

No. 1988-192

AN ACT

HB 2502

Amending the act of May 13, 1915 (P.L.286, No.177), entitled, as amended, "An act to provide for the health, safety, and welfare of minors: By forbidding their employment or work in certain establishments and occupations, and under certain specified ages; by restricting their hours of labor, and regulating certain conditions of their employment; by requiring employment certificates or transferable work permits for certain minors, and prescribing the kinds thereof, and the rules for the issuance, reissuance, filing, return, and recording of the same; by providing that the Industrial Board shall, under certain conditions, determine and declare whether certain occupations are within the prohibitions of this act; requiring certain abstracts and notices to be posted; providing for the enforcement of this act by the Secretary of Labor and Industry, the representative of school districts, and police officers; and defining the procedure in prosecutions thereunder, and establishing certain presumptions in relation thereto; providing for the issuance of special permits for minors engaging in the entertainment and related fields; providing penalties for the violation of the provisions thereof; and repealing all acts or parts of acts inconsistent therewith," further providing for the issuance of employment certificates and for special permits for temporary employment of minors; and further providing for penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1 of the act of May 13, 1915 (P.L.286, No.177), known as the Child Labor Law, amended September 27, 1984 (P.L.714, No.152), is amended to read:

Section 1. Be it enacted, &c., That wherever the term "establishment" is used in this act, it shall mean any place within this Commonwealth where work is done for compensation of any kind, to whomever payable: Provided, That this act shall not apply to children employed on the farm, or in domestic service in private homes.

The term "person," when used in this act, shall be construed to include any individual, firm, partnership, unincorporated association, corporation, or municipality.

The term "week," when used in this act, shall mean seven consecutive days which may begin on any day of a week.

The term "minor," when used in this act, shall mean any person under eighteen years of age. Wherever the singular is used in this act the plural shall be included, and wherever the masculine gender is used the feminine and neuter shall be included.

[The term "transferable work permit," when used in this act, shall mean a certificate issued to minors at least sixteen years of age permitting that minor to work during the entire period and which shall be transferable from one employer to another throughout the period for which the individual is considered a minor.]

Section 2. Section 7.1(a.1) of the act, added June 7, 1980 (P.L.211, No.62), is amended to read:

Section 7.1. * * *

(a.1) In addition to any permit authorized by subsection (a), the department shall be authorized to issue special permits for the temporary employment of minors[, **age seven and under age eighteen,**] as part of the performing cast in the production of a motion picture, if the department determines that adequate provision has been made for the educational instruction, supervision, health and welfare of the minor. Unless the department determines that more restrictive conditions are necessary, special permits authorized by this subsection shall authorize minors[, **age seven and under age eighteen,**] to work as part of the performing cast for forty-four hours in any one week and eight hours in any one day. Time spent on the set or on location while on call shall be excluded from any calculation of the maximum number of hours authorized by this subsection if the department determines that adequate provision has been made for the child's education, supervision and welfare during such intervals. The department may restrict the number of hours which may be spent on call by the minor. The department may waive, in whole or in part, restrictions contained in this act and in any other act, on the time of day or night allowed for engaging in the employment authorized by this subsection, if the department determines that such waiver is necessary to preserve the artistic integrity of the motion picture and further determines that such waiver will not impair the educational instruction, supervision, health and welfare of the minor. Special permits authorized by this subsection shall be valid for a period of time not to exceed six months. *An issued permit shall state that no minor, allowed under the permit to be temporarily employed, may be allowed on a set during, or may otherwise watch, the filming or rehearsal for filming of any sexual act. Nothing in this section shall be construed to supersede or repeal in part 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials) or 6312 (relating to sexual abuse of children).*

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Section 3. Sections 8, 9, 10, 12 and 14 of the act, amended September 27, 1984 (P.L.714, No.152), are amended to read:

Section 8. (a) Before any minor under eighteen years of age shall be employed, permitted or suffered to work in, about, or in connection with, any establishment, or in any occupation, the person employing such minor shall procure and keep on file, and accessible to any attendance officer, deputy factory inspector, or other authorized inspector or officer charged with the enforcement of this act, an employment certificate [or transferable work permit] as hereinafter provided, issued for said minor.

(b) Any minor who has reached the age of sixteen may receive a transferable work permit instead of an employment certificate from the appropriate issuing official. All transferable work permits shall be valid for the entire period the minor is eligible for work and is under the age of eighteen. *The employer shall ensure that the minors have valid transferable work permits in accordance with sections 17 and 17.1.*

Section 9. Employment certificates [or transferable work permits] shall be issued only by the following officials, for children residing within their respective public school districts: In public school districts having a district superintendent or supervising principal, by such superintendent or supervising principal; in school districts having no district superintendent or supervising principal, by the secretary of the board of school directors of that district: Provided, That any district superintendent, supervising principal, or secretary of the board of school directors, hereby authorized to issue such certificates or transferable work permits, may authorize and deputize, in writing, any other school official to act in his stead for the purpose of issuing such certificates [or transferable work permits. All employment certificates or transferable work permits shall be forwarded by mail, by the issuing officer, to the prospective employer of the minor for whom the employment certificate or transferable work permit is issued].

