

FIRST REGULAR SESSION

SENATE BILL NO. 222

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 7, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0938S.03I

AN ACT

To repeal sections 294.021, 294.022, 294.024, 294.027, 294.030, 294.040, 294.045, 294.051, 294.054, 294.060, 294.070, 294.080, 294.090, and 294.100, RSMo, and to enact in lieu thereof two new sections relating to child labor.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 294.021, 294.022, 294.024, 294.027, 294.030, 294.040, 294.045, 294.051, 294.054, 294.060, 294.070, 294.080, 294.090, and 294.100, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 294.022 and 294.040, to read as follows:

294.022. 1. For the purposes of this section, the following terms mean:

(1) "Employer", any person, firm or corporation employing or seeking to employ a child in the entertainment industry;

(2) "Entertainment industry", any person, employer, firm or corporation using the services of a child as a performer, extra or in any other performing capacity in motion picture productions, television or radio productions, theatrical productions, modeling productions, horse shows, rodeos and musical performances[;

(3) "Work permit", a written certification issued by the director which specifies the terms and duration of the work permit for a child under sixteen years of age, for the purposes of employment as a performer, extra or in any other performing capacity in the entertainment industry. A work permit may be issued for a period of twelve months or more and shall be eligible for renewal at the child's next birthday. A work permit shall generally be issued for a twelve-month period of time.

2. No child may be employed in the entertainment industry without an

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 entertainment work permit issued by the director. No permit shall be issued
18 without the following:

- 19 (1) Proof of age by birth certificate or other documentary evidence;
- 20 (2) Written consent of the child's parent, legal custodian or guardian;
- 21 (3) Upon entering into a contractual employment agreement, a written
22 statement from the prospective employer shall be kept on file by the prospective
23 employer. The written statement shall set forth the nature of employment and
24 the projected duration of the employment or project].

25 [3.] 2. No child shall be permitted at the place of employment, unless the
26 parent, legal custodian, guardian or designated guardian of a child is present at
27 all times that the child is at the place of employment, and such person may
28 accompany the child to wardrobe, makeup, hairdressing and dressing room
29 facilities. The parent, legal custodian, guardian or designated guardian may
30 designate an individual to accompany the child during times the child is at the
31 place of employment, provided the designation is made in writing, signed by the
32 parent or guardian and presented to the employer prior to the child's scheduled
33 work. A copy of the written designation shall be kept on file by the employer at
34 the site of the employment or project.

35 [4.] 3. The employer shall designate one individual on each set, stage or
36 other place of employment to coordinate all matters relating to the welfare of
37 children and shall notify the parent, legal custodian or guardian of each child of
38 the name of such individual.

39 [5.] 4. All of the hours in which a child may be at the place of
40 employment are exclusive of meal periods. Meal periods shall be at least one-half
41 hour, but not more than one hour in duration. In no event may a child be at the
42 place of employment for a period longer than five and one-half hours without a
43 meal break.

44 [6.] 5. A child shall receive a twelve-hour rest break at the end of the
45 child's work day and prior to the commencement of the child's next day of work
46 for the same employment. A child shall also receive a fifteen minute rest period
47 after each two hours of continuous work.

48 [7.] 6. The employer shall provide a suitable place to rest or play for the
49 children at the site of employment.

50 [8.] 7. The time spent by children in rehearsals and in learning or
51 practicing any of the arts, such as singing or dancing, for, or under the direction
52 of, a motion picture studio, theater or television studio shall be counted as work

53 time under this section of law. Periods for meal breaks shall not be included in
54 the overall work time; however, rest breaks shall be included in the overall work
55 time.

56 [9.] 8. No child shall be required to work in a situation which places the
57 child in a clear and present danger to life or limb. If a child believes he or she
58 is in such a dangerous situation, after discussing the matter with his or her
59 parent, legal custodian, guardian or designated person and the employer, the
60 child shall not be required to perform in such situation, regardless of the validity
61 or reasonableness of the child's belief.

62 [10.] 9. No child shall be required to work with an animal which a
63 reasonable person would regard as dangerous in the same circumstances, unless
64 an animal trainer or handler qualified by training and experience is present.

