

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 809

101ST GENERAL ASSEMBLY

3733S.03C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 294.022, 294.024, 294.027, 294.045, 294.051, 294.054, 294.060, 294.070, 294.080, and 294.090, RSMo, and to enact in lieu thereof eight new sections relating to the regulation of employment.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 294.022, 294.024, 294.027, 294.045, 294.051, 294.054, 294.060, 294.070, 294.080, and 294.090, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 64.008, 65.710, 89.500, 294.022, 294.023, 294.070, 294.080, and 294.090, to read as follows:

64.008. 1. As used in this section, the term "home-based work" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

(1) Prohibit mail order or telephone sales for home-based work;

(2) Prohibit service by appointment within the home or accessory structure;

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

15 (3) Prohibit or require structural modifications to
16 the home or accessory structure;

17 (4) Restrict the hours of operation for home-based
18 work; or

19 (5) Restrict storage or the use of equipment that does
20 not produce effects outside the home or accessory structure.

21 3. A zoning ordinance or regulation adopted pursuant
22 to this chapter that regulates home-based work shall not
23 contain provisions that explicitly restrict or prohibit a
24 particular occupation.

25 4. The application of this section does not supersede
26 any deed restriction, covenant or agreement restricting the
27 use of land nor any master deed, by law or other document
28 applicable to a common interest ownership community.

65.710. 1. As used in this section, the term "home-
2 based work" means any lawful occupation performed by a
3 resident within a residential home or accessory structure,
4 which is clearly incidental and secondary to the use of the
5 dwelling unit for residential purposes and does not change
6 the residential character of the residential building or
7 adversely affect the character of the surrounding
8 neighborhood.

9 2. A zoning ordinance or regulation adopted pursuant
10 to this chapter that regulates home-based work shall not:

11 (1) Prohibit mail order or telephone sales for home-
12 based work;

13 (2) Prohibit service by appointment within the home or
14 accessory structure;

15 (3) Prohibit or require structural modifications to
16 the home or accessory structure;

17 (4) Restrict the hours of operation for home-based
18 work; or

19 (5) Restrict storage or the use of equipment that does
20 not produce effects outside the home or accessory structure.

21 3. A zoning ordinance or regulation adopted pursuant
22 to this chapter that regulates home-based work shall not
23 contain provisions that explicitly restrict or prohibit a
24 particular occupation.

25 4. The application of this section does not supersede
26 any deed restriction, covenant or agreement restricting the
27 use of land nor any master deed, by law or other document
28 applicable to a common interest ownership community.

 89.500. 1. As used in this section, the term "home-
2 based work" means any lawful occupation performed by a
3 resident within a residential home or accessory structure,
4 which is clearly incidental and secondary to the use of the
5 dwelling unit for residential purposes and does not change
6 the residential character of the residential building or
7 adversely affect the character of the surrounding
8 neighborhood.

9 2. A zoning ordinance or regulation adopted pursuant
10 to this chapter that regulates home-based work shall not:

11 (1) Prohibit mail order or telephone sales for home-
12 based work;

13 (2) Prohibit service by appointment within the home or
14 accessory structure;

15 (3) Prohibit or require structural modifications to
16 the home or accessory structure;

17 (4) Restrict the hours of operation for home-based
18 work; or

19 (5) Restrict storage or the use of equipment that does
20 not produce effects outside the home or accessory structure.

21 3. A zoning ordinance or regulation adopted pursuant
22 to this chapter that regulates home-based work shall not

23 contain provisions that explicitly restrict or prohibit a
24 particular occupation.

25 4. The application of this section does not supersede
26 any deed restriction, covenant or agreement restricting the
27 use of land nor any master deed, by law or other document
28 applicable to a common interest ownership community.

294.022. 1. For the purposes of this section, the
2 following terms mean:

3 (1) "Employer", any person, firm or corporation
4 employing or seeking to employ a child in the entertainment
5 industry;

6 (2) "Entertainment industry", any person, employer,
7 firm or corporation using the services of a child as a
8 performer, extra or in any other performing capacity in
9 motion picture productions, television or radio productions,
10 theatrical productions, modeling productions, horse shows,
11 rodeos and musical performances[;]

12 (3) "Work permit", a written certification issued by
13 the director which specifies the terms and duration of the
14 work permit for a child under sixteen years of age, for the
15 purposes of employment as a performer, extra or in any other
16 performing capacity in the entertainment industry. A work
17 permit may be issued for a period of twelve months or more
18 and shall be eligible for renewal at the child's next
19 birthday. A work permit shall generally be issued for a
20 twelve-month period of time.

