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HOUSE BILL 507

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Thomas E. Swisstack

AN ACT

RELATING TO LABOR; REVISING CHILD LABOR PROVISIONS; MODIFYING
AGE REQUIREMENTS; PROVIDING FOR APPEAL; CHANGING PENALTIES;
EXPANDING JURISDICTION; AMENDING AND REPEALING CERTAIN SECTIONS
OF THE NMSA 1978.

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

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

"50-6-2. CERTIFICATE FOR CHILDREN [~~FOURTEEN TO~~] UNDER
SIXTEEN [~~DURING SCHOOL TERM~~]. -- No child [~~over the age of~~
~~fourteen years and~~] under the age of sixteen years shall be
employed or permitted to labor at any gainful occupation
[~~during the term of the school of the district in which the~~
~~child resides~~] unless the child has procured and filed a work
permit certificate as [~~herein~~] provided for in Chapter 50,

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1 Article 6 NMSA 1978. "

2 Section 2. Section 50-6-3 NMSA 1978 (being Laws 1925,
3 Chapter 79, Section 3, as amended) is amended to read:

4 "50-6-3. MAXIMUM HOURS FOR CHILDREN UNDER [~~FOURTEEN~~
5 SIXTEEN]. --

6 A. No child under the age of [~~fourteen~~ sixteen
7 years shall be employed or permitted to labor at any gainful
8 occupation for more than [~~forty-four~~ forty] hours in any one
9 week nor more than eight hours in any one day [~~except under~~
10 ~~special circumstances to be determined by the officer who~~
11 ~~issued the permit; but in no case shall such child be permitted~~
12 ~~to work more than forty-eight hours in any one week nor shall~~
13 ~~such child begin work before 7:00 a.m. nor continue after 9:00~~
14 ~~p.m. of any one day] when school is not in session.~~

15 B. Children under the age of sixteen shall not be
16 employed:

17 (1) before 7:00 a.m. and after 7:00 p.m.
18 during the calendar school year;

19 (2) before 7:00 a.m. and after 9:00 p.m.
20 outside of the calendar school year;

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

23 (4) more than three hours a day during school
24 days; and

25 (5) more than eighteen hours a week during

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1 school weeks. "

2 Section 3. Section 50-6-4 NMSA 1978 (being Laws 1925,
3 Chapter 79, Section 5, as amended) is amended to read:

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

6 A. No child under the age of sixteen years shall be
7 employed or permitted to labor at any of the following
8 occupations or in any of the following positions:

9 (1) on or around belted machines while in
10 motion;

11 (2) on or around power-driven woodworking
12 machines used for cutting, shaping, forming, surfacing,
13 nailing, stapling, wire stitching, fastening or otherwise
14 assembling, processing or printing wood or veneer;

15 (3) on or around power-driven hoisting
16 apparatus with the exception that this section shall not
17 prohibit the operation of an automatic elevator [~~which~~] that is
18 controlled by pushbuttons making leveling, holding, opening and
19 closing of the car and hoistway doors entirely automatic;
20 [~~prohibited~~]

21 (4) in or about plants, establishments or jobs
22 using, manufacturing or storing explosives or articles
23 containing explosive components;

24 (5) electronics jobs where the child is
25 exposed to electrical hazards;

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1 (6) in or about any establishment where malt
2 or alcoholic beverages are manufactured, packed, wrapped or
3 bottled;

4 (7) municipal firefighting whether using
5 volunteers or paid employees;

6 (8) soliciting door-to-door except for
7 nonprofit organizations;

8 (9) manufacture of goods for immoral purposes;
9 [~~nor~~] or

10 (10) in any employment dangerous to lives and
11 limbs or injurious to the health or morals of children under
12 the age of sixteen years. [~~Provided further, that~~]

13 B. The provisions of [~~this Act~~] Chapter 50, Article
14 6 NMSA 1978 shall not apply to:

15 (1) children engaged in working with equipment
16 in any school or place where [~~manual training~~] cooperative
17 education or science is taught while under supervision of an
18 instructor [~~This provision shall not apply to apprenticeships~~];

19 (2) apprentices under the supervision of a
20 journeyman [~~or instructor~~];

21 (3) children under the age of sixteen who are
22 employed by their parents;

23 (4) children employed as actors or performers
24 in motion pictures, theatrical, radio or television
25 productions; or

1 (5) children engaged in the sale or delivery
2 of newspapers to the consumer.

