

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

COMMITTEE SUBSTITUTE
FOR ENGROSSED HOUSE
BILL NO. 1590

BY: ROSS and PAULK of the
HOUSE

and

BROWN of the SENATE

COMMITTEE SUBSTITUTE

AN ACT RELATING TO LABOR; AMENDING 40 O.S. 1981,
SECTIONS 71, 74, 75, 76, 77, 78, 79, 80 AND 88,
WHICH RELATE TO EMPLOYMENT OF WOMEN AND CHILDREN;
MODIFYING RESTRICTIONS ON EMPLOYMENT OF CERTAIN
CHILDREN; PROVIDING FOR CERTAIN PROHIBITED
EMPLOYMENT; UPDATING SECTION REFERENCES; MODIFYING
LITERACY REQUIREMENTS FOR EMPLOYMENT OF CHILDREN;
CHANGING MAXIMUM HOURS OF EMPLOYMENT FOR CHILDREN;
DEFINING TERM; PROVIDING REST PERIOD; RESTRICTING
TIME OF DAY CHILDREN MAY WORK; UPDATING REFERENCES;
UPDATING LANGUAGE; CHANGING WHO MAY APPROVE
SCHOOLING CERTIFICATES; MODIFYING PERMISSIBLE PROOF
OF AGE OF CHILD; MODIFYING TO WHOM SCHOOL
ATTENDANCE CERTIFICATES SHALL BE SUPPLIED;
MODIFYING FORM OF CERTIFICATES; INCREASING
PENALTIES FOR VIOLATING ACT; REPEALING 40 O.S.
1981, SECTIONS 72, 73, 81, 82, 83, 84, 86 AND 87,
WHICH RELATE TO EMPLOYMENT OF CHILDREN; PROVIDING
FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 40 O.S. 1981, Section 71, is amended to read as follows:

Section 71. No child under the age of ~~fourteen (14)~~ years shall be employed or permitted to work in any factory, factory workshop, pool hall or steam laundry, and no child under the age of ~~fifteen (15)~~ years shall be employed or permitted to work in any occupation injurious to health or morals or especially hazardous to life and limb; provided, that any child under ~~fifteen (15)~~ years of age employed to perform or performing in any duly licensed theatre, motion picture theatre or other place of public amusement shall be accompanied by or be in the custody, care or control of a parent, guardian, governess or teacher, who shall remain on the stage in such theatre, motion picture theatre or other place of public amusement during the performance of such child. It shall be the duty of the Commissioner of Labor upon investigation by himself or the agents of his department, or upon the complaint of the Board of Health, to determine what occupations are injurious to health or morals or especially hazardous to life or limb, and to notify employers in such occupations of his decision, which decision shall be final until such occupations shall be defined by law or by final judgment in a court of competent jurisdiction as safe for health, morals, life or limb sixteen (16) shall be permitted to work in any occupation or in any establishment other than those occupations permitted by the "Fair Labor Standards Act of 1938", as amended, 29 U.S.C., Sections 201 through 219, and any regulations related thereto.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 72.1 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. No child under the age of sixteen (16) years of age shall be employed or permitted to work at any of the following occupations:

1. Manufacturing, mining, or processing occupations, including occupations requiring performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

2. Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

3. The operation of motor vehicles or service as helpers on such vehicles;

4. Public messenger service;

5. Occupations declared to be particularly hazardous to the health and well-being of minors under sixteen (16) by federal laws and regulations as declared by the Oklahoma Commissioner of Labor; and

6. Occupations, except office work or sales work, in connection with:

- a. transportation of persons or property by rail, highway, air, water, pipeline or other means;
- b. warehousing and storage;
- c. communications and public utilities; and
- d. construction including demolition and repair.

B. This section shall not apply to children working either on farms or for parents or any entity in which a parent owns an equity interest.

SECTION 3. AMENDATORY 40 O.S. 1981, Section 74, is amended to read as follows:

Section 74. No child under the age of sixteen (16) years shall be employed or permitted to work in any of the occupations specified in Section ~~3728~~ 71 of this title unless such child is able to read and write ~~simple sentences in the English language~~, or shall have

attended some school during the preceding year for the time that attendance is compulsory under the laws.

SECTION 4. AMENDATORY 40 O.S. 1981, Section 75, is amended to read as follows:

Section 75. No child under the age of sixteen (16) years shall be employed or permitted to work in any gainful occupation, ~~except other than~~ agriculture or domestic service, more than ~~eight (8)~~ three (3) hours in any one school day, ~~allowing one (1) hour each day for noon-day meal and rest, or more than forty-eight (48) hours in any one week. During the time that a child is at work at such occupation, the employer must provide suitable seats and permit their use so far as the nature of the work allows~~ or more than eight (8) hours on a nonschool day, or eighteen (18) hours in any one (1) week when school is in session, or forty (40) hours in any one (1) week when school is not in session. "In session" means the 1st Tuesday after Labor Day through May 31 of the following year. Children under the age of sixteen (16) years must be permitted a one (1) hour cumulative rest period for each eight (8) consecutive hours worked. However, no such child shall work more than five (5) consecutive hours unless permitted a one-half (1/2) hour cumulative rest period.