21 2. No child may be employed in the entertainment
22 industry without an entertainment work permit issued by the
23 director. No permit shall be issued without the following:

24 (1) Proof of age by birth certificate or other
25 documentary evidence;

26 (2) Written consent of the child's parent, legal
27 custodian or guardian;
28 (3) Upon entering into a contractual employment
29 agreement, a written statement from the prospective employer
30 shall be kept on file by the prospective employer. The
31 written statement shall set forth the nature of employment
32 and the projected duration of the employment or project].

33 [3.] 2. No child shall be permitted at the place of
34 employment **for the entertainment industry**, unless the
35 parent, legal custodian, guardian or designated guardian of
36 a child **has consented and** is present at all times that the
37 child is at the place of employment, and such person may
38 accompany the child to wardrobe, makeup, hairdressing and
39 dressing room facilities. The parent, legal custodian,
40 guardian or designated guardian may designate an individual
41 to accompany the child during times the child is at the
42 place of employment, provided the designation is made in
43 writing, signed by the parent or guardian and presented to
44 the employer prior to the child's scheduled work. A copy of
45 the written designation shall be kept on file by the
46 employer at the site of the employment or project.

47 [4.] 3. The employer shall designate one individual on
48 each set, stage or other place of employment **for the**
49 **entertainment industry** to coordinate all matters relating to
50 the welfare of children and shall notify the parent, legal
51 custodian or guardian of each child of the name of such
52 individual.

53 [5.] 4. All of the hours in which a child may be at
54 the place of employment **for the entertainment industry** are
55 exclusive of meal periods. Meal periods shall be at least
56 one-half hour, but not more than one hour in duration. In
57 no event may a child be at the place of employment for a

58 period longer than five and one-half hours without a meal
59 break.

60 [6.] 5. A child **working in the entertainment industry**
61 shall receive a twelve-hour rest break at the end of the
62 child's work day and prior to the commencement of the
63 child's next day of work for the same employment. A child
64 shall also receive a fifteen minute rest period after each
65 two hours of continuous work.

66 [7.] 6. The employer shall provide a suitable place to
67 rest or play for the children at the site of employment **for**
68 **the entertainment industry.**

69 [8.] 7. The time spent by children in rehearsals and
70 in learning or practicing any of the arts, such as singing
71 or dancing, for, or under the direction of, a motion picture
72 studio, theater or television studio shall be counted as
73 work time under this section of law. Periods for meal
74 breaks shall not be included in the overall work time;
75 however, rest breaks shall be included in the overall work
76 time.

77 [9.] 8. No child shall be required to work in a
78 situation which places the child in a clear and present
79 danger to life or limb. If a child believes he or she is in
80 such a dangerous situation, after discussing the matter with
81 his or her parent, legal custodian, guardian or designated
82 person and the employer, the child shall not be required to
83 perform in such situation, regardless of the validity or
84 reasonableness of the child's belief.

85 [10.] 9. No child shall be required to work with an
86 animal which a reasonable person would regard as dangerous
87 in the same circumstances, unless an animal trainer or
88 handler qualified by training and experience is present.

89 [11.] 10. No child shall be required to perform a
90 stunt without prior consultation with the child, the child's
91 parent, legal custodian or guardian and the employer. The
92 prior written consent of the child's parent, legal custodian
93 or guardian shall be obtained for the performance of any
94 unusual physical, athletic or acrobatic activity, stunts,
95 work involving special effects or other potentially
96 hazardous activity. When any unusual physical, athletic or
97 acrobatic activity, stunts, special effects or other
98 potentially hazardous activity involving a child is to be
99 done, the employer shall have available a person qualified
100 to administer medical assistance on an emergency basis and
101 transportation to the nearest medical facility providing
102 emergency services. First-aid kits shall always be
103 available at a child's place of employment.

104 [12.] 11. No child shall work in close proximity to
105 explosives or the functioning parts of unguarded and
106 dangerous moving equipment, aircraft or vessels, or of
107 functioning blades or propellers.

108 [13.] 12. [An entertainment work permit does not] **This**
109 **section shall not be construed to** authorize a child to be
110 absent from school in violation of the requirements of state
111 law or regulations or policies of the state board of
112 education, the Missouri department of elementary and
113 secondary education or the local school board.

294.023. 1. **The division, commission, department, or**
2 **any other government entity in this state shall not, by rule**
3 **or practice, require that a child under eighteen years of**
4 **age be issued a work certificate of employment or**
5 **entertainment work permit as a condition of employment.**

6 2. **The division, commission, department, or any other**
7 **government entity shall not, by rule or practice, require**

8 that an employer obtain a work certificate of employment or
9 entertainment work permit from a child under eighteen years
10 of age as a condition of the child's employment.

