

34:2-21.1 ET AL

LEGISLATIVE HISTORY CHECKLIST

NJSA 34:2-21.1 et al (Minors -- allow employment in dinner theater productions though establishment serves alcoholic beverages)
LAWS 1981 CHAPTER 331

Bill No. A1518

Sponsor(s) Burgio and Orechio

Date Introduced April 17, 1980

Committee: Assembly Labor

Senate Labor, Industry and Professions

Amended during passage Yes according to Governor's recommendations ~~XXX~~ Amendments denoted by asterisks

Date of Passage: Assembly Feb. 9, 1981

Re-enacted 12-7-81

Senate June 18, 1981

Re-enacted 12-10-81

Date of approval Dec. 14, 1981

Following statements are attached if available:

Sponsor statement	Yes	No X Also attached Senate amendments adopted 6-8-81 (with Statement)
Committee Statement: Assembly	Yes	No X
Senate	Yes	No X
Fiscal Note	Yes	No X
Veto Message	Yes	No X
Message on signing	Yes	No X

Following were printed:

Reports	Yes	No
Hearings	Yes	No

6/22/81

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ASSEMBLY, No. 1518

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1980

By Assemblywoman BURGIO and Assemblyman ORECHIO

Referred to Committee on Labor

AN ACT concerning child labor, amending P. L. 1940, c. 153

[and] ** **, ** P. L. 1962, c. 91 **and P. L. 1981, c. 147**.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
 2 *of New Jersey:*

1 1. Section 1 of P. L. 1940, c. 153 (C. 34:2-21.1) is amended to
 2 read as follows:

3 1. As used in this act:

4 (a) "Employment certificate" means a certificate granted by
 5 the issuing officer authorizing the employment of a child as per-
 6 mitted under this act.

7 (b) "Age certificate" means a certificate issued for a person
 8 between the ages of 18 and 21 years.

9 (c) "Issuing officer" means any superintendent of schools, super-
 10 vising principal, or teacher in a school district who is designated
 11 by the board of education in the district to issue certificates or
 12 permits in accordance with the provisions of this act.

13 (d) "School district" means any geographical area having
 14 authority over the public schools within that area.

15 (e) "Agriculture" includes farming in all its branches and
 16 among other things includes the cultivation and tillage of the soil,
 17 dairying, the production, cultivation, growing, and harvesting of
 18 any agricultural or horticultural commodities (including commodi-
 19 ties defined as agricultural commodities in section 15 (g) of the
 20 Agricultural Marketing Act, as amended) the planting, transplant-
 21 ing and care of trees and shrubs and plants, the raising of live-
 22 stock, bees, fur-bearing animals or poultry, and any practices
 23 (including any forestry or lumbering operations) performed by
 24 a farmer or on a farm as an incident to or in conjunction with such
 25 farming operations, including preparation for market, delivery to

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

26 storage or to market or to carriers for transportation to market,
 27 provided that such practices shall be performed in connection with
 28 the handling of agricultural or horticultural commodities the major
 29 portion of which have been produced upon the premises of an
 30 owning or leasing employer.

31 (f) “***[Newspaperboy]*** **Newspaper carrier*” means any minor
 32 between 12 and 18 years of age who engages in the occupation of
 33 delivering, soliciting, selling and collecting for, newspapers outside
 34 of school hours on residential routes.

35 (g) “Restaurant” means any establishment or business primar-
 36 ily engaged in the preparation and servicing of meals or refresh-
 37 ments, both food and drink, and shall include but not be limited to
 38 the following: dining establishments, catering establishments,
 39 industrial caterers, and drive-in restaurants.

40 (h) “*Theatrical production*” means and includes stage, motion
 41 picture and television performances and rehearsals therefor.

1 **2. Section 3 of P. L. 1940, c. 153 (C. 34:2-21.3) is amended to
 2 read as follows:

3 3. Except as provided in section 15 and except for domestic
 4 service or messengers employed by communications companies
 5 subject to the supervision and control of the Federal Communica-
 6 tions Commission, no minor under 18 years of age shall be em-
 7 ployed, permitted, or suffered to work in, about, or in connection
 8 with any gainful occupation more than 6 consecutive days in any
 9 1 week, or more than 40 hours in any 1 week, or more than 8 hours
 10 in any 1 day, nor shall any minor under 16 years of age be so
 11 employed, permitted, or suffered to work before 7 a.m. or after 6
 12 p.m. of any day; nor shall any minor between 16 and 18 years of
 13 age be so employed, permitted or suffered to work before 6 a.m.
 14 or after 11 p.m. of any day; provided, that minors between 16
 15 and 18 years of age may be employed after 11 p.m. during any
 16 regular school vacation season, and in a restaurant after 12 o'clock
 17 midnight on such days which do not precede a regularly scheduled
 18 school day, with a special written permit from their parents or
 19 legal guardian stating the hours they are permitted to work; pro-
 20 vided, further that minors **[14 and 15 years of age]** may be em-
 21 ployed in a concert or a theatrical performance up to **[11 p.m.]**
 22 *11:30 p.m.*; and provided, further, that minors not less than 16
 23 years of age and who are attending school may be employed as
 24 pin-setters only in public bowling alleys up to 11:30 p.m., but may
 25 not be so employed during the school term without a special written
 26 permit from the superintendent of schools or the supervising
 27 principal as the case may be, which permit must state that the