SECTION 5. AMENDATORY 40 O.S. 1981, Section 76, is amended to read as follows:

Section 76. No person under the age of sixteen (16) years shall be employed or permitted to work in any of the occupations mentioned in Section 71 of this title between the hours of ~~six~~ seven o'clock p.m. and seven o'clock a.m.; ~~except, children who have reached their fifteenth birthday may work in moving picture theatres as ushers, cashiers and concession stands until 11 p. m.; provided, that this section shall not apply to the employment of children not residents of the State of Oklahoma to perform in any duly licensed theatre, motion picture theatre or other place of public amusement. during~~

the summer (June 1 through Labor Day) when the prohibited hours will be between the hours of nine o'clock p.m. and seven o'clock a.m.

SECTION 6. AMENDATORY 40 O.S. 1981, Section 77, is amended to read as follows:

Section 77. Before any child under the age of sixteen (16) years shall be employed in any occupation specified in Section ~~7208~~ 71 of this title, it shall be the duty of the parent or guardian of such child to procure and furnish the employer of such child an age and schooling certificate as hereinafter provided in this article. It shall be the duty of every person, firm or corporation owning or operating any of the establishments specified in Section ~~7208~~ 71 of this title, or employers in such occupation, to keep on file for the inspection of ~~factory inspectors~~ the Commissioner or his designee, truant officers, or other persons charged with the administration of this article, such age and schooling certificate, for every child under sixteen (16) years of age employed in such occupation, and to keep on file ~~and to post conspicuously in every room~~ where such children are employed a register with a complete list of children under sixteen (16) years of age so employed, together with the age of each child as set forth in the age and schooling certificate opposite the name of such child, and also to keep on file ~~and to post conspicuously~~ in such place or establishment, in such form as the ~~factory inspector~~ Commissioner or his designee may prescribe, the time of opening and closing of such factory or other establishment, the number of hours of labor required or permitted in such establishment, the hours of commencing and stopping work, and the time allowed for meals, and, if there be two or more shifts in such establishment, the number of hours in each shift during which the employees are required or permitted to work. On termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent, guardian or custodian; provided

that this section shall not apply to the employment of children who are not residents of the State of Oklahoma, to perform in any duly licensed theatre, motion picture theatre or other place of public amusement.

SECTION 7. AMENDATORY 40 O.S. 1981, Section 78, is amended to read as follows:

Section 78. The ~~inspector of factories~~ Commissioner or his designee, truant officer, or other person charged with the administration of this article, may make demand on an employer in whose factory or establishment a child apparently under the age of sixteen (16) years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this section, that such employer shall either furnish him, within ten (10) days, evidence satisfactory to him that such child is in fact over sixteen (16) years of age, or shall cease to employ or permit or suffer such child to work in such factory or establishment. Such officer may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. In case such employer shall fail to produce and deliver to such officer, within ten (10) days after such demand, such evidence of age herein required by him, and shall thereafter continue to employ such child to work in such factory or establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for violation of this provision of this article that such child is under sixteen (16) years of age and is unlawfully employed: Provided, that the ~~factory inspector or deputy inspectors~~ Commissioner or his designee shall have the power to demand a certificate of physical fitness from some licensed physician in good standing in this state in case of children who may appear to him

physically unable to perform the labor at which they may be engaged, and shall have power to prohibit the employment of any minor that cannot obtain such a certificate.

SECTION 8. AMENDATORY 40 O.S. 1981, Section 79, is amended to read as follows:

Section 79. The age and schooling certificate shall be approved ~~only by the county superintendent of public instruction, or other school official designated by him~~ principal, headmaster, or equivalent administrative officer of the school which the child attends or should be attending or by one of the child's parents if the child is being schooled at home, who shall, for the purpose of this article, be empowered to administer an oath. The ~~county superintendent of public instruction, or other school official designated by him~~ principal, headmaster, or equivalent administrative officer of the school which the child attends or should be attending or by one of the child's parents if the child is being schooled at home, shall approve such certificate only upon the application in person of the child desiring employment accompanied by its parents, guardian or custodian, and after having received, examined and approved documentary evidence of age, showing that the child is fourteen (14) years of age, or over, which evidence shall consist of one of the following named proofs of age, duly attested, and the proof accepted shall be specified in the certificate issued to the child; the proof specified in subdivision (a) shall be required first, but if this is not available then one of the proofs specified in the succeeding subdivisions shall be required and in the order designated until the age of the child be established, as follows:

(a) A birth certificate or transcript thereof issued by a registrar of vital statistics or other officer charged with the duty of recording births which certificate or transcript thereof shall be prima facie evidence of the age of the child.

