Regular Session, 2011

HOUSE BILL NO. 303

BY REPRESENTATIVE PONTI

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

EMPLOYMENT OF MINORS: Provides with respect to the employment of minors

AN ACT

To amend and reenact R.S. 23:152, 182, 183, 184(2)(f) and (g), 187, 191, 192, 213, 214, 215(B), 233, and 251(A) and to repeal R.S. 23:253 and 254, relative to the employment of minors; to provide for hours during which minors may work; to provide for limitations in employment; to provide technical changes; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:152, 182, 183, 184(2)(f) and (g), 187, 191, 192, 213, 214, 215(B), 233, and 251(A) are hereby amended and reenacted to read as follows:

§152. Enforcement of provisions

The ~~secretary~~ executive director or his authorized representatives shall visit and inspect at all reasonable times, and as often as possible, all places where minors are employed; they shall have access to the ~~age and~~ employment certificates kept on file by the employer as well as to all other records which may aid in the enforcement of this Part. The ~~secretary~~ executive director shall institute judicial proceedings to enforce the provisions of this Part, and the district attorney shall prosecute.

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§182. Employers to keep records

Every person employing minors shall procure and keep on file an employment certificate for each minor, except for those minors employed in approved federally funded youth training programs and those minors employed in

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theatrical, modeling, motion picture or television production, musical occupations, or in other performing arts. Such certificate shall be accessible on the job site, or in the immediate area of the work location, at all times to any officer charged with the enforcement of the provisions of this Chapter.

§183. Persons authorized to issue

Employment certificates shall be issued by the parish or city school superintendent or by his or her designated representative, whose name shall be submitted in writing for approval to the ~~assistant secretary~~ executive director ~~of the office of unemployment insurance administration~~ of the Louisiana Workforce Commission. ~~After January 1, 2004, in connection with the issuance of any employment certificate, the~~ The superintendent or his designee must completely fill out and electronically submit the Employment Certificate Interactive Form located on the Louisiana Workforce Commission's website. The employment certificate shall be printed online from the website from the information that has been entered onto the department's employment certificate database. The original employment certificate shall be signed by the minor and the issuing authority and presented to the minor for delivery to his or her employer.

§184. Requirements for issuance

Employment certificates shall be issued only upon the personal application by the minor desiring employment, accompanied by the written permission of the minor's parent or legal guardian and upon submission to and approval by the issuing authority of the following papers:

* * *

(2) One of the following proofs of age:

* * *

(f) A school record or school identification showing the minor's age.

(g) A current valid Louisiana driver's license or other state-issued identification, including a special identification card, with the minor's date of birth.

* * *

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§187. Signing of certificate by minor; return by employer after termination of employment

The employment certificate shall be signed by the minor in the presence of the issuing authority ~~who shall then mail the same to the employer.~~ and then it shall be returned to the minor for delivery to the employer. An employment certificate shall be valid only for the employer for whom issued, and the employer shall ~~return it to the issuing officer within three days~~ be required to maintain it on file for a period of fourteen days after the termination of the minor's employment.

* * *

§191. Revocation

The ~~secretary~~ executive director may revoke any employment or other certificate if in his judgment it was improperly issued or if the minor is illegally employed. If the certificate is revoked, the issuing authority, the employer, and the minor, shall be notified ~~in writing~~ and the minor shall not thereafter be employed or permitted to work until a new certificate has been legally obtained.

§192. Certificates as evidence of age of minors

Employment ~~or age~~ certificates issued in accordance with the provisions of this ~~Sub-part~~ Subpart shall be conclusive evidence of the age of the minor for whom issued in any proceeding involving the employment of the minor subsequent to the issuance thereof.

* * *

§213. Recreation or meal period

No minor shall be employed, permitted, or suffered to work for any five-hour period without one interval of at least thirty minutes within such period for meals. If the period of work before the interval exceeds five hours by ~~less than fifteen~~ ten minutes or less, that difference shall be considered de minimis and shall not be considered a violation of this Section. Such interval shall not be included as part of the working hours of the day. This interval shall be thirty minutes. ~~Any difference in length of the interval less than fifteen minutes shall be considered de minimis and~~

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~~shall not be considered a violation of this Section.~~ If the length of the meal break is at least twenty minutes, the difference between the actual break time and the required thirty-minute break time shall be considered de minimis, and shall not be considered a violation of this Section. The break shall be documented, using the employer's normal timekeeping system. If a minor fails to clock in or out for a work period or meal break, and a time edit is necessary, the time edit shall be documented and acknowledged in writing by the minor and the manager who performs the time edit.

§214. Minors under sixteen; maximum hours when school in session

A. Minors under sixteen years of age shall not be employed, permitted, or suffered to work more than three hours each day on any day when school is in session, nor more than eighteen hours in any week when school is in session.