28 minor has undergone a complete physical examination by the
 29 medical inspector, and, in the opinion of the superintendent or
 30 supervising principal may be so employed, without injury to health
 31 or interference with progress in school, such special permits to
 32 be good for a period of 3 months only and are revocable in the
 33 discretion of the superintendent or supervising principal. Such
 34 permit may not be renewed until satisfactory evidence has been
 35 submitted to the superintendent or supervising principal showing
 36 that the minor has had a physical examination and the minor's
 37 health is not being injured by said work; and provided, further,
 38 that minors between 16 and 18 years of age may not be employed
 39 after 10 p.m. during the regular school vacation seasons in or for
 40 a factory or in any occupation otherwise prohibited by law or by
 41 order or regulation made in pursuance of law. The combined hours
 42 of work and hours in school of minors under 16 employed outside
 43 school hours shall not exceed a total of 8 per day.

44 This section is not applicable to the employment of a minor be-
 45 tween 16 and 18 years of age during the months of June, July,
 46 August or September by a summer resident camp, conference or
 47 retreat operated by a nonprofit or religious corporation or associa-
 48 tion, unless the employment is primarily general maintenance
 49 work or food service activities.**

1 **[2.]** **3.** Section 17 of P. L. 1940, c. 153 (C. 34:2-21.17)
 2 is amended to read as follows:

3 17. No minor under 16 years of age shall be employed, permitted
 4 or suffered to work in, about, or in connection with power-driven
 5 machinery.

6 No minor under 18 years of age shall be employed, permitted or
 7 suffered to work in, about, or in connection with the following:

8 The manufacture or packing of paints, colors, white lead, or
 9 red lead;

10 The handling of dangerous or poisonous acids or dyes; injurious
 11 quantities of toxic or noxious dust, gases, vapors or fumes;

12 Work involving exposure to benzol or any benzol compound which
 13 is volatile or which can penetrate the skin;

14 The manufacture, transportation or use of explosives or highly
 15 flammable substances;

16 Oiling, wiping, or cleaning machinery in motion or assisting
 17 therein;

18 Operation or helping in the operation of power-driven wood-
 19 working machinery; provided, that apprentices operating
 20 under conditions of bona fide apprenticeship may operate such
 21 machines under competent instruction and supervision;

22 Grinding, abrasive, polishing or buffing machines; provided, that
 23 apprentices operating under conditions of bona fide apprentice-
 24 ship may grind their own tools;
 25 Punch presses or stamping machines if the clearance between the
 26 ram and the dye or the stripper exceeds $\frac{1}{4}$ inch;
 27 Cutting machines having a guillotine action;
 28 Corrugating, crimping or embossing machines;
 29 Paper lace machines;
 30 Dough brakes or mixing machines in bakeries or cracker
 31 machinery;
 32 Calender rolls or mixing rolls in rubber manufacturing;
 33 Centrifugal extractors, or mangles in laundries or dry cleaning
 34 establishments;
 35 Ore reduction works, smelters, hot rolling mills, furnaces,
 36 foundries, forging shops, or any other place in which the
 37 heating, melting, or heat treatment of metals is carried on;
 38 Mines or quarries;
 39 Steam boilers carrying a pressure in excess of 15 pounds;
 40 Construction work of any kind;
 41 Fabrication or assembly of ships;
 42 Operation or repair of elevators or other hoisting apparatus;
 43 The transportation of payrolls other than within the premises of
 44 the employer.
 45 No minor under 18 years of age shall be employed, permitted, or
 46 suffered to work in, about, or in connection with any establishment
 47 where alcoholic liquors are distilled, rectified, compounded, brewed,
 48 manufactured, bottled, or are sold for consumption on the premises,
 49 or in a pool or billiard room; provided, however, this ***[section]***
 50 **paragraph** shall not apply to minors 16 years of age or over,
 51 employed as pinsetters only in public bowling alleys as provided
 52 in section 3 hereof *or to minors employed in theatrical productions*
 53 ***[the price of admission to which includes dinner]*** **where alco-*
 53A *holic beverages are sold on the premises**.
 54 Minors 14 years of age or over may be employed as golf course
 55 caddies and pool attendants.
 56 ***[No girl under the age of 18 years shall be employed, permitted,**
 57 **or suffered to work as a messenger in the distribution or delivery**
 58 **of goods or messages for any person, firm or corporation engaged**
 59 **in the business of transmitting or delivering goods or messages.]***
 60 No minor under 18 years of age shall be employed, permitted, or
 61 suffered to work in any place of employment, or at any occupation
 62 hazardous or injurious to the life, health, safety, or welfare of

63 such minor, as such occupation shall, from time to time, be de-
 64 termined and declared by the Commissioner of Labor ***[and
 65 Industry]*** to be hazardous or injurious to the life, health, safety,
 66 or welfare of such minors, after a public hearing thereon and after
 67 such notice as the commissioner may by regulation prescribe.