(b) A certificate of baptism or transcript thereof, showing the date of birth and place of baptism of the child.

~~(c) A bona fide record of the date and place of the child's birth kept in the Bible in which the records of the births, marriages and deaths in the family of the child are preserved; or a certificate of confirmation or other church ceremony at least one (1) year old showing the age of the child and date and place of such confirmation or ceremony; or a~~ A passport showing the age of the child; or a certificate of arrival in the United States, issued by the United States immigration officer and showing the age of the child; or a life insurance policy at least one (1) year old showing the age of the child; or other credible evidence as may be approved by the Commissioner.

~~(d) A certificate signed by two physicians, at least one of whom shall be a public health officer or public school medical inspector stating that they have separately examined the child and that in their opinion the child is at least fourteen (14) years of age; such certificate shall show the height and weight of the child, the condition of its teeth, and any other facts concerning its physical development revealed by such examination and upon which their opinion as to its age is based.~~

~~The employment certificate shall not be issued until such child has further personally appeared before the officer issuing the same and he is satisfied that such child is physically able to perform the work which he intends to do. In doubtful cases such physical fitness shall be determined by a medical officer of the board or department of health.~~ Every employment certificate shall be signed, in the presence of the officer issuing the same by the child in whose name it is issued.

SECTION 9. AMENDATORY 40 O.S. 1981, Section 80, is amended to read as follows:

Section 80. The age and schooling certificate shall not be approved until the parent or guardian of such child shall present a school attendance certificate as hereinafter prescribed. A duplicate of such age and schooling certificate shall be filled out and sent by the school officer, before whom the same is made, to the Commissioner of Labor. The blank forms for school attendance certificate and for the age and schooling certificate shall be supplied to the ~~county superintendents of public instruction~~ principal, headmaster, or equivalent administrative officer of the school or to one of the child's parents if the child is being schooled at home by the State Superintendent of Public Instruction as hereinafter indicated.

SCHOOL ATTENDANCE CERTIFICATE.

..... (Name of School).

..... (City and County).

..... (Date).

This certifies that (name of child) can read and write ~~simple sentences in the English language~~ and that according to the records of this school and in my belief is now (number of years and months) old, and has attended school during the full school term of the preceding year.

..... (Name of parent or guardian).

..... (Residence).

..... (Signature of teacher).

AGE AND SCHOOLING CERTIFICATE.

This certifies that I am (father, mother or guardian) of (name of child) s.s.#, and that he (or she) was born at (town or city), (county), (state or country), on the (day, month and year of birth), and is now (number of years and months old).

.....

(Signature of parent or guardian).

..... (Date).

..... (City or town or county).

Personally appeared before me the above-mentioned
(name of person signing), and made oath that the foregoing
certificate is true to the best of his (or her) knowledge and
belief.

I hereby approve the foregoing certificate of
(name of child), height (feet and inches), weight
..... (pounds), complexion (fair or dark), hair
..... (color), eyes (color), having no
sufficient reason to doubt that he (or she) is of the age therein
certified.

OWNER OF CERTIFICATE.

This certificate belongs to (name of child), and
is to be surrendered to him (or her) whenever he (or she) leaves the
service of the employer holding the same, but if not claimed by said
child within thirty days after leaving said service, shall be sent
to the Commissioner of Labor.

..... ,

(Signature of officer, with name of city,
town or county, and date.)

SECTION 10. AMENDATORY 40 O.S. 1981, Section 88, is
amended to read as follows:

Section 88. Any person violating any of the provisions of this
article, shall be punished by a fine of not less than ~~Ten Dollars~~
~~(\$10.00)~~ One Hundred Dollars (\$100.00) nor more than ~~Fifty Dollars~~
~~(\$50.00)~~ Five Hundred Dollars (\$500.00), or imprisonment for not
less than ten (10) nor more than thirty (30) days, or both such fine
and imprisonment. It shall be the duty of the Commissioner of Labor
to see that the provisions of this article, are enforced with the

exception of Section ~~3739~~ 85 of this title, which shall be enforced by the Mine Inspector or under his direction.

SECTION 11. REPEALER 40 O.S. 1981, Sections 72, 73, 81, 82, 83, 84, 85, 86 and 87 are hereby repealed.

SECTION 12. This act shall become effective September 1, 1991.

43-1-1033 JY