

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 809

AN ACT

To repeal sections 294.022, 294.024, 294.027, 294.045, 294.051, 294.054, 294.060, 294.070, 294.080, and 294.090, RSMo, and to enact in lieu thereof eight new sections relating to the regulation of employment.

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

Section A. Sections 294.022, 294.024, 294.027, 294.045, 294.051, 294.054, 294.060, 294.070, 294.080, and 294.090, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 64.008, 65.710, 89.500, 294.022, 294.023, 294.070, 294.080, and 294.090, to read as follows:

64.008. 1. As used in this section, the term "home-based work" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

(1) Prohibit mail order or telephone sales for home-based work;

(2) Prohibit service by appointment within the home or accessory structure;

(3) Prohibit or require structural modifications to the home or accessory structure;

(4) Restrict the hours of operation for home-based work; or

(5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure.

3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not contain provisions that explicitly restrict or prohibit a particular occupation.

4. The application of this section does not supersede any deed restriction, covenant or agreement restricting the use of land nor any master deed, by law or other document applicable to a common interest ownership community.

65.710. 1. As used in this section, the term "home-based work" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

(1) Prohibit mail order or telephone sales for home-based work;

(2) Prohibit service by appointment within the home or accessory structure;

(3) Prohibit or require structural modifications to the home or accessory structure;

(4) Restrict the hours of operation for home-based work; or

(5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure.

3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not

contain provisions that explicitly restrict or prohibit a particular occupation.

4. The application of this section does not supersede any deed restriction, covenant or agreement restricting the use of land nor any master deed, by law or other document applicable to a common interest ownership community.

89.500. 1. As used in this section, the term "home-based work" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

(1) Prohibit mail order or telephone sales for home-based work;

(2) Prohibit service by appointment within the home or accessory structure;

(3) Prohibit or require structural modifications to the home or accessory structure;

(4) Restrict the hours of operation for home-based work; or

(5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure.

3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not contain provisions that explicitly restrict or prohibit a particular occupation.

4. The application of this section does not supersede any deed restriction, covenant or agreement restricting the

use of land nor any master deed, by law or other document applicable to a common interest ownership community.

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

(1) Proof of age by birth certificate or other documentary evidence;

(2) Written consent of the child's parent, legal custodian or guardian;

(3) Upon entering into a contractual employment agreement, a written statement from the prospective employer shall be kept on file by the prospective employer. The

written statement shall set forth the nature of employment and the projected duration of the employment or project].

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

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

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

[6.] 5. A child working in the entertainment industry shall receive a twelve-hour rest break at the end of the child's work day and prior to the commencement of the child's next day of work for the same employment. A child

shall also receive a fifteen minute rest period after each two hours of continuous work.

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

[8.] 7. The time spent by children in rehearsals and in learning or practicing any of the arts, such as singing or dancing, for, or under the direction of, a motion picture studio, theater or television studio shall be counted as work time under this section of law. Periods for meal breaks shall not be included in the overall work time; however, rest breaks shall be included in the overall work time.

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

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

[11.] 10. No child shall be required to perform a stunt without prior consultation with the child, the child's parent, legal custodian or guardian and the employer. The prior written consent of the child's parent, legal custodian or guardian shall be obtained for the performance of any unusual physical, athletic or acrobatic activity, stunts, work involving special effects or other potentially hazardous activity. When any unusual physical, athletic or

acrobatic activity, stunts, special effects or other potentially hazardous activity involving a child is to be done, the employer shall have available a person qualified to administer medical assistance on an emergency basis and transportation to the nearest medical facility providing emergency services. First-aid kits shall always be available at a child's place of employment.

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

[13.] 12. [An entertainment work permit does not] This section shall not be construed to authorize a child to be absent from school in violation of the requirements of state law or regulations or policies of the state board of education, the Missouri department of elementary and secondary education or the local school board.

294.023. 1. The division, commission, department, or any other government entity in this state shall not, by rule or practice, require that a child under eighteen years of age be issued a work certificate of employment or entertainment work permit as a condition of employment.

2. The division, commission, department, or any other government entity shall not, by rule or practice, require that an employer obtain a work certificate of employment or entertainment work permit from a child under eighteen years of age as a condition of the child's employment.

294.070. No fee shall be charged for a work certificate [or work permit] as evidence of age issued under the provisions of this chapter. [The form of the work certificate shall be prepared by the state commissioner of education. Blank work certificates shall be furnished to

the superintendent of each school district by the state commissioner of education.]

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

2. For purposes of this section, proof of age of a child includes birth certificate, driver's license or other identification card issued by the division of motor vehicle and drivers licensing, school records, insurance records, or other documentary evidence prescribed by the division.

3. This section shall not be construed to mandate an employer or child obtain a work certificate as evidence of age.

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

2. Every employer subject to any provision of sections 294.005 to 294.150 or any regulation issued pursuant to sections 294.005 to 294.150 shall make and keep for a period

of not less than two years, on the premises where any child is employed, [the work certificate,] a record of the name, address, and age of the child, and times and hours worked by the child each day.

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

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

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

[294.027. Work certificates shall permit
(1) The employment of children between fourteen and sixteen years of age during nonschool hours during the school term; or
(2) The employment of children between fourteen and sixteen years of age who are excused from attendance at school by the provisions of chapter 167.]

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

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

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

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

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

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

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

(c) An individual with authority to issue a work certificate under this subdivision shall not issue a work certificate to his or her own child; except that any student solely enrolled in a course of education not otherwise prohibited under chapter 167 whose parent, legal guardian, or designated private tutor is the student's primary education provider and is also the primary individual responsible for the student's education program and schedule shall be issued a work certificate by such primary education provider.

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

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

absent from the district or the chief executive officer is absent from the charter school.

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

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

(1) A statement of intention to employ signed by the prospective employer setting forth the specific nature of the occupation in which he intends to employ the child and the exact hours of the day, the number of hours per day and the days per week during which the child is to be employed;

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

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

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

[294.054. 1. The work certificate shall show

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

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

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

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

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

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

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

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

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