68 None of the provisions of this section regarding employment in
 69 connection with alcoholic liquors shall be construed to prevent the
 70 employment of minors *[between]* 16 *[and 18]* years of age or
 71 more in a restaurant as defined in section 1 and as provided for in
 71A section 3 of this act, or in the executive offices, maintenance depart-
 71B ments, or pool or beach areas of a hotel, motel or guesthouse; pro-
 71C vided, however, that no minor shall engage in the preparation, sale,
 71D or *[however, that no minor shall engage in the preparation, sale
 72 or]* serving of alcoholic beverages, nor in the sale of cigarettes or
 73 other tobacco products, nor in the preparation or sale of photo-
 74 graphs, nor in any dancing or theatrical exhibition or per-
 75 formance *which is not part of a theatrical production* *[the price of
 76 admission to which includes dinner]* *where alcoholic beverages*
 76A *are sold on the premises**, while so employed.

77 Nothing in this section shall be deemed to apply to the work done
 78 by pupils in public or private schools of New Jersey, under the
 79 supervision and instruction of officers or teachers of such organiza-
 80 tions or schools, or to a *[child]* *minor* who is *[at least]* 17
 81 years of age employed in the type of work in which *[he]* *such*
 82 *minor* majored under the conditions of the special vocational
 83 school graduate permit provided in section 15 of this act
 84 (C. 34:2-21.15).

85 ****[Any person who violates this section is guilty of a crime of*
 86 *the fourth degree.]****

87 ****Nothing in this section shall be construed to prevent minors*
 88 *16 years of age or older who are members of a Junior Firemen's*
 89 *Auxiliary, created pursuant to N. J. S. 40A:14-95, from engaging*
 90 *in any activities authorized by N. J. S. 40A:14-98.****

1 ****[3.]** **4.*** Section 1 of P. L. 1962, c. 91 (C. 34:2-21.57)
 2 is amended to read as follows:

3 1. As used in this act:

4 a. "Professional employment" means employment for pay as an
 5 actor or performer in a theatrical production.

6 b. "Theatrical production" means and includes stage, motion
 7 picture and television performances and rehearsals therefor.

8 c. "Prohibited performance" means and includes appearances
 9 as a rope or wire walker or rider, gymnast, wrestler, boxer, con-
 10 tortionist, acrobat, rider of a horse or other animal ***unless the*

11 *minor is trained to safely ride such horse or animal*** or rider of
 12 any vehicle other than that ****[normally]**** *generally*** used
 13 ****[as a toy]**** *by a minor of the same age***, or appearance in
 14 any illegal, indecent or immoral exhibition ***[or]*** *,* practice, *or
 15 *theatrical production** or in any practice*,* ***[or]*** exhibition *or
 16 *theatrical production** dangerous to the life, limb, health or morals
 17 of a minor **[or a performance upon any premises licensed for the**
 18 **sale and consumption of alcoholic beverages]**, or appearance or
 19 exhibition of any physically deformed or mentally deficient minor.

1 **5. Section 3 of P. L. 1962, c. 91 (C. 34:2-21.59) is amended to
 2 read as follows:

3 3. a. Upon application of an employer, bearing the endorsed ap-
 4 proval of a parent or guardian of the minor a permit authorizing
 5 employment of the minor in a theatrical production may be issued
 6 if:

7 (a) The minor is in good health and will not likely be endangered
 8 by the working conditions of the prospective employment as certi-
 9 fied by a currently issued statement of a licensed physician based
 10 upon a physical examination which, for minors under 8 years of
 11 age, includes a visual acuity screening if practicable;

12 (b) The place of employment is approved by the Department
 13 of Labor and the period for which the permit is desired is not in
 14 excess of 3 months;

15 (c) The minor is not attending public school and the application
 16 is for a period other than during the school summer vacation period,
 17 that he is receiving equivalent instruction approved by the Depart-
 18 ment of Education or by the State or county of his residence if he
 19 be a nonresident of New Jersey;

