impose *work permits* for children working in the entertainment industry (Izzati 2019). California is one of the states in the United States that has *child entertainment* regulations, the regulation was issued by the *Department of Industrial Relations, Division 2 Employment Regulation and Supervision* in 2013.

The regulation is called *The California Actor's Bill* or often known as the *Coogan Act*. It contains regulations regarding the protection of the rights of child laborers working in the entertainment industry, which discusses that children are not allowed to work during school hours, children working in entertainment are required to have a work permit. The *production house* must also comply with the rules regarding working hours and facilities that must be provided in accordance with those regulated by the state (Ratri 2017). This regulation was formed with the aim of protecting part of the income earned by child artists so that when they enter adulthood they can enjoy the money they have worked hard for. This rule is contained in the *FAMILY CODE - FAM, DIVISION 11. MINORS, CHAPTER 3. Contracts in Art, Entertainment, and Professional Sports* which was amended in 2003 and came into effect in 2004.

California is considered to be at the forefront of child actor protection through the enactment of the *Coogan Law*. Jackie Coogan who was a child comedian who became famous after starring in Charlie Chaplin's movie, *The Kid*, in 1919. When he turned twenty-one and his career began to fade, he realized that the income he had collected since starting his career as a child actor had mostly been spent by his parents (SAG.AFTRA 2023).

The selection of the United States as a comparison country is because the United States has a Hollywood film industry that controls world cinema and Hollywood is a tool to bring American culture to contribute to American national interests (Rosalinda 2017). With that, there are many types of child labor in the American entertainment industry ranging from singers, actors, models, and so on. The case of economic exploitation experienced by Jackie Coogan which occurred in the state of California is also one of the reasons for the author to make the state of California as a comparison.

Based on the above background, two problems can be drawn which will become the Problem Formulation of this research later, namely:

1. How is the comparison of labor law in Indonesia and the United States related to the economic exploitation of child labor in the entertainment industry?
2. How is the comparison of formulations related to the economic exploitation of child labor in the entertainment industry between Indonesian and United States labor law?

METHOD

The type of research used in this research is *legal research*, the definition is to find the truth of coherence, namely whether the rules of law are in accordance with legal norms and whether the norms in the form of orders or prohibitions are in accordance with legal principles, and whether a person's actions are in accordance with legal norms or legal principles (Mahmud Marzuki 2021). This research will focus on the study of comparative law and comparative formulations related to the economic exploitation of child labor in the entertainment industry between Indonesia and the United States. This research uses the **statutory approach** method (Mahmud Marzuki, 2021). Namely Law Number 23 of 2002 concerning Child Protection, Law Number 13 of 2003 concerning Manpower, California Family Code Divisions 11. Minors, California Labor Code Division 2. Employment Regulation and Supervision. In addition, researchers also use a **comparative approach**, namely by comparing the laws of a country with the laws of other countries (Mahmud Marzuki, 2021). Researchers compare labor law related to economic exploitation between Indonesia and the United States.

The legal materials used in this research are primary legal materials, secondary legal materials and non-legal materials. Primary legal materials used include:

1. Law No. 20 of 1999 on the Ratification of ILO Convention No. 138 Concerning Minimum Age For Admission To Employment.
2. Law No. 39 of 1999 on Human Rights
3. Law No. 23 of 2002 on Child Protection
4. Law No. 13 of 2003 on Manpower
5. California Family Code
6. California Labor Code
7. California Education Code

Secondary legal materials used in this research are books, scientific journals, theses, internet news and other sources related to the issue of economic exploitation of child labor in the entertainment industry. Non-legal materials used in this research are internet searches, namely official websites and dictionaries.

The technique of collecting legal materials in this research is done by searching for legal materials that are relevant to the issues to be discussed. Researchers use a comparative approach, researchers collect statutory provisions or decisions of other

countries (Mahmud Marzuki 2021) . The collection of primary and secondary legal materials was carried out by researchers through literature studies through libraries and through official websites on the internet.

