

SECOND REGULAR SESSION

HOUSE BILL NO. 1795

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HINMAN.

3991H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 294.022, 294.024, 294.027, 294.030, 294.045, 294.051, 294.054, 294.060, and 294.080, RSMo, and to enact in lieu thereof three new sections relating to child employment.

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

Section A. Sections 294.022, 294.024, 294.027, 294.030, 294.045, 294.051, 294.054, 2 294.060, and 294.080, RSMo, are repealed and three new sections enacted in lieu thereof, to 3 be known as sections 294.023, 294.025, and 294.030, to read as follows:

294.023. 1. A department, agency, or any other entity of the state or any political 2 subdivision shall not, by rule or practice, require that a child under eighteen years of 3 age be issued a work certificate of employment or an entertainment work permit as a 4 condition of employment.

5 2. A department, agency, or any other entity of the state or any political 6 subdivision shall not, by rule or practice, require that an employer obtain a work 7 certificate of employment or an entertainment work permit from a child under eighteen 8 years of age as a condition of employment.

9 3. Nothing in this section shall be construed to authorize a child to be absent 10 from school in violation of the requirements of state law or regulations or policies of the 11 state board of education, the Missouri department of elementary and secondary 12 education, or a local school board.

13 4. Nothing in this section shall be construed to preclude the department of labor 14 and industrial relations from issuing a work certificate as evidence of age upon the 15 request of a child who represents to be under eighteen years of age or an employer who

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 wishes to employ a child who represents to be under eighteen years of age. Proof of age
17 of the child includes a birth certificate or other documentary evidence prescribed by the
18 department. A work certificate as evidence of age shall be accepted as conclusive
19 evidence of the age of the child.

20 5. A child between the ages of fourteen and sixteen who is otherwise eligible to be
21 employed under this chapter shall not be employed by any employer unless a parent,
22 legal custodian, guardian, or designated guardian of the child has completed and
23 submitted to the employer a permission form, in the format prescribed by the
24 department. Such permission form shall clearly indicate that completion of the form
25 and submission to an employer grants the permission of the parent, legal custodian,
26 guardian, or designated guardian for the child to be employed by the employer. Such
27 form shall be made publicly available on the department's website.

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

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

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

8 2. A child employed in the entertainment industry is not permitted to be present
9 at the place of employment in the entertainment industry unless the parent, legal
10 custodian, guardian, or designated guardian of a child is present at all times that the
11 child is at the place of employment and such person may accompany the child to
12 wardrobe, makeup, hairdressing, and dressing room facilities. The parent, legal
13 custodian, guardian, or designated guardian may designate an individual to accompany
14 the child during times the child is at the place of employment, provided the designation
15 is made in writing, signed by the parent, legal custodian, or guardian, and presented to
16 the employer prior to the child's scheduled work. A copy of the written designation
17 shall be kept on file by the employer at the site of the employment or project.

18 3. The employer shall designate one individual on each set, stage, or other place
19 of employment to coordinate all matters relating to the welfare of children and shall
20 notify the parent, legal custodian, or guardian of each child of the name of such
21 individual.

22 4. All of the hours in which a child employed in the entertainment industry may
23 be at the place of employment are exclusive of meal periods. Meal periods shall be at
24 least one-half hour but not more than one hour in duration. In no event may a child be

25 at the place of employment for a period longer than five and one-half hours without a
26 meal period.

27 **5. A child employed in the entertainment industry shall receive a twelve-hour**
28 **rest period at the end of the child's work day and prior to the commencement of the**
29 **child's next day of work for the same employment. A child shall also receive a fifteen-**
30 **minute rest period after each two hours of continuous work.**

31 **6. The employer shall provide a suitable place to rest or play for the children at**
32 **the site of employment.**

33 **7. The time spent by a child employed in the entertainment industry in**
34 **rehearsals and learning or practicing any of the arts, such as singing or dancing, for or**
35 **under the direction of, a motion picture studio, theater, or television studio shall be**
36 **counted as work time under this section of law. Periods for meal periods shall not be**
37 **included in the overall work time; however, rest periods shall be included in the overall**
38 **work time.**

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

44 **9. No child shall be required to work with an animal that a reasonable person**
45 **would regard as dangerous in the same circumstances unless an animal trainer or**
46 **handler qualified by training and experience is present.**