3 C. Additional hazardous occupations not
4 specifically listed in this section will be determined by the
5 state child labor inspector following consultation with the
6 employer who wishes to employ minors under sixteen years of
7 age. "

8 Section 4. Section 50-6-7 NMSA 1978 (being Laws 1925,
9 Chapter 79, Section 8, as amended) is amended to read:

10 "50-6-7. ~~[LABOR]~~ WORK PERMIT CERTIFICATES--ISSUANCE--
11 AUTHORIZED OFFICIALS--APPLICATION--CONTENTS--PROOF--COPIES--
12 MAXIMUM TERM --

13 A. Work permit certificates shall be issued only by
14 the school superintendents, school principals, designated
15 issuing school officers or the director of the labor and
16 industrial division of the labor department or the director's
17 designee.

18 B. No work permit certificate shall be issued to
19 any child until satisfactory proof has been furnished that the
20 work in which the child is to engage is not dangerous to the
21 child ~~[nor]~~ or injurious to his health or morals.

22 C. The application for the work permit certificate
23 ~~[must]~~ shall show that the ~~[child is in good physical health~~
24 ~~and that the]~~ work to be performed would not result in injury
25 to the health, morals or mental development of the child.

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1 Satisfactory proof of the age of the child at the date of the
2 application shall be furnished. In the case of children [~~over~~
3 ~~the age of fourteen years and~~] under the age of sixteen years,
4 any application for the employment of children at any gainful
5 occupation during the session hours of the school of the
6 district in which the child resides shall set forth, in
7 addition to the foregoing, the necessity to the family or the
8 dependents of the child or for his own support of the income to
9 be derived from the employment or labor.

10 D. Whenever the person authorized to issue the
11 [~~labor~~] work permit is satisfied that the provisions of this
12 section have been complied with, he shall issue to the child a
13 [~~labor~~] work permit, keeping one copy on file and sending one
14 copy of [~~this~~] the permit to the labor and industrial
15 [~~commission~~] division of the labor department.

16 E. No work permit certificate shall be in force
17 without renewal for a longer period than one year from the date
18 of issuance."

19 Section 5. Section 50-6-8 NMSA 1978 (being Laws 1925,
20 Chapter 79, Section 9, as amended) is amended to read:

21 "50-6-8. RENEWAL OF [~~LABOR~~] WORK PERMITS.--The officer
22 authorized to issue work permits may renew [~~any labor~~] a work
23 permit at the expiration date thereof for a period not
24 exceeding one year upon a satisfactory showing upon the part of
25 the child, [~~its~~] the child's parent or guardian or person in

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1 loco parentis that the provisions of [~~Sections 59-6-1 through~~
2 ~~59-6-16 NMSA 1953~~] Chapter 50, Article 6 NMSA 1978 are being
3 complied with and that such child is in good health. [~~Such~~]
4 The extension of time shall be made by [~~such~~] the officer
5 writing upon the certificate the following words: "this work
6 permit certificate is extended for a period of days from
7 this date" and by signing his [~~or her~~] name [~~thereto~~] to the
8 certificate. "

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

11 "50-6-9. EMPLOYER' S RECORDS-- FORM OF PERMITS. -- Whenever
12 [~~any~~] a child is employed or permitted to labor at [~~any~~] a
13 gainful occupation permitted by the laws of this state, the
14 employer of [~~such~~] the child shall preserve on file the [~~labor~~]
15 work permit of [~~such~~] the child and shall keep posted in a
16 conspicuous place about the premises where [~~such~~] the child is
17 employed a list of all children there at work by virtue of
18 [~~labor~~] work permits. The form for all [~~labor~~] work permits
19 shall be prepared by and shall contain such information
20 concerning the identity of the child as may be prescribed by
21 the labor and industrial [~~commission~~] division of the labor
22 department. "