The technique of analyzing legal materials in this study is carried out by providing prescriptions about what is essential to legal research because that is what legal research is for. The nature of the analysis of this research is prescriptive which provides an argument from the research results (Mahmud Marzuki 2021) . After legal materials are collected through literature studies, researchers will understand and analyze the legal issues being studied, namely related to the economic exploitation of child labor in the entertainment industry. After analysis, the researcher will form a legal argument as an answer to the legal issue under study.

RESULTS AND DISCUSSION

A. Comparison of Labor Law related to economic exploitation of child labor in Indonesia and the State of California, United States of America

Child labor has existed in various countries around the world for decades, especially in developing countries such as Indonesia. However, until now child labor is one of the global issues that cannot be resolved and is scheduled to be tackled as a whole. This commitment is expressed in the form of a common goal with the motto "*Future without Child Labor*" which is a global effort to end child labor (Minister of Manpower of the Republic of Indonesia 2022) . The high demand for child labor is due to the low wages given to child laborers. When compared to adult workers they are more obedient and easy to discipline (Riwanto et al. 2022) .

In 2010 the ILO published a global report on child labor where it was explained that, worldwide as many as 60% of child laborers work in the agricultural sector which includes agriculture, livestock, forestry, and fisheries. Of these, only 1/5 of child laborers earn wages. The majority of child laborers working in family settings do not earn wages, with that about 70 million (out of 129 million) child laborers are in hazardous work (Minister of Manpower of the Republic of Indonesia 2022) .

Member countries of the International Labor Organization or often called the ILO attended the Global Conference on Child Labor with the theme "Towards a World Without Child Labor" held in May 2016, in Deen Hag, the Netherlands. During the conference, there was an agreement on a Global Roadmap that aims to achieve the elimination of the Worst Forms of Child Labor (hereinafter referred to as PBPTA) by 2016. The conference also produced documents that discuss strategies and actions that must be carried out to encourage the progress of the PBPTA program (Mardiyanti and Handayani 2020) .

The Global Conference on Child Labor with the theme "Towards a World Without Child Labor" produced several policies that must be carried out by the government, including:

- a. Work to implement the ILO Declaration on fundamental principles and rights at work (1998);

- b. Adopt and implement legislation to eliminate child labor and its worst forms at the national level;
- c. Develop and implement cross-sectoral national actions to eliminate the worst forms of child labor as a priority;
- d. Periodically review and update the national list of prohibited hazardous work for children in consultation with social partners;
- e. Ensure access to justice for children and their families, including by ensuring child-friendly justice systems and processes; etc (Hague Child Labor Global Conference 2016) .

The Government of Indonesia is committed to tackling child labor, particularly the worst forms of child labor. This commitment is written in the ratification of ILO Convention No. 138 concerning the Minimum Age Limit for Children Allowed to Work through Law No. 20 of 1999 and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor through Law No. 1 of 2000 (Minister of Manpower of the Republic of Indonesia, 2022). The ratifications that have been carried out by the Government of Indonesia still cannot eliminate the actions of employers who arbitrarily ignore the rights of child laborers. Child laborers as a vulnerable group have special rights due to their limitations, so child laborers need legal protection of their rights.

Legal protection related to economic exploitation of children in performing work is regulated in Article 64 of Law Number 39 of 1999 concerning Human Rights (hereinafter referred to as the Human Rights Law) which states that:

"every child has the right to obtain protection from economic exploitation activities and any work that endangers him/her, so that it can interfere with his/her education, physical health, morals, social life, and spiritual mentality".

Regulations related to economic exploitation are also listed in Article 13 paragraph (1) of the Child Protection Law which reads:

"every child while in the care of parents, guardians, or other parties is entitled to protection from discrimination; exploitation, both economic and sexual; neglect; cruelty, violence, and abuse; injustice; and other mistreatment".