47 **10. No child shall be required to perform a stunt without prior consultation with**
48 **the child's parent, legal custodian, or guardian and the employer. The prior written**
49 **consent of the child's parent, legal custodian, or guardian shall be obtained for the**
50 **performance of any unusual physical, athletic, or acrobatic activity, stunts, work**
51 **involving special effects, or other potentially hazardous activity. When any unusual**
52 **physical, athletic, or acrobatic activity, stunts, special effects, or other potentially**
53 **hazardous activity involving a child is to be done, the employer shall have available a**
54 **person qualified to administer medical assistance on an emergency basis and**
55 **transportation to the nearest medical facility providing emergency services. First-aid**
56 **kits shall always be available at a child's place of employment.**

57 **11. No child shall work in close proximity to explosives or the functioning parts**
58 **of unguarded and dangerous moving equipment, aircraft, or vessels, or of functioning**
59 **blades or propellers.**

294.030. 1. A child shall not be employed, permitted or suffered to work at any
2 gainful employment for more than ~~three~~ six hours per day in any school day, more than

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

9 2. On all evenings from Labor Day to June first, a child shall not be employed,
 10 permitted or suffered to work at any gainful employment after [7:00] 10:00 p.m. nor after
 11 [9:00] 10:00 p.m. from June first to Labor Day; except that a child who has passed his or her
 12 fourteenth birthday but is under sixteen years of age may be employed at a regional fair from
 13 June first to Labor Day, if such child does not work after 10:30 p.m., is supervised by an
 14 adult, parental consent is given and the provisions of this subsection are complied with. The
 15 regional fair exception shall not apply to those entities covered by the Fair Labor Standards
 16 Act. The provisions of this subsection do not apply to children who have been permanently
 17 excused from school pursuant to the provisions of chapter 167. The provisions of this
 18 subsection may be waived by the director, in full or in part, depending upon the nature of the
 19 employment. Such waiver shall be provided in writing to the employer by the director. The
 20 waiver shall only exempt employment described in section 294.022.

2 ~~[294.022. 1. For the purposes of this section, the following terms~~
 3 ~~mean:~~

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

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

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

18 ~~2. No child may be employed in the entertainment industry without an~~
 19 ~~entertainment work permit issued by the director. No permit shall be issued~~
 20 ~~without the following:~~

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

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

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

24 ~~prospective employer. The written statement shall set forth the nature of~~
25 ~~employment and the projected duration of the employment or project.~~

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

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

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

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

49 ~~7. The employer shall provide a suitable place to rest or play for the~~
50 ~~children at the site of employment.~~

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

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

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

67 ~~11. No child shall be required to perform a stunt without prior~~
68 ~~consultation with the child, the child's parent, legal custodian or guardian and~~
69 ~~the employer. The prior written consent of the child's parent, legal custodian~~
70 ~~or guardian shall be obtained for the performance of any unusual physical,~~
71 ~~athletic or acrobatic activity, stunts, work involving special effects or other~~

72 ~~potentially hazardous activity. When any unusual physical, athletic or~~
 73 ~~aerobic activity, stunts, special effects or other potentially hazardous activity~~
 74 ~~involving a child is to be done, the employer shall have available a person~~
 75 ~~qualified to administer medical assistance on an emergency basis and~~
 76 ~~transportation to the nearest medical facility providing emergency services.~~
 77 ~~First-aid kits shall always be available at a child's place of employment.~~

78 ~~12. No child shall work in close proximity to explosives or the~~
 79 ~~functioning parts of unguarded and dangerous moving equipment, aircraft or~~
 80 ~~vessels, or of functioning blades or propellers.~~

81 ~~13. An entertainment work permit does not authorize a child to be~~
 82 ~~absent from school in violation of the requirements of state law or regulations~~
 83 ~~or policies of the state board of education, the Missouri department of~~
 84 ~~elementary and secondary education or the local school board.]~~

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

2 ~~[294.027. Work certificates shall permit~~
 3 ~~(1) The employment of children between fourteen and sixteen years of~~
 4 ~~age during nonschool hours during the school term; or~~
 5 ~~(2) The employment of children between fourteen and sixteen years of~~
 6 ~~age who are excused from attendance at school by the provisions of chapter~~
 7 ~~167.]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ~~(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

19 officer, showing that he has personally examined the child and has found the
20 child in good mental and physical health and is capable of performing labor
21 without injury to his health and mental development;

22 (4) A certificate of the principal of the school which the child attends
23 or has attended giving the grades of school work completed by the child,
24 except that for children permanently excused from attendance at school under
25 the provisions of chapter 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 residence of the
- 3 child;
- 4 (2) The name and place of residence of the child's parent, guardian or
- 5 custodian;
- 6 (3) The name and address of the employer; and
- 7 (4) The nature of the employment for which the work certificate is
- 8 issued.

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

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

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

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

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

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

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