23 Section 7. Section 50-6-10 NMSA 1978 (being Laws 1925,
24 Chapter 79, Section 11, as amended) is amended to read:

25 "50-6-10. INSPECTION OF WORK PERMIT CERTIFICATES, RECORDS

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1 AND PREMISES BY LABOR AND INDUSTRIAL ~~[COMMISSION]~~ DIVISION OF
2 THE LABOR DEPARTMENT. -- All employment certificates and records
3 and the premises where children are employed are subject to
4 inspection by representatives of the labor and industrial
5 ~~[commission]~~ division of the labor department. The
6 ~~[commission]~~ director of the division may, for cause, cancel
7 ~~[any labor]~~ a work permit with the concurrence of the officer
8 issuing the permit but, in case they disagree, the ~~[district]~~
9 court may cancel the permit on complaint setting forth the
10 grounds therefor under the provisions of ~~[Sections 59-6-1~~
11 ~~through 59-6-15 NMSA 1953]~~ Chapter 50, Article 6 NMSA 1978. "

12 Section 8. Section 50-6-12 NMSA 1978 (being Laws 1925,
13 Chapter 79, Section 13, as amended) is amended to read:

14 "50-6-12. PENALTIES ~~[FOR VIOLATION OF ACT].~~ --

15 A. The director of the labor and industrial
16 division of the labor department or the director's designee or
17 agent, or the state child labor inspector have the power and
18 authority to issue citations and fines to employers who are in
19 violation of any of the provisions of Chapter 50, Article 6
20 NMSA 1978.

21 B. Whoever employs a child, or whoever having under
22 his control a child, permits [such] the child to be employed in
23 violation of any of the provisions of [Sections 59-6-1 through
24 59-6-16 NMSA 1953 shall be guilty of a misdemeanor and] Chapter
25 50, Article 6 NMSA 1978 as determined by the state child labor

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1 inspector, shall be cited and shall be fined not less than
2 [~~twenty five dollars (\$25.00) nor~~ one hundred dollars (\$100)
3 and not more than [~~three hundred dollars (\$300)] five thousand~~
4 dollars (\$5,000) and, on default of the payment of such fine,
5 may be sentenced to the county jail for not less than five days
6 nor more than fifteen days. Each violation of [~~Sections 59-6-1~~
7 through ~~59-6-16 NMSA 1953~~ Chapter 50, Article 6 NMSA 1978
8 shall constitute a separate offense. In the event of a second
9 [~~conviction~~] citation within a two-year period of the employer
10 for violation of [~~Sections 59-6-1 through 59-6-16 NMSA 1953~~
11 Chapter 50, Article 6 NMSA 1978, the court trying the cause
12 shall sentence [~~such~~] the employer to the county jail for a
13 period of not less than thirty days; and for any succeeding
14 conviction for the like offense, the court trying the cause
15 shall sentence the employer to imprisonment in the state
16 penitentiary for a period of not less than one year [~~nor~~] and
17 not more than two years.

18 C. A person may appeal any determinations, finding
19 or citations of the director of the labor and industrial
20 division of the labor department made pursuant to Chapter 50,
21 Article 6 NMSA 1978 to the labor and industrial commission
22 sitting as the appeals board, by filing notice of the appeal
23 with the director within fifteen days after the citation has
24 been issued."

25 Section 9. Section 50-6-13 NMSA 1978 (being Laws 1925,

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1 Chapter 79, Section 14) is amended to read:

2 "50-6-13. JURISDICTION. -- The ~~[district]~~ magistrate or
3 metropolitan courts are hereby given original jurisdiction in
4 all cases of violations of the provisions of ~~[this act]~~ Chapter
5 50, Article 6 NMSA 1978. In the event of a third or subsequent
6 conviction, the district court shall have the original
7 jurisdiction. "

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

10 "50-6-14. STATE CHILD LABOR INSPECTOR--APPOINTMENT--
11 DIRECTION--QUALIFICATIONS. --There shall be a "state child labor
12 inspector", appointed by and subject to the ~~[labor~~
13 ~~commissioner]~~ director of the labor and industrial division of
14 the labor department. The inspector must be qualified by
15 special training and experience for this work and must pass a
16 satisfactory examination given by the ~~[labor commissioner]~~
17 director of the division for this purpose. The director of the
18 division shall keep the office of the state child labor
19 inspector in Santa Fe. The director may procure all necessary
20 office furniture, appliances and all necessary supplies and
21 incur such other expenses as may be necessary. "

22 Section 11. REPEAL. -- Sections 50-6-1, 50-6-6, 50-6-15 and
23 50-6-16 NMSA 1978 (being Laws 1925, Chapter 79, Sections 1 and
24 7, Laws 1963, Chapter 175, Section 4 and Laws 1959, Chapter
25 298, Section 1, as amended) are repealed.

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