

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1420

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H.P. 978

House of Representatives, April 11, 2017

### An Act Regarding Work Permits for Minors under 16 Years of Age

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STETKIS of Canaan.  
Cosponsored by Senator CYRWAY of Kennebec and  
Representatives: BRADSTREET of Vassalboro, DILLINGHAM of Oxford, GINZLER of  
Bridgton, ORDWAY of Standish, SAMPSON of Alfred, Senator: LANGLEY of Hancock.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §771**, as amended by PL 1991, c. 544, §4, is further amended to  
3 read:

4 **§771. Minors under 14 years of age**

5 A minor under 14 years of age may not be employed, permitted or suffered to work  
6 in, ~~about~~ nonagricultural employment or in connection with agriculture, except for the  
7 planting, cultivating or harvesting of field crops or other agricultural employment not in  
8 direct contact with hazardous machinery or hazardous substances, ~~any eating place,~~  
9 ~~automatic laundries, retail establishment where frozen dairy products are manufactured~~  
10 ~~on the premises, sporting or overnight camp, mercantile establishment or in outdoor~~  
11 ~~occupations on the grounds of a hotel, and a minor between the ages of 14 and 16 years~~  
12 ~~may not be so employed when the distance between the work place and the home of the~~  
13 ~~minor, or any other factor, necessitates the minor's remaining away from home overnight.~~  
14 ~~This section does not apply to any such minor who is employed directly by, with or under~~  
15 ~~the supervision of either or both of the minor's parents; or to any such minor employed in~~  
16 ~~school lunch programs, if limited to serving food and cleaning up dining rooms.~~

17 **Sec. 2. 26 MRSA §773**, as amended by PL 2009, c. 487, Pt. B, §12, is further  
18 amended to read:

19 **§773. Minors 14 and 15 years of age prohibited in certain places**

20 A minor ~~under~~ who is at least 14 years of age and younger than 16 years of age may  
21 not be employed, permitted or suffered to work in, about or in connection with any  
22 manufacturing or mechanical establishment, ~~hotel, rooming house,~~ laundry, except those  
23 commonly known as automatic laundries, dry cleaning establishments, bakery, ~~bowling~~  
24 ~~alley, poolroom,~~ or commercial places of amusement, including traveling shows and  
25 circuses, ~~or in any theater or moving picture house~~ or in conjunction with an amusement,  
26 game or show that allows or conducts betting. ~~The provisions of this section pertaining to~~  
27 ~~theaters do not apply to minors under 16 years of age who are employed or in training as~~  
28 ~~theatrical actors or film actors. This section does not prohibit a minor under 16 years of~~  
29 ~~age from performing work for a nonprofit organization that preserves film and other~~  
30 ~~moving images and provides education and research opportunities for the public or for a~~  
31 ~~theater that is operated by such an organization as an integral part of its mission.~~

32 The provisions of this section pertaining to manufacturing establishments shall do not  
33 apply to retail establishments employing minors under who are at least 14 years of age  
34 and younger than 16 years of age ~~who are employed in retail establishments~~ where any  
35 frozen dairy product or frozen dairy product mix or related food product is ~~manufactured~~  
36 produced on the premises for retail sales locally, regardless of trade name or brand or  
37 coined name.

38 ~~The provisions of this section pertaining to hotels do not apply to minors under 16~~  
39 ~~years of age who are employed in outdoor occupations on the grounds of a hotel or to~~  
40 ~~minors 15 years of age who are employed in kitchens, dining rooms, lobbies and offices~~  
41 ~~of a hotel. Minors 15 years of age are expressly prohibited from working in an area not~~

1 listed as permitted and are expressly prohibited from performing room service, making  
2 deliveries of any sort to the hotel rooms or entering the hallways to those rooms.