65 [11.] 10. No child shall be required to perform a stunt without prior
66 consultation with the child, the child's parent, legal custodian or guardian and
67 the employer. The prior written consent of the child's parent, legal custodian or
68 guardian shall be obtained for the performance of any unusual physical, athletic
69 or acrobatic activity, stunts, work involving special effects or other potentially
70 hazardous activity. When any unusual physical, athletic or acrobatic activity,
71 stunts, special effects or other potentially hazardous activity involving a child is
72 to be done, the employer shall have available a person qualified to administer
73 medical assistance on an emergency basis and transportation to the nearest
74 medical facility providing emergency services. First-aid kits shall always be
75 available at a child's place of employment.

76 [12.] 11. No child shall work in close proximity to explosives or the
77 functioning parts of unguarded and dangerous moving equipment, aircraft or
78 vessels, or of functioning blades or propellers.

79 [13. An entertainment work permit does not]

80 **12. Nothing in this section shall be construed to** authorize a child
81 to be absent from school in violation of the requirements of state law or
82 regulations or policies of the state board of education, the Missouri department
83 of elementary and secondary education or the local school board.

294.040. A child under sixteen shall not be employed or permitted to work
2 by any person, firm, or corporation in connection with:

3 (1) Any power driven machinery, except lawn and garden machinery used
4 in domestic service at or around a private residence, provided that, there shall be
5 an agreement between an occupant of the private residence and the child, and by

- 6 no other person, firm or corporation, other than a parent, legal custodian or
7 guardian of the child, for the performance of such work;
- 8 (2) The oiling, cleaning, maintenance, or washing of machinery;
- 9 (3) Any ladders, scaffolding, or their substitute;
- 10 (4) Any mine or quarry except in offices or at other nonhazardous
11 employment;
- 12 (5) Stone cutting or polishing except those found in jewelry type business;
- 13 (6) Any plant manufacturing, processing, storing, or transporting Type A
14 and B explosives, ammunition, or like materials, or in an establishment in which
15 sales of Type A and B explosive materials make up fifty percent or more of gross
16 sales;
- 17 (7) The operation of any motor vehicle;
- 18 (8) Any blast furnace, rolling mill, foundry, forging shop, or in any
19 establishment where heating of metals is carried on or where cold rolling,
20 stamping, shearing, punching, of metal stock is carried on;
- 21 (9) Saw mills, cooperage stock mills, or where woodworking machinery is
22 used;
- 23 (10) The operation of freight elevators, hoisting machines or cranes, or on
24 or about any manlifts;
- 25 (11) Occupations involving exposure to ionizing or nonionizing radiation
26 or any radioactive substance;
- 27 (12) Any occupation involving exposure to any toxic or hazardous
28 chemicals;
- 29 (13) [Any capacity in or about a motel, resort, hotel, where sleeping
30 accommodations are furnished except in offices or locations physically separated
31 from the sleeping accommodations;
- 32 (14)] Any place or establishment in which intoxicating alcoholic liquors
33 or beverages are manufactured, bottled, stored, or sold for consumption on or off
34 the premises, except in establishments where at least fifty percent of the gross
35 sales consist of goods, merchandise, or commodities other than alcoholic
36 beverages;
- 37 [(15)] (14) Any other occupation or place of employment dangerous to the
38 life, limb, health, or morals of children under the age of sixteen.

[294.021. No child under fourteen years of age shall be
2 employed or permitted to work at any occupation at any time;
3 except as provided in this chapter.]

1 [294.024. A child may not be employed during the regular
2 school term unless the child has been issued a work certificate or
3 a work permit pursuant to the provisions of this chapter.]

[294.027. Work certificates shall permit

2 (1) The employment of children between fourteen and
3 sixteen years of age during nonschool hours during the school term;
4 or

5 (2) The employment of children between fourteen and
6 sixteen years of age who are excused from attendance at school by
7 the provisions of chapter 167.].

[294.030. 1. A child shall not be employed, permitted or
2 suffered to work at any gainful employment for more than three
3 hours per day in any school day, more than eight hours in any
4 nonschool day, more than six days or forty hours in any
5 week. Normal work hours shall not begin before seven o'clock in
6 the morning nor extend to after 9:00 p.m., except as provided in
7 subsection 2 of this section. The provisions of this subsection may
8 be waived by the director, in full or in part, depending upon the
9 nature of the employment. Such waiver shall be provided in
10 writing to the employer by the director. The waiver shall only
11 exempt employment described in section 294.022.

