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AN ACT

RELATING TO LABOR; REVISING CHILD LABOR PROVISIONS TO INCLUDE
THE FILM INDUSTRY; MODIFYING AGE REQUIREMENTS; PROVIDING FOR
APPEAL PROCEDURES; CHANGING PENALTIES; AMENDING, REPEALING
AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 50, Article 6 NMSA
1978 is enacted to read:

"SHORT TITLE.--Chapter 50, Article 6 NMSA 1978 may be
cited as the "Child Labor Act"."

Section 2. A new section of the Child Labor Act is
enacted to read:

"EXCEPTIONS.--

A. A child under the age of sixteen may be
employed without obtaining a work permit and without the
restrictions on the age of the child or time of employment
imposed by Sections 50-6-1 through 50-6-3 NMSA 1978 if the
child is employed:

(1) by a parent in an occupation other than
manufacturing or mining or other than an occupation found to
be particularly hazardous or detrimental to the health of
children under the age of sixteen;

(2) as an actor or performer in motion
picture, theatrical, radio or television productions; or

1 (3) to sell or deliver newspapers, with the
2 parent's consent, during the school term or during vacation
3 and the child is attending school as required by law and does
4 not engage in such employment except at times when the
5 child's presence is not required at school.

6 B. The employer of a child employed pursuant to
7 Subsection A of this section is not required to obtain and
8 preserve a work permit in accordance with Section 50-6-9 NMSA
9 1978 for that child."

10 Section 3. A new section of Chapter 50, Article 6 NMSA
11 1978 is enacted to read:

12 "CHILDREN WORKING IN THE PERFORMING ARTS.--

13 A. For the purposes of this section, a "performer"
14 means a person employed to act or otherwise participate in
15 the performing arts, including motion picture, theatrical,
16 radio or television products.

17 B. A performer under eighteen years of age is
18 considered a child subject to the Child Labor Act unless:

19 (1) the performer has satisfied the
20 compulsory education laws of the state;

21 (2) the performer is married;

22 (3) the performer is a member of the armed
23 forces; or

24 (4) the performer is legally emancipated.

25 C. A child may not begin work earlier than 5:00

1 a.m. and the workday must end no later than 10:00 p.m. on
2 evenings preceding school days and 12:00 a.m. on mornings of
3 nonschool days.

4 D. A child-performer's working hours, including
5 school time, are limited as follows:

6 (1) a child under the age of six shall not
7 be employed or permitted to labor for more than six hours in
8 one day;

9 (2) a child over the age of six and under
10 the age of nine shall not be employed or permitted to labor
11 for more than eight hours in one day;

12 (3) a child over the age of nine and under
13 the age of sixteen shall not be employed or permitted to
14 labor for more than nine hours in one day; and

15 (4) a child over the age of sixteen and
16 under the age of eighteen shall not be employed or permitted
17 to labor for more than ten hours in one day.

18 E. If a child engages in employment on school
19 days, a teacher with credentials appropriate to the level of
20 education needed shall be provided by the employer.

21 F. The labor department shall promulgate rules for
22 employers in the performing arts, including education and
23 safety requirements."

24 Section 4. Section 50-6-1 NMSA 1978 (being Laws 1925,
25 Chapter 79, Section 1, as amended) is amended to read:

1 "50-6-1. CHILDREN UNDER FOURTEEN--EMPLOYMENT

2 PROHIBITED.--No child under fourteen years of age shall be
3 employed or permitted to labor at any gainful occupation
4 unless otherwise provided for in the Child Labor Act."

5 Section 5. Section 50-6-2 NMSA 1978 (being Laws 1925,
6 Chapter 79, Section 2, as amended) is amended to read:

7 "50-6-2. WORK PERMIT FOR CHILDREN FOURTEEN TO
8 SIXTEEN.--A child over the age of fourteen years and under
9 the age of sixteen years shall not be employed or permitted
10 to labor at any gainful occupation without procuring and
11 filing a work permit unless otherwise provided for in the
12 Child Labor Act."