3 ~~The provisions of this section pertaining to manufacturing and mechanical~~  
4 ~~establishments shall not apply to minors under 16 years of age who are employed on the~~  
5 ~~grounds of a manufacturing or mechanical establishment, but who are assigned~~  
6 ~~nonhazardous work which is performed outside of any building in which manufacturing~~  
7 ~~or mechanical operations are undertaken.~~

8 The provisions of this section pertaining to ~~manufacturing or mechanical~~  
9 ~~establishments, laundries, dry cleaning establishments and bakeries shall~~ do not apply to  
10 minors ~~under~~ who are at least 14 years of age and younger than 16 years of age who are  
11 employed in retail sales, customer service operations or office work for these  
12 establishments, ~~provided that~~ as long as retail, customer service or office areas are in a  
13 separate room.

14 Notwithstanding other provisions of this section, a minor ~~under~~ who is at least 14  
15 years of age and younger than 16 years of age may be employed at a commercial place of  
16 amusement operating at a permanent location, except that minors ~~under 16 years of age~~  
17 may not be employed at games of chance as defined in Title 17, chapter 62 or hazardous  
18 occupations as determined by the director.

19 **Sec. 3. 26 MRSA §774, sub-§1**, as amended by PL 2011, c. 174, §§1 to 3, is  
20 further amended to read:

21 **1. Minors 16 and 17 years of age.** A minor ~~under~~ who is at least 16 years of age  
22 and younger than 18 years of age, enrolled in school, may not be employed as follows:

23 ~~A. More than 50 hours in any week when the minor's school is not in session;~~

24 B. More than 24 hours in any week when the minor's school is in session. In  
25 addition, the maximum weekly hours a minor may work is 50 hours during any week  
26 that the approved school calendar for the minor's school is less than 3 days or during  
27 the first or last week of the school calendar, regardless of how many days the minor's  
28 school is in session for the week. If requested, a school must provide verification of  
29 its closings to the minor's employer or the Department of Labor;

30 ~~C. More than 10 hours in any day when the minor's school is not in session;~~

31 D. More than 6 hours in any day when the minor's school is in session, except that  
32 the minor may work up to 8 hours on the last scheduled day of the school week;

33 ~~E. More than 6 consecutive days;~~

34 F. After ~~10:15~~ 11:00 p.m. on a day preceding a day on which the minor's school is in  
35 session or after 12 midnight on a day that does not precede such a school day; or

36 G. Before 7 a.m. on a day on which the minor's school is in session or before 5 a.m.  
37 on any other day.

38 **Sec. 4. 26 MRSA §774, sub-§2, ¶D**, as enacted by PL 1991, c. 544, §5, is  
39 amended to read:

1 D. More than 3 hours in any day when school is in session; or

2 **Sec. 5. 26 MRSA §774, sub-§2, ¶E**, as enacted by PL 1991, c. 544, §5, is  
3 repealed.

4 **Sec. 6. 26 MRSA §774, sub-§3**, as amended by PL 1991, c. 713, §2, is further  
5 amended to read:

6 **3. Employment during hours school in session.** A minor ~~under 17~~ who is at least  
7 16 years of age and younger than 18 years of age may not be employed during the hours  
8 that the public schools of the town or city in which the minor resides are in session.

9 A. This subsection does not apply to:

10 (1) A minor who has been excused from attendance by school officials in  
11 accordance with Title 20-A, section 5001-A, subsection 2 or subsection 3, except  
12 that a minor who has been excused in accordance with subsection 3 may not be  
13 employed during the hours that the minor's school or approved home instruction  
14 program is in session;

15 (2) A student in an alternative education plan that includes a work experience  
16 component;

17 (3) A student in an approved vocational cooperative education program; or

18 (4) A student who is granted permission for an early school release by the  
19 school principal.

20 The hours worked by a student in an alternative education plan or in an approved  
21 vocational cooperative education program may not be included in determining the  
22 student's total hours of permitted employment under subsection 1 and subsection 2.