12 2. On all evenings from Labor Day to June first, a child
13 shall not be employed, permitted or suffered to work at any gainful
14 employment after 7:00 p.m. nor after 9:00 p.m. from June first to
15 Labor Day; except that a child who has passed his or her
16 fourteenth birthday but is under sixteen years of age may be
17 employed at a regional fair from June first to Labor Day, if such
18 child does not work after 10:30 p.m., is supervised by an adult,
19 parental consent is given and the provisions of this subsection are
20 complied with. The regional fair exception shall not apply to those
21 entities covered by the Fair Labor Standards Act. The provisions
22 of this subsection do not apply to children who have been
23 permanently excused from school pursuant to the provisions of
24 chapter 167. The provisions of this subsection may be waived by
25 the director, in full or in part, depending upon the nature of the
26 employment. Such waiver shall be provided in writing to the

27 employer by the director. The waiver shall only exempt
28 employment described in section 294.022.]

[294.045. 1. Notwithstanding any other law, any of the
2 following individuals may issue a work certificate to a child subject
3 to the requirements of this chapter:

4 (1) The superintendent of public schools of the district in
5 which the child resides;

6 (2) The chief executive officer, or the equivalent position, of
7 a charter school that the child attends;

8 (3) A person holding a student services certificate who is
9 authorized by the superintendent of the school district or chief
10 executive officer in writing;

11 (4) Subject to the requirements and conditions of
12 paragraphs (a), (b), and (c) of this subdivision inclusive, the
13 principal of a public or private school may issue, or designate
14 another administrator of the school to issue, work certificates to
15 children who attend the school. If the principal of a public or
16 private school chooses not to issue work certificates under this
17 subdivision, work certificates may be issued to children attending
18 school under subdivision (1) or (3) of this subsection.

19 (a) A principal who issues a work certificate under this
20 subdivision shall provide a self-certification that he or she
21 understands the requirements in existing law for issuing a work
22 certificate. The principal shall submit a copy of each work
23 certificate he or she issues along with a copy of the application for
24 each work certificate to the superintendent of the school district in
25 which the school is located;

26 (b) The superintendent of a school district may revoke a
27 work certificate issued by the principal of a public or private school
28 located within the district if the superintendent becomes aware of
29 any grounds upon which the child may be deemed ineligible for a
30 work certificate under existing law;

31 (c) An individual with authority to issue a work certificate
32 under this subdivision shall not issue a work certificate to his or
33 her own child; except that any student solely enrolled in a course
34 of education not otherwise prohibited under chapter 167 whose

35 parent, legal guardian, or designated private tutor is the student's
36 primary education provider and is also the primary individual
37 responsible for the student's education program and schedule shall
38 be issued a work certificate by such primary education provider.

39 2. If the certificated person designated to issue work
40 certificates by the superintendent of a school district or the chief
41 executive officer, or the equivalent position, of a charter school is
42 not available, and delay in issuing a certificate would jeopardize
43 the ability of a child to secure work, another person authorized by
44 the superintendent of the school district or the chief executive
45 officer, or the equivalent position, of a charter school may issue the
46 work certificate.

47 3. If a school district or charter school does not employ or
48 contract with a person holding a student services certificate, the
49 superintendent of the school district or the chief executive officer,
50 or the equivalent position, of a charter school may authorize, in
51 writing, a person who does not hold that credential to issue work
52 certificates during periods of time in which the superintendent is
53 absent from the district or the chief executive officer is absent from
54 the charter school.

55 4. Notwithstanding the hour limitations imposed by this
56 chapter or any other provision of law, the hour limitations that
57 apply to a work certificate issued by any of the individuals
58 described in subsection 1 of this section shall be based on the
59 school calendar of the school the child attends.]