13 Section 6. Section 50-6-3 NMSA 1978 (being Laws 1925,
14 Chapter 79, Section 3, as amended) is amended to read:

15 "50-6-3. MAXIMUM HOURS FOR CHILDREN FOURTEEN TO
16 SIXTEEN.--

17 A. Children over the age of fourteen and under the
18 age of sixteen years shall not be employed or permitted to
19 labor at any gainful occupation for more than forty hours in
20 any one week nor more than eight hours in any one day when
21 school is not in session unless otherwise provided for in the
22 Child Labor Act.

23 B. Children over the age of fourteen or under the
24 age of sixteen shall not be employed unless otherwise
25 provided for in the Child Labor Act:

1 (1) before 7:00 a.m. or after 7:00 p.m.
2 during the calendar school year;

3 (2) before 7:00 a.m. or after 9:00 p.m.
4 outside of the calendar school year;

5 (3) during school hours, except as provided
6 for in work experience and career exploration programs;

7 (4) more than three hours per day during
8 school days; or

9 (5) more than eighteen hours per week during
10 school weeks."

11 Section 7. Section 50-6-4 NMSA 1978 (being Laws 1925,
12 Chapter 79, Section 5, as amended) is amended to read:

13 "50-6-4. PROHIBITED OCCUPATIONS FOR CHILDREN UNDER
14 SIXTEEN--EXCEPTIONS.--

15 A. A child under the age of sixteen years shall
16 not be employed or permitted to labor at any of the following
17 occupations or in any of the following positions:

18 (1) on or around belted machines while in
19 motion;

20 (2) on or around power-driven woodworking
21 machines used for cutting, shaping, forming, surfacing,
22 nailing, stapling, wire stitching, fastening or otherwise
23 assembling, processing or printing wood or veneer;

24 (3) on or around power-driven hoisting
25 apparatus with the exception that this section shall not

1 prohibit the operation of an automatic elevator that is
2 controlled by pushbuttons making leveling, holding, opening
3 and closing of the car and hoistway doors entirely automatic;

4 (4) in or about plants, establishments or
5 jobs using, manufacturing or storing explosives or articles
6 containing explosive components;

7 (5) electronics jobs where the child is
8 exposed to electrical hazards;

9 (6) in or about any establishment where malt
10 or alcoholic beverages are manufactured, packed, wrapped or
11 bottled;

12 (7) municipal firefighting whether using
13 volunteers or paid employees;

14 (8) manufacture of goods for immoral
15 purposes;

16 (9) in any employment dangerous to lives and
17 limbs or injurious to the health or morals of children under
18 the age of sixteen years; or

19 (10) soliciting door-to-door for other than
20 a nonprofit organization or in other activities approved by
21 the parent or guardian.

22 B. The provisions of this section do not apply to:

23 (1) children engaged in working with
24 equipment in any school or place where cooperative education
25 or science is taught while under supervision of an

1 instructor;

2 (2) apprentices while under the supervision
3 of a journeyman in a certified apprenticeship program; or

4 (3) children employed in a film or
5 television production, where the set may be considered
6 physically hazardous or special effects are used; provided
7 that a New Mexico-certified trainer or technician accredited
8 in a United States department of labor occupational safety
9 and health administration-certified safety program specific
10 to the film or television industry is present at all times
11 that the child is exposed to the potentially hazardous
12 condition.

13 C. Additional hazardous occupations not
14 specifically listed in this section shall be determined by
15 the state child labor inspector following consultation with
16 the employer who wishes to employ minors over the age of
17 fourteen years and under sixteen years of age."