20 (d) The proposed employment will not exceed two shows or
 21 productions in a day or a total of eight shows or productions in any
 22 week where the professional employment is reasonably separable
 23 into discrete shows or productions; that the employment will not
 24 be for more than 6 days in any week, 5 hours in any day or a total
 25 of 24 hours, including rehearsal time, in any week and that the
 26 minor will not be employed before 7:00 a.m. or after 11:30 p.m. and
 27 that school and theatrical performance time shall not exceed 8
 28 hours in any 1 day and that *the combined* time spent on a **[motion**
 29 **picture]** set or **[on location while]** on call **[shall be excluded from**
 30 **any calculation of the number of hours employed if adequate pro-**
 31 **vision has been made for the minor's education, supervision, health**
 32 **and welfare during such intervals]** *and performance time shall not*
 33 *exceed a total of eight hours in any one day;*

34 (e) The employment does not involve a type of prohibited per-
35 formance as hereinafter defined; *and*

36 (f) The minor will be under the direct care and supervision of
37 an adult who is a parent, guardian or a representative of the em-
38 ployer, named in the application, at all times during his employ-
39 ment or while living away from home when required as an incident
40 of such employment.

41 *b.* A permit or certificate, as the case may be, may be issued by
42 the issuing officer or by the Commissioner of Labor in cases in-
43 volving a significant contribution to the development of the motion
44 picture industry in the State as determined by the Motion Picture
45 and Television Development Commission. In such cases, the com-
46 missioner shall also have the authority to alter or amend the hours
47 of the day but not the total hours in the day during which a minor
48 may work as set forth in [subsection] paragraph (d) subsection a.
49 of this section, if such alteration or amendment will not foreseeably
50 impair the educational instruction, supervision, health and welfare
51 of the minor, and such an alteration or amendment is necessary for
52 good reasons shown by the employer. The commissioner shall set
53 forth the terms of any alteration or amendment in the permit or
54 certificate.

1 6. Section 4 of P. L. 1962, c. 91 (C. 34:2-21.60) is amended to
2 read as follows:

3 4. The issuing officer or the Commissioner of Labor, pursuant to
4 section 3. b. of P. L. 1962, c. 91 (C. 34:2-21.59), may refuse to grant
5 a permit or certificate if, in his judgment, the best interests of the
6 minor would be served by such refusal and he shall keep a record
7 of such refusals, and the reasons thereof. A refusal by the issuing
8 officer shall not preclude a contrary decision by the commissioner
9 [and a refusal by the commissioner shall not preclude a contrary
10 decision by the issuing officer].

1 7. Section 6 of P. L. 1981, c. 147 (C. 34:2-21.63b) is amended to
2 read as follows:

3 6. [Any person who violates the provisions] *Whoever obtains*
4 *any permit under this act (P. L. 1962, c. 91; C. 34:2-21.57 et seq.)*
5 *upon any ***[knowingly]*** false statement made in applying*
6 *therefor, or employs or permits or suffers any minor to be employed*
7 *or to work in violation of this act or of the terms of any permit*
8 *issued under this act or of any order or ruling issued under the*
9 *provisions of this act, or obstructs the Departments of Labor and*
10 *Education, their officers or agents, or any other person authorized*
11 *to inspect places of employment under this act, and whoever,*
12 *having under his control or custody any minor, permits or suffers*

13 *him to be employed or to work in violation of this act [(P. L. 1962,*
 14 *c. 91; C. 34:2-21.57 et seq.)]* is guilty of ****an offense. Where a*
 15 *defendant acts knowingly, an offense under this section shall be****
 16 *a crime of the fourth degree. ***Otherwise, it shall be a disorderly*
 17 *persons offense.**** Each day during which any violation of this
 18 act continues shall constitute a separate and distinct offense, and
 19 the employment of any minor in violation of the act shall with
 20 respect to each minor so employed, constitute a separate and
 21 distinct offense.

1 8. Section 8 of P. L. 1962, c. 91 (C. 34:2-21.64) is amended to
 2 read as follows:

3 8. The Department of Education and the Department of Labor
 4 shall prescribe forms and regulations concerning applications for
 5 and issuance of permits *and certificates* and the Department of
 6 Labor may issue regulations concerning the administration and
 7 enforcement of this act and, notwithstanding any provisions of law
 8 to the contrary, after consultation with the Department of Educa-
 9 tion, shall prescribe special safeguards governing the working
 10 conditions, supervision and education of minors under the age of
 11 16, with particular attention to minors under the age of 6 years
 12 not inconsistent with the purposes of this act.**

1 ***9. Section 19 of P. L. 1940, c. 153 (C. 34:2-21.19) is amended
 2 to read as follows:

3 9. Whoever employs or permits or suffers any minor to be
 4 employed or to work in violation of this act, or of any order or
 5 ruling issued under the provisions of this act, or obstructs the
 6 Department of Labor, its officers or agents, or any other person
 7 authorized to inspect places of employment under this act, and
 8 whoever, having under his control or custody any minor, permits
 9 or suffers him to be employed or to work in violation of this act,
 10 shall be guilty of [a misdemeanor and shall be punished by a fine
 11 of not less than \$25.00 nor more than \$500.00, or by imprisonment
 12 of not less than 10 nor more than 90 days, or by both such fine and
 13 imprisonment] *an offense. Where a defendant acts knowingly, an*
 14 *offense under this section shall be a crime of the fourth degree.*
 15 *Otherwise it shall be a disorderly persons offense.* Each day during
 16 which any violation of this act continues shall constitute a separate
 17 and distinct offense, and the employment of any minor in violation
 18 of the act shall with respect to each minor so employed, constitute
 19 a separate and distinct offense.***

1 **[4.]** ***[**9.**]** ***10.*** This act shall take effect
 2 immediately.

68 None of the provisions of this section regarding employment in
 69 connection with alcoholic liquors shall be construed to prevent the
 70 employment of minors between 16 and 18 years of age or more in a
 71 restaurant as defined in section 1 and as provided for in section 3
 71A of this act, or in the executive offices, maintenance departments,
 71B or pool or beach areas of a hotel, motel or guesthouse; provided,
 71C however, that no minor shall engage in the preparation, sale or
 71D however, that no minor shall engage in the preparation, sale or
 72 serving of alcoholic beverages, nor in the sale of cigarettes or
 73 other tobacco products, nor in the preparation or sale of photo-
 74 graphs, nor in any dancing or theatrical exhibition or per-
 75 formance *which is not part of a theatrical production the price of*
 76 *admission to which includes dinner*, while so employed.

77 Nothing in this section shall be deemed to apply to the work done
 78 by pupils in public or private schools of New Jersey, under the
 79 supervision and instruction of officers or teachers of such organiza-
 80 tions or schools, or to a child who is at least 17 years of age em-
 81 ployed in the type of work in which he majored under the condi-
 82 tions of the special vocational school graduate permit provided in
 83 section 15 of this act (C. 34:2-21.15).

1 3. Section 1 of P. L. 1962, c. 91 (C. 34:2-21.57) is amended to
 2 read as follows:

3 1. As used in this act:

4 a. "Professional employment" means employment for pay as an
 5 actor or performer in a theatrical production.

6 b. "Theatrical production" means and includes stage, motion
 7 picture and television performances and rehearsals therefor.

8 c. "Prohibited performance" means and includes appearances
 9 as a rope or wire walker or rider, gymnast, wrestler, boxer, con-
 10 tortionist, acrobat, rider of a horse or other animal or rider of any
 11 vehicle other than that normally used as a toy, or appearance in any
 12 illegal, indecent or immoral exhibition or practice, or in any practice
 13 or exhibition dangerous to the life, limb, health or morals of a
 14 minor [or a performance upon any premises licensed for the sale
 15 and consumption of alcoholic beverages], or appearance or exhibi-
 16 tion of any physically deformed or mentally deficient minor.

1 4. This act shall take effect immediately.

STATEMENT

This bill permits minors to be employed in theatrical productions where dinner is included in the price of admission despite the fact that alcoholic beverages are also served. It is intended to allow

A1518 (1981)

the showing of many wholesome stage plays involving child actors, such as "The Sound of Music", at dinner theaters. This type of stage production is popular throughout the country and originated in New Jersey at the Meadowbrook in Cedar Grove. The law would still prohibit any minor from engaging in a theatrical production dangerous to his life, limb, health or morals.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1518

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 2, 1981

The Assembly Labor Committee reports favorably, with amendments, on this bill to allow minors to be employed in legitimate theatrical productions *where alcoholic beverages are sold on the premises*, subject to the child labor law's existing standards for the issuance of permits to minors in theatrical productions.

The committee amended the bill to (1) strengthen the penalty to a "crime of the fourth degree" for any violation of the main "prohibited employment" section of the child labor law. This change would increase the possible maximum jail sentence from 6 months to 18 months and a fine from a maximum \$1,000.00 to \$7,500.00;

(2) Apply the provisions of the bill to all legitimate theatrical productions where alcoholic beverages are sold and not just those where "the price of admission includes dinner." At the same time, the committee expanded the definition of "prohibited performance" so that it will be clearly unlawful for minors to appear in any "illegal, indecent or immoral" theatrical production or in any theatrical production "dangerous to their life, limb, health or morals;" and

(3) Incorporate the revisions of P. L. 1980, c. 90—concerning sex discrimination in employment—in appropriate sections of the bill.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1518

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: APRIL 27, 1981

This bill would permit minors (both male and female) to be employed in theatrical productions where alcoholic beverages are served on the premises.