2 [294.051. A work certificate may be issued after the issuing
3 officer is satisfied that the employment will serve the best interest
4 of the child and, in the first instance, only upon application in
5 person of the child with the written consent of his parent, legal
6 custodian or guardian or, if deemed necessary by the issuing
7 officer, the child shall be accompanied by his parent, guardian or
8 custodian. The certificate may be renewed or another certificate
9 issued on application of the child with the written parental consent
10 but in no case shall a certificate be issued until the issuing officer
11 has received and approved the following papers:

(1) A statement of intention to employ signed by the

12 prospective employer setting forth the specific nature of the
13 occupation in which he intends to employ the child and the exact
14 hours of the day, the number of hours per day and the days per
15 week during which the child is to be employed;

16 (2) Proof of the age of the child by a birth certificate or
17 other documentary evidence of such character in such form as is
18 prescribed by the issuing officer;

19 (3) A certificate of the physician of the public schools of the
20 district in which the child resides or other licensed physician, if
21 required by the issuing officer, showing that he has personally
22 examined the child and has found the child in good mental and
23 physical health and is capable of performing labor without injury
24 to his health and mental development;

25 (4) A certificate of the principal of the school which the
26 child attends or has attended giving the grades of school work
27 completed by the child, except that for children permanently
28 excused from attendance at school under the provisions of chapter
29 167, this requirement may be waived.]

[294.054. 1. The work certificate shall show

2 (1) The age, sex, place and date of birth and place of
3 residence of the child;

4 (2) The name and place of residence of the child's parent,
5 guardian or custodian;

6 (3) The name and address of the employer; and

7 (4) The nature of the employment for which the work
8 certificate is issued.

9 2. Work certificates authorizing the employment of a child
10 during nonschool hours shall be of a form and color distinct from
11 those authorizing full time employment.]

[294.060. 1. Whenever a child is granted a work certificate
2 or work permit, the certificate or work permit shall be transmitted
3 by the issuing officer to the employer of the child and a copy shall
4 be transmitted to the division. The employer shall keep the work
5 certificate or work permit on file and shall post in a conspicuous
6 place in the employer's place of business a list of all children who
7 are employed and under the age of sixteen.

8 2. On termination of the employment of the child, the
9 child's work certificate or work permit shall be sent immediately by
10 the employer to the officer who issued it.

11 3. A new certificate or work permit may be issued for a
12 child whose certificate or work permit has been returned by the
13 employer to the issuing officer.

14 4. A copy of each work certificate or work permit issued and
15 notice of its cancellation shall be retained by the issuing officer and
16 a copy shall be transmitted by the issuing officer to the division.]

 [294.070. No fee shall be charged for a work certificate or
2 work permit issued under the provisions of this chapter. The form
3 of the work certificate shall be prepared by the state commissioner
4 of education. Blank work certificates shall be furnished to the
5 superintendent of each school district by the state commissioner of
6 education.]

 [294.080. Upon the request of a child or of an employer who
2 wishes to employ a child who represents his or her age to be
3 sixteen years or more, the issuing officer upon the presentation of
4 evidence of age, as provided in section 294.051 for children under
5 sixteen years of age, shall issue a certificate showing the age of the
6 child and this certificate shall be accepted as conclusive evidence
7 of the age of the child.]

 [294.090. 1. The director is charged with the enforcement
2 of the provisions of this chapter and all other laws regulating the
3 employment of children. The director is vested with the power and
4 jurisdiction to exercise such supervision over every employment as
5 may be necessary to adequately enforce and administer the
6 provisions of this chapter, including the right to enter any place
7 where children are employed and to inspect the premises and to
8 require the production of work certificates or work permits and any
9 other necessary documents specifically requested that involve the
10 employment of children.

11 2. Every employer subject to any provision of sections
12 294.005 to 294.150 or any regulation issued pursuant to sections
13 294.005 to 294.150 shall make and keep for a period of not less
14 than two years, on the premises where any child is employed, the

15 work certificate, a record of the name, address, and age of the
16 child, and times and hours worked by the child each day.

17 3. All records and information obtained by the division
18 pertaining to minors are confidential and personal identifying
19 information shall be disclosed only by order of a court of competent
20 jurisdiction.

21 4. If it appears that a work certificate or work permit has
22 been improperly granted or illegally used, or the child is being
23 injured, or is likely to be injured by the employment, this fact shall
24 be reported to the issuing officer who shall cancel the work
25 certificate or work permit. Notice in writing of the cancellation,
26 with reasons therefor, shall be transmitted immediately to the
27 child and to the person employing the child, and thereafter it shall
28 be unlawful for any such person to continue to employ the child.]

2 [294.100. The presence of any child under sixteen years of
3 age in any place where labor is employed shall be presumptive
evidence that said child is employed therein.]

Bill ✓

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