18 Section 8. Section 50-6-7 NMSA 1978 (being Laws 1925,
19 Chapter 79, Section 8, as amended) is amended to read:

20 "50-6-7. WORK PERMIT--ISSUANCE--AUTHORIZED OFFICIALS--
21 APPLICATION--CONTENTS--PROOF--COPIES--MAXIMUM TERM.--

22 A. Work permits shall be issued only by the school
23 superintendents, school principals, designated issuing school
24 officers or the director of the labor and industrial division
25 of the labor department or the director's designee.

1 B. A work permit shall not be issued to a child
2 until satisfactory proof has been furnished that the work in
3 which the child is to engage is not dangerous to the child or
4 injurious to the child's health or morals.

5 C. The application for the work permit shall show
6 that the work to be performed would not result in injury to
7 the health, morals or mental development of the child.
8 Satisfactory proof of the age of the child at the date of the
9 application shall be furnished. Any application for the
10 employment of children at any gainful occupation during the
11 session hours of the school of the district in which the
12 child resides shall set forth, in addition to the foregoing,
13 the necessity to the family or the dependents of the child or
14 for the child's own support of the income to be derived from
15 the employment or labor.

16 D. Whenever the person authorized to issue the
17 work permit is satisfied that the provisions of this section
18 have been complied with, the person shall issue to the child
19 a work permit, keeping one copy on file and sending one copy
20 of the permit to the labor and industrial division of the
21 labor department.

22 E. No work permit shall be in force without
23 renewal for a longer period than one year from the date of
24 issuance."

25 Section 9. Section 50-6-8 NMSA 1978 (being Laws 1925,

1 Chapter 79, Section 9, as amended) is amended to read:

2 "50-6-8. RENEWAL OF WORK PERMITS.--The officer
3 authorized to issue work permits may renew a work permit at
4 the expiration date thereof for a period not exceeding one
5 year upon a satisfactory showing upon the part of the child,
6 the child's parent, guardian or custodian that the provisions
7 of the Child Labor Act are being complied with and that the
8 child is in good health. The extension of time shall be made
9 by the officer writing upon the certificate the following
10 words: "this work permit is extended for a period of
11 days from this date" and by the officer signing the
12 certificate."

13 Section 10. Section 50-6-9 NMSA 1978 (being Laws 1925,
14 Chapter 79, Section 10, as amended) is amended to read:

15 "50-6-9. EMPLOYER'S RECORDS--FORM OF PERMITS.--Whenever
16 any child is employed or permitted to labor at any gainful
17 occupation permitted by the laws of this state, the employer
18 of the child shall preserve on file the work permit of the
19 child and shall keep posted in a conspicuous place about the
20 premises where the child is employed a list of all children
21 there at work by virtue of work permits. The form for all
22 work permits shall be prepared by and shall contain such
23 information concerning the identity of the child as may be
24 prescribed by the labor and industrial division of the labor
25 department."

1 Section 11. Section 50-6-10 NMSA 1978 (being Laws 1925,
2 Chapter 79, Section 11, as amended) is amended to read:

3 "50-6-10. INSPECTION OF WORK PERMITS, RECORDS AND
4 PREMISES BY THE LABOR AND INDUSTRIAL DIVISION OF THE LABOR
5 DEPARTMENT.--All work permits and records and the premises
6 where children are employed are subject to inspection by
7 representatives of the labor and industrial division of the
8 labor department. The director of the division may, for
9 cause, cancel a work permit with the concurrence of the
10 officer issuing the permit but, in case they disagree, the
11 district court may cancel the permit on complaint setting
12 forth the grounds therefor under the provisions of the Child
13 Labor Act."

14 Section 12. Section 50-6-12 NMSA 1978 (being Laws 1925,
15 Chapter 79, Section 13, as amended) is amended to read:

16 "50-6-12. PENALTIES.--

17 A. A person who employs a child, or who is the
18 parent, guardian or custodian of a child, and who permits
19 that child to be employed in violation of any of the
20 provisions of the Child Labor Act is guilty of a petty
21 misdemeanor. Each violation of the Child Labor Act
22 constitutes a separate offense. A second or subsequent
23 conviction of an employer, parent, guardian or custodian for
24 violation of the Child Labor Act is a misdemeanor.