Section 10. Application for the employment certificate [or transferable work permit] must be made[, in person,] by the parent, guardian, or legal custodian of the minor for whom such employment certificate or transferable work permit is requested; or, if said minor have no parent, guardian, or legal custodian, then by the next friend, who must be over eighteen years of age. [A properly countersigned application shall be acceptable in lieu of personal application of parent, guardian or custodian for minors who have graduated from accredited senior high schools and show official proof of such graduation.] *In lieu of the personal appearance of the parent, guardian, legal custodian, or next friend of the minor, such person may execute a statement before a notary public or other person authorized to administer oaths attesting to the accuracy of the facts set forth in the application on a form prescribed by the Department of Education, which statement shall be attached to the application.* No employment certificate [or transferable work permit] shall be issued until the said minor has personally appeared before, and been examined by, the officer issuing the certificate [or transferable work permit], except that where the applicant is a graduate of [a high school, no personal appearance of the parent, guardian or legal custodian or next friend of the minor shall be required upon official proof of such graduation] *an accredited high school and exhibits official proof of such graduation, no personal appearance or countersigned application shall be required.*

Section 12. The official authorized to issue a general or a vacation employment certificate or transferable work permit shall not issue such certificate or transferable work permit until he has received, examined, approved, and filed the following papers, namely:—

a. [A] *For a general employment certificate or vacation employment certificate, a statement signed by the prospective employer, or by some one duly authorized on his behalf, stating that he expects to give such minor present employment, and setting forth the character of the same, and the number of hours per day and per week which said minor will be employed: Provided, That the requirements of this subsection are not applicable to transferable work permits;*

b. A certificate of physical fitness, as hereinafter provided;

c. Proof of age as hereinafter provided, except that when such proof of age is an official document or record of the Commonwealth or government of another state or governmental subdivision thereof, it need not be filed if the officer issuing the certificate or transferable work permit shall record such information as may be necessary to enable the document or record to be located at the place where it is filed. When proof of age is other than an official document or record of the Commonwealth or government of another state or governmental subdivision thereof, a photostatic copy thereof may be filed in lieu of the original: Provided, however, That such photostatic copy shall be certified to by the officer issuing the employment certificate or transferable work permit.

Section 14. The certificate of physical fitness required by this act shall state that the minor has been thoroughly examined by the said examining physician, certified nurse practitioner, or certified registered nurse practitioner at the time of the application for an employment certificate or **[transferable work permit]** *within the previous three hundred sixty-five days*, and is physically qualified for **[the]** employment **[specified in the statement of the prospective employer]** *subject only to any limitations on duties as may be specified by the examiner on the certificate.* In any case where the said physician, certified nurse practitioner, or certified registered nurse practitioner shall deem it advisable, he may issue a certificate of physical fitness for a limited time; at the expiration of which time the holder shall again appear, and submit to a new examination before being permitted to continue at work. Except as hereinafter provided, in a school district of the first, second, or third class the physical examination of a minor provided for by this act shall be made by a physician, certified nurse practitioner, or certified registered nurse practitioner employed by the board of school directors of the school district in which such minor resides, and in a district of the fourth class by a physician, certified nurse practitioner, or certified registered nurse practitioner appointed by the State Department of Health and the certificate of physical fitness provided for by this act shall be signed by said physician, certified nurse practitioner, or certified registered nurse practitioner, and no fee or other compensation for such service shall be required to be paid by such minor or by his parent or guardian: Provided, however, That any minor may, at his own expense, have the physical examination provided for by this act made and the certificate of physical fitness signed by his family physician, as defined in section 1401 of the Public School Code of 1949, and its amendments. Any physical examination required by this act to be accomplished as a condition of employment which would be equal to or more comprehensive than the standard examination given by the school physician, certified nurse practitioner, or certified registered nurse practitioner or family physician will be deemed to meet the requirements of this section, and the certificate of physical fitness may be signed by the physician designated by the prospective employer to perform such examination. For the purposes of this section, "certified nurse practitioner" shall mean a certified school nurse who is a graduate of a nurse practitioner program which has been

approved by the Department of Health School Nurse Advisory Committee, or a certified registered nurse practitioner who has been approved by the State Board of Nurse Examiners of the Department of State.