294.070. No fee shall be charged for a work
2 certificate [or work permit] as evidence of age issued under
3 the provisions of this chapter. [The form of the work
4 certificate shall be prepared by the state commissioner of
5 education. Blank work certificates shall be furnished to
6 the superintendent of each school district by the state
7 commissioner of education.]

294.080. 1. Upon the request of a child or of an
2 employer who wishes to employ a child who represents [his or
3 her age] to be [sixteen years or more, the issuing officer
4 upon the presentation of evidence of age, as provided in
5 section 294.051 for children] under [sixteen] **eighteen** years
6 of age, **the division** shall issue a certificate showing the
7 age of the child and this **work** certificate **as evidence of**
8 **age** shall be accepted as conclusive evidence of the age of
9 the child.

10 2. For purposes of this section, proof of age of a
11 child includes birth certificate, driver's license or other
12 identification card issued by the division of motor vehicle
13 and drivers licensing, school records, insurance records, or
14 other documentary evidence prescribed by the division.

15 3. This section shall not be construed to mandate an
16 employer or child obtain a work certificate as evidence of
17 age.

294.090. 1. The director is charged with the
2 enforcement of the provisions of this chapter and all other
3 laws regulating the employment of children. The director is
4 vested with the power and jurisdiction to exercise such
5 supervision over every employment as may be necessary to

6 adequately enforce and administer the provisions of this
7 chapter, including the right to enter any place where
8 children are employed and to inspect the premises and to
9 require the production of [work certificates or work permits
10 and] any [other] necessary documents specifically requested
11 that involve the employment of children.

12 2. Every employer subject to any provision of sections
13 294.005 to 294.150 or any regulation issued pursuant to
14 sections 294.005 to 294.150 shall make and keep for a period
15 of not less than two years, on the premises where any child
16 is employed, [the work certificate,] a record of the name,
17 address, and age of the child, and times and hours worked by
18 the child each day.

19 3. All records and information obtained by the
20 division pertaining to minors are confidential and personal
21 identifying information shall be disclosed only by order of
22 a court of competent jurisdiction.

23 4. If it appears that a work certificate [or work
24 permit] **as evidence of age** has been improperly granted or
25 illegally used, or the child is being injured, or is likely
26 to be injured by the employment, this fact shall be reported
27 to the issuing officer who shall cancel the work certificate
28 [or work permit] **as evidence of age**. Notice in writing of
29 the cancellation, with reasons therefor, shall be
30 transmitted immediately to the child and to the person
31 employing the child, and thereafter it shall be unlawful for
32 any such person to continue to employ the child.

2 [294.024. A child may not be employed
3 during the regular school term unless the child
4 has been issued a work certificate or a work
5 permit pursuant to the provisions of this
chapter.]

[294.027. Work certificates shall permit

2 (1) The employment of children between
3 fourteen and sixteen years of age during
4 nonschool hours during the school term; or

5 (2) The employment of children between
6 fourteen and sixteen years of age who are
7 excused from attendance at school by the
8 provisions of chapter 167.]

[294.045. 1. Notwithstanding any other
2 law, any of the following individuals may issue
3 a work certificate to a child subject to the
4 requirements of this chapter:

5 (1) The superintendent of public schools
6 of the district in which the child resides;

7 (2) The chief executive officer, or the
8 equivalent position, of a charter school that
9 the child attends;

10 (3) A person holding a student services
11 certificate who is authorized by the
12 superintendent of the school district or chief
13 executive officer in writing;

14 (4) Subject to the requirements and
15 conditions of paragraphs (a), (b), and (c) of
16 this subdivision inclusive, the principal of a
17 public or private school may issue, or designate
18 another administrator of the school to issue,
19 work certificates to children who attend the
20 school. If the principal of a public or private
21 school chooses not to issue work certificates
22 under this subdivision, work certificates may be
23 issued to children attending school under
24 subdivision (1) or (3) of this subsection.