25 B. The director of the labor and industrial

1 division of the labor department may report a violation of
2 the Child Labor Act to the local district attorney, who may
3 prosecute the alleged violator."

4 Section 13. Section 50-6-13 NMSA 1978 (being Laws 1925,
5 Chapter 79, Section 14) is amended to read:

6 "50-6-13. DISTRICT COURT JURISDICTION.--The district
7 courts are hereby given original jurisdiction in all cases of
8 violations of the provisions of the Child Labor Act."

9 Section 14. Section 50-6-14 NMSA 1978 (being Laws 1925,
10 Chapter 79, Section 15, as amended) is amended to read:

11 "50-6-14. STATE CHILD LABOR INSPECTOR--APPOINTMENT--
12 DIRECTION--QUALIFICATIONS.--There shall be a "state child
13 labor inspector", appointed by and subject to the director of
14 the labor and industrial division of the labor department.
15 The inspector must be qualified by special training and
16 experience for this work and must pass a satisfactory
17 examination given by the director of the labor and industrial
18 division of the labor department."

19 Section 15. A new section of the Child Labor Act is
20 enacted to read:

21 "CHILDREN EMPLOYED IN THE PERFORMING ARTS--TRUST
22 ACCOUNT--REQUIREMENTS.--

23 A. Whenever a child is employed in the performing
24 arts, the child's parent, guardian or trustee shall establish
25 a trust account in the child's state of residence for the

1 benefit of the child within seven business days after the
2 child's employment contract is signed, and the employer shall
3 deposit fifteen percent of the child's gross earnings
4 directly into the child's trust account.

5 B. The money placed in trust shall not be accessed
6 until the child is eighteen years of age or becomes legally
7 emancipated, unless otherwise ordered by the district court.

8 C. The parent, guardian or trustee shall provide
9 the child's employer with a trustee statement within fifteen
10 days after the start of employment. Upon the presentation of
11 the trustee statement, the employer shall provide the parent,
12 guardian or trustee with a written acknowledgment of receipt
13 of the statement.

14 D. If the parent, guardian or trustee fails to
15 provide the child's employer with a trustee statement within
16 ninety days after the start of employment, the child's
17 employer shall refer the matter to the district court and a
18 trustee shall be appointed for the child.

19 E. The child's employer shall deposit fifteen
20 percent of the child's gross earnings into the child's trust
21 account within fifteen business days of services rendered.
22 If the account is not established, the child's employer shall
23 withhold fifteen percent until a trust account is established
24 for the child's benefit.

25 F. Once the child's employer deposits fifteen

1 percent of the child's gross earnings in trust, the child's
2 employer shall have no further obligation or duty to monitor
3 the funds.

4 G. The trustee shall be the only individual with
5 an obligation to monitor and account for the funds, in
6 compliance with state law.

7 H. The district court shall have continuing
8 jurisdiction over the trust and may at any time, upon
9 petition of the parent, guardian, trustee or child, order
10 that the trust be terminated or amended for good cause. An
11 order amending or terminating the trust shall be made only
12 after reasonable notice and the opportunity for all parties
13 to appear and be heard have been given.

14 I. This section applies only to contracts in an
15 amount equal to or greater than one thousand dollars (\$1,000)
16 in gross earnings.

17 J. For the purposes of this section, "gross
18 earnings" means the total compensation payable to the child
19 under the contract or, if the child's services are being
20 rendered through a third party, the compensation payable to
21 that third party for the services of the child."

22 Section 16. REPEAL.--Sections 50-6-6, 50-6-15 and
23 50-6-16 NMSA 1978 (being Laws 1925, Chapter 79, Section 7,
24 Laws 1963, Chapter 175, Section 4 and Laws 1959, Chapter 298,
25 Section 1, as amended) are repealed.

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