Section 4. Section 17 of the act, amended April 18, 1978 (P.L.58, No.28), is amended to read:

Section 17. (a) *All employers shall require the minor to have a valid employment certificate or transferable work permit prior to the commencement of employment. A transferable work permit shall remain in the custody of the minor.*

(b) It shall be the duty of every person who shall employ any minor **[under eighteen years of age]** *possessing a general or vacation employment certificate* to acknowledge, in writing, to the official issuing the same, the receipt of the employment certificate of said minor, within five days after the beginning of such employment. On termination of the employment of **[a]** *any such* minor **[under eighteen years of age]**, the *general employment certificate or vacation employment certificate* issued for such minor shall be returned by mail, by the employer, to the official issuing the same, immediately upon demand of the minor for whom the certificate was issued, or otherwise, within five days after termination of said employment. The official to whom said certificate is so returned shall file said certificate and preserve the same. Any minor whose employment certificate has been returned, as above provided, shall be entitled to a new employment certificate upon presentation of a statement from the prospective employer, as hereinabove provided.

Section 5. Sections 17.1 and 18 of the act, amended or added September 27, 1984 (P.L.714, No.152), are amended to read:

Section 17.1. (a) Any employer **[receiving a transferable work permit from a minor he employs,]** *employing a minor having a transferable work permit* shall, within five days of **[receipt of such permit]** *commencement of such employment*, provide the school district issuing that permit with the following information *in writing*:

(1) *The permit number.*

[(1)] (2) The name and age of the minor employe hired.

[(2)] (3) The number of hours per day and week such minor employe will be employed.

[(3)] (4) The character of the employment.

(b) *An employer employing minors having transferable work permits shall maintain a record of minors at the work site which contains, for each minor, the name of school district issuing the permit, the minor's birthdate, the date of issue of the permit, the permit number, and the occupation in which the minor is engaged. A photocopy of the transferable work permit may be used as a record for the information contained on that permit: Provided, however, That the employer record the occupation in which the minor is engaged on such photocopy.*

(c) In addition, upon termination of the employment of such minor, **[the transferable work permit shall be returned to the minor for whom it was issued and, further,]** the employer shall, within five days, notify *in writing* the issuing school district of the fact employment has been terminated.

(d) The school district shall maintain for two years the records required to be filed by employers under subsection (a).

Section 18. (a) All employment certificates shall be issued on forms supplied by the Secretary of Education, and shall contain the **[name and address of the prospective employer, and the nature of the occupation in which said minor is expected to engage; and no certificate shall be valid excepting in the hands of the employer so named, and for the occupations so designated; and shall state the]** name, sex, date, and place of birth, place of residence, color of hair and eyes, and any distinguishing physical characteristics *or physical limitations* of the minor for whom it shall be issued. It shall certify that the minor named has personally appeared before the issuing officer, and has been examined; and that all the papers required by law have been duly examined, approved and filed; and that all the conditions and requirements for issuing an employment certificate have been fulfilled. Every certificate shall be signed, in the presence of the issuing officer, by the minor for whom it shall be issued. The certificate shall bear a number, shall show the date of its issue, and shall be signed by the issuing officer. Vacation employment certificates shall be of a color different from the general employment certificates, and shall bear across their face the legend "Vacation Employment Certificate."

(b) All transferable work permits shall be issued on *wallet sized* forms supplied by the Secretary of Education and shall state the name, sex, date and place of birth, place of residence, color of hair and eyes, and any distinguishing physical characteristics *or physical limitations* of the minor for whom it shall be issued. It shall certify that the minor named has personally appeared before the issuing officer and has been examined; and that all the papers required by law have been duly examined, approved and filed; and that all the conditions and requirements for issuing a transferable work permit have been fulfilled. Every transferable work permit shall be signed, in the presence of the issuing officer, by the minor for whom it shall be issued. The transferable work permit shall bear a number, shall show the date of its issue and shall be signed by the issuing officer. Transferable work permits shall be of a color different from general and vacation employment certificates and shall bear across their face the legend "Transferable Work Permit."

Section 6. Section 23 of the act, amended August 23, 1961 (P.L.1107, No.494), is amended to read:

Section 23. Any person, or any agent or manager for any person, who shall violate any of the provisions of this act, or who shall compel or permit any minor to violate any of the provisions of this act, or who shall hinder or delay any officer in the performance of his duty in the enforcement of this act, shall, upon conviction thereof, be sentenced to pay a fine, for a first offense, of not less than **[fifty (\$50.00) dollars] one hundred (\$100.00) dollars** nor more than **[two hundred (\$200.00) dollars] three hundred (\$300.00) dollars**, and, on a subsequent offense, to pay a fine of not less than **[one hundred (\$100.00) dollars] two hundred fifty (\$250.00) dollars** nor more than **[three hundred (\$300.00) dollars] one thousand (\$1,000.00) dollars**, or

to undergo an imprisonment of not more than ten days, or both, at the discretion of the court.

Section 7. This act shall take effect in 60 days.

APPROVED—The 21st day of December, A. D. 1988.

ROBERT P. CASEY