The provisions in the regulation indicate that child laborers both working in the formal and informal sectors are entitled to protection from economic exploitation by parents, guardians and or other parties caring for the child. Child laborers in the entertainment industry tend to experience economic exploitation more often, because most people assume that the child is doing their job to develop their talents and interests. Children under 18 years old who work as child artists are considered legally incompetent, so their responsibility is still with their parents or guardians. Therefore, the employment relationship between the child and the employer will be related through a work agreement made by the employer and the child, represented by the parents/guardians of the child artist.

It was found that some parents misused the wages of their children's work for their own pleasure, one of which is a real example is the father of misca fortuna who uses the money from his child's hard work for gambling. Until now, Indonesia still does not have specific regulations governing the legal protection of child labor in the entertainment industry. Regulations related to child labor

regulated in the Labor Law and Child Protection Law cover all types of child labor from the formal and informal sectors.

At the turn of the 20th century, an estimated 400,000 children were employed in New York City, the increase in child labor coincided with nationwide urbanization, resulting in many children working in industrial cities (Moskowitz 2012). Congress began to legislate to protect child laborers in such conditions, the *Fair Labor Standards Act of 1938* (FLSA) was the first time Congress generally prohibited child labor (Colihan 2015). The FLSA is a law that contains federal regulations regarding wages and hours of work. At the time, most of society no longer considered child labor a viable member of the workforce, and the federal government had enacted laws to monitor and supervise the work that minors could do.

There are loopholes in federal laws and regulations relating to the employment of minors. The FLSA is still insufficient to protect all working children as it only covers a specific group of working children, especially prohibiting the employment of minors in "child labor". *Title 29 U.S. Code Sec 213(c)(3)* states that:

"The provisions of section 212 of this title relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions".

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The reason Congress did not include child actors in the law was because they considered acting not to be an oppressive occupation but an opportunity for children to develop their talents. Since children working in the entertainment industry are exempted from the FLSA, regulation of the entertainment industry is left to individual states. This leads to significant differences in the legal protection of child performers depending on where they are located. Children working in the entertainment industry face several challenges, whether from parents, guardians or employers, which should be addressed by uniform laws.

Of the 50 states, 36 have *child entertainment* regulations and most of them enforce *work permits* for children working in the entertainment industry. States such as Alaska, Florida, New York, Georgia, Hawaii, California are some of the states that have laws regarding child labor in the entertainment industry and require every child working in the entertainment industry to have a *work permit*. There are also states that only have laws regarding child labor in the entertainment industry but do not require them to have a work permit, such as Alabama, Colorado, Connecticut, Indiana, and twenty other states.

There are currently seventeen states that do not have specific regulations regarding child labor in the entertainment industry. With that, child performers in the United States receive unequal and some inadequate protection, all depending on where they work. With no federal protection, and no guaranteed state protection, minors who want to work in the entertainment industry only have their parents to protect them. But parents are not always reliable protectors

of their children, and some parents get so carried away with money and fame that they neglect to put their children's best interests first (Krieg 2004) .

California is the most famous state in the United States for producing entertainment, and has Hollywood, which is known as the center of the entertainment industry that produces many famous movies and actors. As such, California law has a significant impact on child actors working in the entertainment industry. In the state of California, laws protecting child actors can be found in the *California Family Code* and *the California Labor Code*. The background to the formation of these laws stems from the case experienced by Jackie Coogan. *The Coogan Law*, which came into effect in 1939, allows the court to establish a trust fund into which a child actor's earnings will be deposited until he or she turns eighteen.

Found in Sections 6750 to 6753 of the *California Family Code*, this law seeks to ensure that the income generated by child actors is given to themselves, rather than to their parents or guardians. The enactment of this law will help child performers working in the California entertainment industry who do not yet have authority over their finances not be exploited by their parents, guardians or other adults as experienced by Jackie Coogan and other child performers (Mcgrath 2023) .

The Coogan Law makes the earnings of a minor worker the separate property of the child, sets the amount set aside at 15% of gross earnings, the *work permit of a minor working* in the California entertainment industry is void after ten days unless a *Coogan Trust Document* is attached attesting to the creation of the document, and requires employers to make timely deposits of earnings.