N. J. S. A. 34:2—21.1 now prohibits minors under 18 years of age from working in any establishment where alcoholic beverages are sold for consumption on the premises, the only exception being pinsetters over 16 years of age.

There are a number of "dinner" theaters in New Jersey which provide theatrical productions and also serve alcoholic beverages. Some of the plays these dinner theaters might wish to put on could contain parts for minors under 18 years of age. Without a change in the child labor law, these parts could not be performed by minors.

FISCAL NOTE TO
ASSEMBLY, No. 1518

STATE OF NEW JERSEY

DATED: SEPTEMBER 29, 1980

Assembly Bill No. 1518 of 1980 permits minors to be employed in theatrical productions where dinner is included in the price of admission, where alcoholic beverages are also served.

The Department of Labor and Industry estimates that enactment of this legislation would present no additional costs to the State.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

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SENATE AMENDMENTS TO
ASSEMBLY, No. 1518
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STATE OF NEW JERSEY

ADOPTED JUNE 8, 1981

Amend page 1, title, line 1, omit "and", insert ",".

Amend page 1, title, line 2, after "c. 91", insert "and P. L. 1981, c. 147".

Amend page 2, section 1, after line 41, insert new section 2 as follows:

"2. Section 3 of P. L. 1940, c. 153 (C. 34:2-21.3) is amended to read as follows:

3. Except as provided in section 15 and except for domestic service or messengers employed by communications companies subject to the supervision and control of the Federal Communications Commission, no minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation more than 6 consecutive days in any 1 week, or more than 40 hours in any 1 week, or more than 8 hours in any 1 day, nor shall any minor under 16 years of age be so employed, permitted, or suffered to work before 7 a.m. or after 6 p.m. of any day; nor shall any minor between 16 and 18 years of age be so employed, permitted or suffered to work before 6 a.m. or after 11 p.m. of any day; provided, that minors between 16 and 18 years of age may be employed after 11 p.m. during any regular school vacation season, and in a restaurant after 12 o'clock midnight on such days which do not precede a regularly scheduled school day, with a special written permit from their parents or legal guardian stating the hours they are permitted to work; provided, further that minors [14 and 15 years of age] may be employed in a concert or a theatrical performance up to [11 p.m.] 11:30 p.m.; and provided, further, that minors not less than 16 years of age and who are attending school may be employed as pin-setters only in public bowling alleys up to 11:30 p.m., but may not be so employed during the school term without a special written permit from the superintendent of schools or the supervising principal as the case may be, which permit must state that the minor has undergone a complete physical examination by the medical inspector, and, in the opinion of the superintendent or supervising principal may be so employed, without injury to health or interference with progress in school, such special permits to be good for a period of 3 months only

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

and are revocable in the discretion of the superintendent or supervising principal. Such permit may not be renewed until satisfactory evidence has been submitted to the superintendent or supervising principal showing that the minor has had a physical examination and the minor's health is not being injured by said work; and provided, further, that minors between 16 and 18 years of age may not be employed after 10 p.m. during the regular school vacation seasons in or for a factory or in any occupation otherwise prohibited by law or by order or regulation made in pursuance of law. The combined hours of work and hours in school of minors under 16 employed outside school hours shall not exceed a total of 8 per day.

This section is not applicable to the employment of a minor between 16 and 18 years of age during the months of June, July, August or September by a summer resident camp, conference or retreat operated by a nonprofit or religious corporation or association, unless the employment is primarily general maintenance work or food service activities."

Amend page 2, section 2, line 1, omit "2.", insert "3."

Amend page 4, section 3, line 1, omit "3.", insert "4."

Amend page 4, section 3, line 10, after "animal", insert "unless the minor is trained to safely ride such horse or animal".

Amend page 4, section 3, line 11, omit "normally", insert "generally"; omit "as a toy", insert "by a minor of the same age".

Amend page 4, section 3, after line 17, insert new sections as follow:
"5. Section 3 of P. L. 1962, c. 91 (C. 34:2-21.59) is amended to read as follows:

3. a. Upon application of an employer, bearing the endorsed approval of a parent or guardian of the minor a permit authorizing employment of the minor in a theatrical production may be issued if:

(a) The minor is in good health and will not likely be endangered by the working conditions of the prospective employment as certified by a currently issued statement of a licensed physician based upon a physical examination which, for minors under 8 years of age, includes a visual acuity screening if practicable;

(b) The place of employment is approved by the Department of Labor and the period for which the permit is desired is not in excess of 3 months;

(c) The minor is not attending public school and the application is for a period other than during the school summer vacation period, that he is receiving equivalent instruction approved by the Department of Education or by the State or county of his residence if he be a non-resident of New Jersey;

