

LEGISLATIVE BILL 330

Approved by the Governor May 10, 1995

Introduced by Landis, 46

AN ACT relating to child labor; to amend sections 48-302 and 48-310 to 48-312, Reissue Revised Statutes of Nebraska; to define employment; to authorize a special permit; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. For purposes of sections 48-302 to 48-313 and section 4 of this act, employment means (1) service for wages or (2) being under a contract of hire, written or oral, express or implied. Employment does not include any employment for which the employer is not liable for payment of the combined tax or payment in lieu of contributions under section 48-648, 48-649, or 48-660.01.

Sec. 2. Section 48-302, Reissue Revised Statutes of Nebraska, is amended to read:

48-302. No child under sixteen years of age shall be employed, or permitted or suffered to work, in any theatre, concert hall or place of amusement, or in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, passenger or freight elevator, factory or workshop, restaurant, drive-in, or as a messenger or driver therefor, employment as defined in section 1 of this act within this state, unless the person or corporation employing him the child procures and keeps on file, and accessible to the attendance officers of the city, and to the Department of Labor, and its assistants and employees, an employment certificate as prescribed in section 48-304 and keeps two complete lists of all such children employed therein in the building, one on file and one conspicuously posted near the principal entrance of the building in which such children are employed. Upon the termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall be forthwith transmitted by the employer to the city or county superintendent of schools of the county in which the child resides, and shall be turned over to the child named therein upon demand. Any attendance officer, or the Department of Labor or its assistants and employees may make demand on any employer in whose place of business a child apparently under the age of sixteen 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 days, satisfactory evidence satisfactory to him that such child is in fact over sixteen years of age or shall cease to employ or permit or suffer such child to work in such place of business. The same evidence of the age of such child may be required from such employer as is required on the issuance of an employment certificate as provided in section 48-304, 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 fails to produce and deliver to the attendance officer or the Commissioner of Labor within ten days after demand for the same, such evidence of the age of any child as may be required of him under the provisions of section 48-304, and shall thereafter continue continues to employ such child or permit or suffer such child to work in such place of business, 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 a violation of this section that such child is under sixteen years of age and is unlawfully employed.

Sec. 3. Section 48-310, Reissue Revised Statutes of Nebraska, is amended to read:

48-310. No person under the age of sixteen years shall be employed or suffered to work in any theatre, concert hall or place of amusement, or in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, packing house, bowling alley, passenger or freight elevator, factory, workshop, beet field, restaurant, drive-in, or as a messenger or driver; employment as defined in section 1 of this act more than forty-eight hours in any one week, nor more than eight hours in any one day, nor before the hour of 6 in the morning, nor after the hour of 8 in the evening if the child is under the age of fourteen, nor after the hour of 10 in the evening if such child is between the ages of fourteen and sixteen. The person issuing the work certificate may limit or extend the above stated hour in individual cases by endorsement on the certificate, except PROVIDED; a child shall only

be permitted to work after the hour of 10 p.m. if there is no school scheduled for the following day and, if he or she is between fourteen and sixteen years of age, has consented to such extension by signing his or her name on the endorsement extension, and his or her employer has obtained a special permit from the Department of Labor. The Department of Labor is authorized to may issue a special permit to allow employment of such child beyond 10 p.m. as above provided upon being satisfied, after inspection of the working conditions, of and the safety, healthfulness, and general welfare to the child, of the business premises. The special permit may be issued for periods not to exceed ninety days and may be renewed only after reinspection. The fee for each permit or renewal shall be five dollars established by rule and regulation of the Commissioner of Labor, and all money so collected by the Commissioner of Labor shall be remitted by him to the State Treasurer who shall place the same in credit the funds to the General Fund. Every employer shall post in a conspicuous place in every room where such children are employed a printed notice stating the hours required of them each day, the hours of commencing and stopping work, and the time allowed for meals. The printed form of such notice shall be furnished by the Department of Labor.

Sec. 4. When the Department of Labor finds it to be in the best interests of the child, the Department of Labor may issue a special permit waiving any requirement or restriction imposed on employment of a child pursuant to sections 48-302 to 48-313 for any child employed as a performer in the performing arts subject to such conditions as the Department of Labor deems necessary. For purposes of this section, performing arts means musical and theatrical presentations and productions, including motion picture, theatre, radio, and television productions. Before any such waiver is issued, the written consent of a parent or a person standing in loco parentis to the child is required. The Department of Labor may charge a fee established by rule and regulation of the Commissioner of Labor for each special permit issued pursuant to this section.

Sec. 5. Section 48-311, Reissue Revised Statutes of Nebraska, is amended to read:

48-311. Whoever employs a child under sixteen years of age and whoever, having under his or her control a child under such age, causes or permits such child to be employed in violation of sections 48-302 to 48-313 and section 4 of this act is shall be guilty of a Class V misdemeanor. Whoever continues to employ any child in violation of any of such sections, after being notified by an attendance officer or by the Department of Labor or by its assistants or employees, shall is, for every day thereafter that such employment continues, be guilty of a Class V misdemeanor. The failure of an employer of child labor to produce, upon request of a person authorized to demand the same, any employment certificate or list required by such sections shall be prima facie evidence of the illegal employment of any child whose employment certificate is not produced or whose name is not listed. Any corporation or employer retaining employment certificates in violation of such sections shall be is guilty of a Class V misdemeanor. Every person authorized or required to sign any certificate or statement prescribed by such sections who knowingly certifies or makes oath to any material false statement therein or who violates any of the provisions of such sections shall be is guilty of a Class V misdemeanor. Every person who refuses admittance to any person authorized to visit or inspect any premises or place of business under the provisions of such sections and to produce all certificates and lists he or she may have when demanded, after such person shall have announced his or her name and the office he or she holds and the purpose of his or her visit, or otherwise obstructs such persons in the performance of their duties prescribed by such sections shall be is guilty of a Class V misdemeanor.

Sec. 6. Section 48-312, Reissue Revised Statutes of Nebraska, is amended to read:

48-312. The presence of a child under sixteen years of age, apparently at work, in a place of employment as defined in section 1 of this act is any of the places of business enumerated in sections 48-302 to 48-313 shall be prima facie evidence of his or her employment therein there. Attendance officers shall visit the places of business enumerated in said sections employment to ascertain whether any children are employed therein contrary to the provisions of said sections 48-302 to 48-313 and section 4 of this act, and they the attendance officers shall report any cases of such illegal employment to the Department of Labor and to the county attorney.

Sec. 7. Original sections 48-302 and 48-310 to 48-312, Reissue Revised Statutes of Nebraska, are repealed.