The Coogan Law was amended twice since its enactment in 1999 and 2003. The 2003 *Coogan Law* was an attempt to remedy the loopholes and harmful provisions in the 1999 *Coogan Law* (Shor 2009) . The law contains further instructions to parents or guardians of child performers on how and when to set up a *Coogan Account* for their child.

B. How does the formulation of economic exploitation of child labor in entertainment compare between Indonesian and US labor law?

In Indonesia, there is no law regulating the age categorization and number of working hours of child laborers in the entertainment industry or any other industry. The rules regarding working hours for child laborers under the age of eighteen are generalized at 3 hours per day. Unlike California, which has a legal rule regarding the limitation of working hours according to the age category of child workers in the entertainment industry. Until now in Indonesia there is still no special regulation regarding the wages of child workers, the rules regarding wages are still one with adult workers. Indonesia has no regulations that guarantee and protect child workers, especially in the entertainment industry, in enjoying the money they earn from their hard work. In general, the wages earned by child artists are managed directly by their parents or guardians, without clear accountability.

Law Number 13 of 2003 concerning Manpower only mentions wages paid based on applicable provisions which can lead to multiple interpretations

whether the applicable provisions are related to the amount of the MSE or the provisions that apply in the company (Hardono 2019). The weak regulation related to the wages of child laborers makes it very likely that they will be subject to economic exploitation by adults, consciously or unconsciously. Therefore, there is a need for regulations related to wages that protect child labor, especially children working in the entertainment industry. Several cases of economic exploitation have occurred with Indonesian child artists, one of which is Misca fortuna.

Child laborers are considered immature, so they have no power and effort to fight for the rights they do not get. The role of the government is very important in realizing the implementation of the provision and acceptance of the rights of child workers through Ministerial Decrees and laws and regulations. One of the rights that must be received by child workers is wages, the definition of wages based on Article 1 Point 30 of the Manpower Law is the right of workers received in the form of money as compensation from the employer which is determined and paid in accordance with the contents of the work agreement, agreements that have been made by the parties or laws and regulations, including benefits for workers and their families for work that has been done.

The purpose of this minimum wage regulation is for employers to provide a wage amount in accordance with the provisions in the legislation and to minimize the exploitation of workers, both adult and child workers. However, in reality, child workers often experience economic exploitation by their employers and parents.

Therefore, it is necessary to amend the child protection law and the labor law to contain rules related to wage guarantees for child workers, so that they can avoid economic exploitation by parents, guardians, and employers. Changes to legislation can be made in two ways, namely: First, inserting or adding material to the legislation. Second, deleting or replacing some of the material in the laws and regulations.

There are still many things about child labor that have not been included in the law labor law, including: protection of wage guarantees for child workers, working hours that are in accordance with the age category of child workers, and policies regarding child work permits issued by the employment office and direct supervision by the employment office so that child workers avoid social, economic and sexual exploitation. Without laws protecting child performers, parents or guardians are the ones trusted to make decisions regarding the income of child workers and without laws protecting child performers, children working as actors, athletes, models, or other types of jobs will not get anything for their hard work and dedication.

Regulating child labor in the US entertainment industry on the federal side, politicians have previously proposed that children in the entertainment industry be protected under federal child labor laws. In 2015 and 2017, a bill was introduced to the *House of Representatives* aimed at protecting child performers.

Both bills were similar, amending the FLSA to include language on child performers (Mcgrath 2023) . However, the bills were ultimately not passed, so until now there are no federal rules governing child labor in the entertainment industry, all of which are left to the individual states.

The discussion of the bill in the United States and Indonesia is different. Members of the *House of Representatives* or *Senate* circulate the bill or ask other members through *Dear Colleague Letters* to sign the bill to show their solid support (Ramadhan and Purnama 2017) . The bill will then be referred by the Leader of the *House of Representatives* or the leader of the *Senate* on the advice of nonpartisan lawmakers, to the committee that has jurisdiction over the bill. The discussion of draft laws in the United States through *Senate* and *House of Representatives* have the same procedure.