(d) The proposed employment will not exceed two shows or productions in a day or a total of eight shows or productions in any week where the professional employment is reasonably separable into discrete shows or productions; that the employment will not be for more than 6 days in any week, 5 hours in any day or a total of 24 hours, including rehearsal time, in any week and that the minor will not be employed before 7:00 a.m. or after 11:30 p.m. and that school and theatrical performance time shall not exceed 8 hours in any 1 day and that *the combined* time spent on a [motion picture] set or [on location while] on call [shall be excluded from any calculation of the number of hours employed if adequate provision has been made for the minor's education, supervision, health and welfare during such intervals] *and performance time shall not exceed a total of eight hours in any one day;*

(e) The employment does not involve a type of prohibited performance as hereinafter defined; *and*

(f) The minor will be under the direct care and supervision of an adult who is a parent, guardian or a representative of the employer, named in the application, at all times during his employment or while living away from home when required as an incident of such employment.

b. A permit or certificate, as the case may be, may be issued by the issuing officer or by the Commissioner of Labor in cases involving a significant contribution to the development of the motion picture industry in the State as determined by the Motion Picture and Television Development Commission. In such cases, the commissioner shall also have the authority to alter or amend the hours of the day but not the total hours in the day during which a minor may work *as set forth in* [subsection] *paragraph (d) subsection a.* of this section, if such alteration or amendment will not foreseeably impair the educational instruction, supervision, health and welfare of the minor, and such an alteration or amendment is necessary for good reasons shown by the employer. The commissioner shall set forth the terms of any alteration or amendment in the permit or certificate.

6. Section 4 of P. L. 1962, c. 91 (C. 34:2-21.60) is amended to read as follows:

4. The issuing officer or the Commissioner of Labor, *pursuant to section 3. b. of P. L. 1962, c. 91 (C. 34:2-21.59)*, may refuse to grant a permit or certificate if, in his judgment, the best interests of the minor would be served by such refusal and he shall keep a record of such refusals, and the reasons thereof. A refusal by the issuing officer shall not preclude a contrary decision by the commissioner [and a refusal by the commissioner shall not preclude a contrary decision by the issuing officer].

7. Section 6 of P. L. 1981, c. 147 (C. 34:2-21.63b) is amended to read as follows:

6. **[Any person who violates the provisions]** *Whoever obtains any permit under this act (P. L. 1962, c. 91; C. 34:2-21.57 et seq.) upon any knowingly false statement made in applying therefor, or employs or permits or suffers any minor to be employed or to work in violation of this act or of the terms of any permit issued under this act or of any order or ruling issued under the provisions of this act, or obstructs the Departments of Labor and Education, their officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act [(P. L. 1962, c. 91; C. 34:2-21.57 et seq.)] is guilty of a crime of the fourth degree. Each day during which any violation of this act continues shall constitute a separate and distinct offense, and the employment of any minor in violation of the act shall with respect to each minor so employed, constitute a separate and distinct offense.*

8. Section 8 of P. L. 1962, c. 91 (C. 34:2-21.64) is amended to read as follows:

8. The Department of Education and the Department of Labor shall prescribe forms and regulations concerning applications for and issuance of permits *and certificates* and the Department of Labor may issue regulations concerning the administration and enforcement of this act and, notwithstanding any provisions of law to the contrary, after consultation with the Department of Education, shall prescribe special safeguards governing the working conditions, supervision and education of minors under the age of 16, with particular attention to minors under the age of 6 years not inconsistent with the purposes of this act.”.

Amend page 4, section 4, line 1, omit “4.”, insert “9.”.

STATEMENT

These amendments make changes in the child labor law which have been made by P. L. 1981, c. 147.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 30, 1981

ASSEMBLY BILL NO. 1518 (2nd OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1518 (2nd OCR) with my objections for reconsideration.

This bill amends the Child Labor Law to allow minors to work in theatrical productions on premises where alcoholic beverages are sold and consumed. The primary purpose of the bill is to allow child actors to work in dinner theatres, which generally present wholesome stage entertainment. The bill would prohibit participation in productions that are "dangerous to the life, limb, health or morals of a minor," thus barring the child's employment in unsuitable surroundings or in inappropriate productions, such as casino night club shows. The bill also makes certain technical amendments to the law, enacted as P.L. 1981, c. 147, that would allow waivers of the curfew applicable to work in theatrical productions.

The bill also upgrades a criminal violation of the Child Labor Law to the level of a fourth degree crime. In some circumstances, I believe this may be unduly harsh. It has been established that knowledge or design is not a necessary element of a criminal violation of the law. See State v. Resorts Int'l Hotel, Inc., 173 N.J. Super 290 (App. Div. 1980), certif. den. 84 N.J. 466 (1980). Where an employer violates the law inadvertently, it would be inappropriate to subject him to the higher penalties of a fourth degree crime. However, where an employer knowingly violates the law, then those penalties may well be justified.