25 (a) A principal who issues a work
26 certificate under this subdivision shall provide
27 a self-certification that he or she understands
28 the requirements in existing law for issuing a
29 work certificate. The principal shall submit a
30 copy of each work certificate he or she issues
31 along with a copy of the application for each
32 work certificate to the superintendent of the
33 school district in which the school is located;

34 (b) The superintendent of a school
35 district may revoke a work certificate issued by
36 the principal of a public or private school
37 located within the district if the
38 superintendent becomes aware of any grounds upon
39 which the child may be deemed ineligible for a
40 work certificate under existing law;

41 (c) An individual with authority to issue
42 a work certificate under this subdivision shall
43 not issue a work certificate to his or her own
44 child; except that any student solely enrolled
45 in a course of education not otherwise
46 prohibited under chapter 167 whose parent, legal
47 guardian, or designated private tutor is the
48 student's primary education provider and is also
49 the primary individual responsible for the

50 student's education program and schedule shall
51 be issued a work certificate by such primary
52 education provider.

53 2. If the certificated person designated
54 to issue work certificates by the superintendent
55 of a school district or the chief executive
56 officer, or the equivalent position, of a
57 charter school is not available, and delay in
58 issuing a certificate would jeopardize the
59 ability of a child to secure work, another
60 person authorized by the superintendent of the
61 school district or the chief executive officer,
62 or the equivalent position, of a charter school
63 may issue the work certificate.

64 3. If a school district or charter school
65 does not employ or contract with a person
66 holding a student services certificate, the
67 superintendent of the school district or the
68 chief executive officer, or the equivalent
69 position, of a charter school may authorize, in
70 writing, a person who does not hold that
71 credential to issue work certificates during
72 periods of time in which the superintendent is
73 absent from the district or the chief executive
74 officer is absent from the charter school.

75 4. Notwithstanding the hour limitations
76 imposed by this chapter or any other provision
77 of law, the hour limitations that apply to a
78 work certificate issued by any of the
79 individuals described in subsection 1 of this
80 section shall be based on the school calendar of
81 the school the child attends.]

2 [294.051. A work certificate may be issued
3 after the issuing officer is satisfied that the
4 employment will serve the best interest of the
5 child and, in the first instance, only upon
6 application in person of the child with the
7 written consent of his parent, legal custodian
8 or guardian or, if deemed necessary by the
9 issuing officer, the child shall be accompanied
10 by his parent, guardian or custodian. The
11 certificate may be renewed or another
12 certificate issued on application of the child
13 with the written parental consent but in no case
14 shall a certificate be issued until the issuing
15 officer has received and approved the following
16 papers:

17 (1) A statement of intention to employ
18 signed by the prospective employer setting forth
19 the specific nature of the occupation in which
20 he intends to employ the child and the exact
21 hours of the day, the number of hours per day
22 and the days per week during which the child is
23 to be employed;

24 (2) Proof of the age of the child by a
birth certificate or other documentary evidence

25 of such character in such form as is prescribed
 26 by the issuing officer;
 27 (3) A certificate of the physician of the
 28 public schools of the district in which the
 29 child resides or other licensed physician, if
 30 required by the issuing officer, showing that he
 31 has personally examined the child and has found
 32 the child in good mental and physical health and
 33 is capable of performing labor without injury to
 34 his health and mental development;
 35 (4) A certificate of the principal of the
 36 school which the child attends or has attended
 37 giving the grades of school work completed by
 38 the child, except that for children permanently
 39 excused from attendance at school under the
 40 provisions of chapter 167, this requirement may
 41 be waived.]

[294.054. 1. The work certificate shall
 2 show
 3 (1) The age, sex, place and date of birth
 4 and place of residence of the child;
 5 (2) The name and place of residence of the
 6 child's parent, guardian or custodian;
 7 (3) The name and address of the employer;
 8 and
 9 (4) The nature of the employment for which
 10 the work certificate is issued.
 11 2. Work certificates authorizing the
 12 employment of a child during nonschool hours
 13 shall be of a form and color distinct from those
 14 authorizing full time employment.]

[294.060. 1. Whenever a child is granted
 2 a work certificate or work permit, the
 3 certificate or work permit shall be transmitted
 4 by the issuing officer to the employer of the
 5 child and a copy shall be transmitted to the
 6 division. The employer shall keep the work
 7 certificate or work permit on file and shall
 8 post in a conspicuous place in the employer's
 9 place of business a list of all children who are
 10 employed and under the age of sixteen.
 11 2. On termination of the employment of the
 12 child, the child's work certificate or work
 13 permit shall be sent immediately by the employer
 14 to the officer who issued it.
 15 3. A new certificate or work permit may be
 16 issued for a child whose certificate or work
 17 permit has been returned by the employer to the
 18 issuing officer.
 19 4. A copy of each work certificate or work
 20 permit issued and notice of its cancellation
 21 shall be retained by the issuing officer and a
 22 copy shall be transmitted by the issuing officer
 23 to the division.]

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