B. The school calendar of the school in which the minor is enrolled or the public school calendar for the district in which the minor resides shall be used to determine a school day or week.

§215. Minors; minors under sixteen; prohibited hours; maximum work week

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B. No minor under sixteen years of age who has not graduated from high school shall be employed, or permitted, or suffered to work between the hours of 7:00 p.m. and 7:00 a.m. ~~prior to the start of any school day, or between the hours of 9:00 p.m. and 7:00 a.m. on any day~~ ; except from June first through Labor Day at which time the permissible hours are extended to 9:00 p.m. Minors who are employed in the dairy industry shall be exempt from the provisions of this Section.

* * *

§233. Presence of minor at place of employment; presumption of employment

The presence of any minor under sixteen years of age in any place of employment prohibited to him under the provisions of this Chapter, ~~except during the dinner hour,~~ and observed to be performing work duties on the employer's behalf, shall constitute prima facie evidence of his employment therein.

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§251. Minors under sixteen; prohibited employments or occupations; penalty

A. No minor under sixteen years of age shall be employed, exhibited, used, or trained for the purpose of exhibition:

(1) As a rope or wire walker, gymnast, wrestler, contortionist, stunt rider, or acrobat upon any bicycle or other similar mechanical vehicle or contrivance.

(2) ~~In singing, dancing, or playing upon a musical instrument~~.

~~(3) In any theatrical exhibition or in any wandering occupation.~~

~~(4)~~ In any illegal, indecent, or immoral exhibition or practice.

~~(5)~~ (3) In the exhibition of such minor when insane or idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development.

~~(6)~~ (4) In any practice, exhibition, or place, dangerous or injurious to the life, limbs, health, or morals of the minor.

* * *

Section 2. R.S. 23:253 and 254 are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ponti HB No. 303

Abstract: Provides for limitations in the employment of minors as well as technical changes and alterations to update terms and bring La. employment law in line with federal laws as it relates to minors.

Proposed law changes the term "secretary" to "executive director" to refer to the director of the La. Workforce Commission (LWC).

Present law provides that employers shall keep an employment certificate for each minor except for those employed in federally funded training programs.

Proposed law extends the exception that no employment certificate be kept on file to include minors employed in performing arts.

Present law requires that minors may use certain documents as proof of age.

Proposed law adds a school ID and any other state-issued ID as admissible documents for proof of age.

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Present law requires that the employment certificate be signed by the minor and mailed to the employer.

Proposed law repeals the requirement that the employment certificate be mailed to the employer, and instead requires that it be returned to the minor for delivery to the employer.

Present law requires that the employer return the employment certificate to the issuing officer within three days.

Present law repeals the three-day requirement and instead requires the employer to maintain the certificate on file for 14 days.

Present law allows the secretary to revoke the employment of a minor if he judges that the certificate was improperly issued or if the minor is otherwise illegally employed.

Present law further provides that upon revocation, the issuing authority, the employer, and the minor shall be notified in writing.

Proposed law removes the requirement that the notification be in writing.

Present law provides that minors who work any five-hour period shall be given at least a 30 minute interval for meals.

Present law provides that if the period of work before the meal exceeds five hours by less than 15 minutes, the difference shall be considered de minimis.

Proposed law changes the 15-minute interval in present law to an interval of 10 minutes or less.

Proposed law provides that if the meal break is actually between 20 and 30 minutes, that such interval is de minimis and not a violation of present law.

Proposed law requires that the breaks shall be documented and, if the minor fails to clock in or out and an edit is necessary, that the edit be documented.

Present law requires that minors under the age of 16 shall not work more than three hours a day, or work between the hours of 7:00 p.m. and 7:00 a.m when school is in session.

Proposed law specifies that the school year and week shall be determined by the school calendar of the school at which the minor is enrolled, or the public school calendar for the district in which the minor attends school.

Proposed law further provides that between June 1 and Labor Day, the hours during which a minor under the age of 16 may work are extended to 9:00 p.m. to 7:00 a.m.

Present law prohibits minors under the age of 16 from engaging in certain performance occupations.

Proposed law removes singing, dancing, theatrical exhibition, and playing a musical instrument from the list of prohibited occupations for minors under the age of 16.

Present law (R.S. 23:253 and 254) provides exceptions to the prohibition of the employment of minors under the age of 16 in certain performing arts.

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Proposed law repeals present law (R.S. 23:253 and 254) because the performing arts were removed in proposed law as prohibited occupations, and as such, the limitations and exceptions are not needed.

(Amends R.S. 23:152, 182, 183, 184(2)(f) and (g), 187, 191, 192, 213, 214, 215(B), 233, and 251(A); Repeals R.S. 23:253 and 254)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill.

1. Clarified that minors employed in the motion picture and television production occupations are included in the exception to the requirement that the employer keep an employment certificate on file for the minor.

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