Accordingly, I believe an unknowing violation of the law should be a disorderly persons offense. Where the violation is knowing, it should be a fourth degree crime. This would also permit swift and economical prosecution of minor child labor offenses in municipal courts. I am aware that with two grades of the offense, there may be a tendency, in the case of knowing violations, to bargain down to the lesser grade without careful consideration of whether the circumstances warrant it. This tendency should be resisted, and the Child Labor Law should be vigorously enforced.

In addition, I note that under the bill the upgraded penalties would apparently apply only to violations of the theatrical production provisions N.J.S.A. 34:2-21.57 et seq., and the section prohibiting certain kinds of

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

-2-

employment. N.J.S.A. 34:2-21.17. Violations of other sections, for example those relating to street trade or agricultural employment, would remain unchanged. I believe the upgraded penalties should apply across the board, except where the law specifically sets a higher penalty.

Lastly, in light of enactment of P.L. 1981, c. 83, one technical amendment is also called for to prevent an unintended repeal.

Accordingly, I herewith return Assembly Bill No. 1518 (2nd OCR) for reconsideration and recommend that it be amended as follows:

Page 5, Section 3, line 64: Omit "and Industry"

Page 5, Section 3, lines 85-86: Omit in their entirety.

Page 5, Section 3, after line 86: Insert "Nothing in this section shall be construed to prevent minors 16 years of age or older who are members of a Junior Firemen's Auxiliary, created pursuant to N.J.S. 40A:14-95, from engaging in any activities authorized by N.J.S. 40A:14-98."

Page 7, Section 7, line 5: Omit "knowingly".

Page 7, Section 7, line 14: After "guilty of" insert "an offense. Where a defendant acts knowingly, an offense under this section shall be" and after "fourth degree." insert "Otherwise, it shall be a disorderly persons offense."

Page 8, after Section 8, line 12: Add a new section as follows:

"9. Section 19 of P.L. 1940, c. 153 (C.34:2-21.19) is amended to read as follows:

9. Whoever employs or permits or suffers any minor to be employed or to work in violation of this act, or of any order or ruling issued under the provisions of this act, or obstructs the Department of Labor, its officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act, shall be guilty of [a misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), or by imprisonment of not less than ten nor more than ninety days, or by both such fine and imprisonment] an offense. Where a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree. Otherwise it shall be a disorderly persons offense. Each day during which any violation of this act continues shall constitute a separate

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

-3-

and distinct offense, and the employment of any minor in violation of the act shall with respect to each minor so employed, constitute a separate and distinct offense."

Page 8, Section 9, line 1: Omit "9" and insert "10".

Respectfully,

/s/ Brendan Byrne

GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

CHIEF OF STAFF, SECRETARY

DECEMBER 14, 1981

BOB DOWD

Governor Brendan Byrne today signed the following bills into law:

A-544, sponsored by Assemblyman Dennis Riley (D-Camden), will permit local government to sell surplus property at public auctions rather than by sealed bids. The legislation, however, will continue the practice of sealed bids for any leasing of government property.

A-1518, sponsored by Assemblywoman Jane Burgio (R-Essex), permits child actors to work in dinner theatres where alcoholic beverages are sold.

The bill also makes minor amendments to the Child Labor Law discovered after special legislation was passed to allow Alene Quinn to film the movie "Annie" in Monmouth County.

Although A-1518 allows minors to work in a dinner theatre, the law would continue to prevent minors working in casino stage shows or where the production was "dangerous to life, limb, health or morals of a minor."

The bill makes a knowing violation of the Child Labor Law subject to prosecution as a fourth degree crime, requiring a grand jury indictment. Unknowing violations would be prosecuted as a disorderly persons offense. The law also makes clear that despite any waivers, a child actor may not be on call, on the set or in performance for more than eight hours per day.

S-413, sponsored by Senator John Russo (D-Ocean), amends the "Sales and Use Tax Act" to exempt the purchase of aircraft, boats and other vessels from the State sales tax if the purchaser is a) a non-resident of the State; b) does not permanently live in the State; c) and is not engaged in business in the State in which the aircraft or boat would be used.

S-1409, sponsored by Senator Matthew Feldman (D-Bergen), allows a holder of a second mortgage to sue on the note or foreclose on the debt, in effect giving the same options as other lenders to recover on defaults. Present law requires secondary mortgage holders to foreclose on the note and the mortgage rather than suing to obtain a judgment on the debt.

Consumers, however, will benefit from the new legislation because the new law allows a mortgage defaultee to pay a money judgment rather than lose thier home.

S-3278, sponsored by Senator Carmen Orechio (D-Essex), authorizes the sale of a 2.6 acre parcel of land owned by the Department of Human Services' Greystone Psychiatric Hospital in Morris Plains, New Jersey. The sale would be held under terms and conditions set by the State House Commission.

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