After the draft is referred by the Chairman for the first discussion into the commission, the next discussion after being approved in the commission meeting is a plenary meeting of members. The next procedure is a joint discussion conducted by the *House* and *Senate* called the *Joint Committee* or *Joint Conference* where there are representatives from the *House* and *Senate* to conduct this discussion.

After this discussion, it will be returned to the *Floor* of the chamber that submitted the bill to be discussed again in the *Floor* meeting. The discussion is carried out to re-discuss the provisions agreed upon in the Plenary Session whether they have been changed in the *joint committee* or not in accordance with what was agreed upon in the previous discussion.

Regarding the ratification for the implementation of constitutional amendments in the United States must be supported by three-quarters of members of Congress and must receive approval from the states. This is regulated in Article V of the United States Constitution, Amendments to the United States Constitution can be proposed in two ways:

1. By two-thirds of all members, (not just the number of members currently present), of each House of Congress must approve the amendment.
2. Congress may call a special convention to consider an amendment if the legislatures of two-thirds of the states request an amendment. The proposal must be approved by three quarters of all states in the United States. If ratification is achieved, the amendment can become part of the constitution (Azizah 2022) .

Legislative power in the United States is fully vested in *Congress* which consists of the *Senate* and *the House of Representatives* without interference from the President. *The House of Representatives* does not have the authority to enact, they can only draft bills and then submit them to the *Senate* (Nurlita Purnama, Aditya Ardiansyah, and Izdiyar Chairunnisa 2022).

CONCLUSION

From the results of the research and discussion that the author has described above, the author can draw conclusions based on the formulation of the problems that have been discussed as follows:

1. Indonesian labor law regulations related to the economic exploitation of child labor are still vague because there is no explanation of the concrete limits of economic exploitation of child labor and until now there has been no specific regulation protecting child labor in the entertainment industry. Labor law regulations in the United States related to the protection of child labor in the entertainment industry are left to each state, one of the states that has regulations related to child artists is California, there are no federal regulations governing child labor in the entertainment industry.
2. Comparison of formulations related to the economic exploitation of child labor in the entertainment world between labor law in Indonesia and the state of California, United States lies in its legal protection where in Indonesia there are still no legal rules that protect child labor in the entertainment industry, working hours that are no longer relevant to new types of work, and there is no guarantee of wages for child laborers. Whereas in California, the legal protection of child laborers working in the entertainment industry is written in the *Coogan Law* contained in Articles 6750 to 6753 of *the California Family Code* which contains rules related to working hours according to general categories, the obligation to have a *Coogan Account* and *work permit* and other rules that protect child laborers in the California entertainment industry.

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The Government of Indonesia is expected to immediately update the labor law related to child labor. These changes must contain several things, including: the obligation to make a work permit which is carried out officially through the employment office, make more detailed rules regarding the limitation of working hours according to the age category of child workers as in California, and make changes to child protection laws and labor laws to contain rules related to wage guarantees for child workers, so that they avoid economic exploitation by parents, guardians and employers.

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- Law Number 23 of 2002 on Child Protection (State Gazette of the Republic of Indonesia of 2002 Number 109, Supplement to State Gazette of the Republic of Indonesia Number 4235)

Law Number 13 of 2003 Concerning Manpower (State Gazette of the Republic of Indonesia Year 2003 Number 39, Supplement to State Gazette of the Republic of Indonesia Number 4279)

California Family Code Amended by Stats. 2019, Ch. 115, Sec. 74. (AB 1817) Effective January 1, 2020.

California Labor Code Amended by Stats. 2017, Ch. (AB 1516) Effective January 1, 2018.

California Education Code Added by Stats. 2018, Ch. 420, Sec. 1. (SB 1428) Effective January 1, 2019.