23 **Sec. 7. 26 MRSA §774, sub-§4**, as amended by PL 2009, c. 211, Pt. B, §23, is  
24 repealed and the following enacted in its place:

25 **4. Exemptions.** The restrictions set forth in this section do not apply to a minor  
26 performing work:

27 A. Planting, cultivating or harvesting field crops or other agricultural employment,  
28 including the initial processing of farm crops, as long as the work does not require  
29 direct contact with hazardous machinery or hazardous substances, in accordance with  
30 the Fair Labor Standards Act of 1938, 29 United States Code, Section 212;

31 B. As an employed or in-training theatrical actor or film actor;

32 C. Taking or catching lobsters, fish or other marine organisms, as long as the work  
33 does not require direct contact with hazardous machinery or hazardous substances, in  
34 accordance with the Fair Labor Standards Act of 1938, 29 United States Code,  
35 Section 212; or

36 D. At a business that is solely owned by the minor's parent, as long as the work does  
37 not require direct contact with hazardous machinery or hazardous substances, in  
38 accordance with the Fair Labor Standards Act of 1938, 29 United States Code,  
39 Section 212.

1           **Sec. 8. 26 MRSA §775, sub-§1**, as amended by PL 2001, c. 398, Pt. A, §1, is  
2 further amended to read:

3           **1. Work permit authority.** A minor under 16 years of age may not be employed  
4 without a work permit signed by the ~~superintendent of schools of the school~~  
5 ~~administrative unit in which the minor resides and issued to the minor by the bureau.~~ The  
6 superintendent may designate a school official to sign a work permit and that official is  
7 directly responsible to the superintendent for this activity minor's parent or guardian.

8           **Sec. 9. 26 MRSA §775, sub-§2**, as amended by PL 2011, c. 614, §21, is repealed.

9           **Sec. 10. 26 MRSA §775, sub-§3**, as amended by PL 2001, c. 398, Pt. A, §1, is  
10 further amended to read:

11           **3. Proof of age.** ~~The superintendent may issue a permit only upon receiving and~~  
12 ~~examining satisfactory evidence of the minor's age.~~ Satisfactory evidence of a minor's  
13 age consists of a certified copy of the minor's birth certificate or baptismal record; or  
14 a passport showing the date of birth ~~or other documentary evidence of age satisfactory to~~  
15 ~~the superintendent and approved by the director.~~ The superintendent may require, in  
16 doubtful cases, a certificate signed by a physician appointed by the school board, stating  
17 that the minor has been examined and, in that physician's opinion, has reached the normal  
18 development of a minor of the same age and is in sufficiently sound health and physically  
19 able to perform the work the minor intends to do.

20           **Sec. 11. 26 MRSA §775, sub-§3-A**, as enacted by PL 2001, c. 398, Pt. A, §1, is  
21 repealed.

22           **Sec. 12. 26 MRSA §775, sub-§4**, as amended by PL 2001, c. 398, Pt. A, §1, is  
23 repealed and the following enacted in its place:

24           **4. Conditions for revocation.** The bureau may revoke a work permit issued to a  
25 minor pursuant to this section if the director determines the minor has not been employed  
26 in accordance with section 773 or 774. The director shall notify the minor's employer in  
27 writing upon revoking a minor's work permit.

28           **Sec. 13. 26 MRSA §775, sub-§5**, as enacted by PL 1991, c. 544, §5, is amended  
29 to read:

30           **5. Permit on file.** The employer shall keep all work permits issued for the  
31 employer's minor employees on file, including copies of satisfactory evidence of age, and  
32 accessible to any attendance officer, factory inspector or other authorized officer charged  
33 with the enforcement of this subchapter.

34           **Sec. 14. 26 MRSA §775, sub-§6**, as amended by PL 1993, c. 527, §1, is repealed  
35 and the following enacted in its place:

36           **6. Exceptions.** This section does not apply to a minor:

- 1           A. Engaged in work performed in the planting, cultivating or harvesting of field  
2           crops or other agricultural employment, as long as the minor is not in direct contact  
3           with hazardous machinery or hazardous substances;
- 4           B. Engaged in household work;
- 5           C. Participating in a summer youth employment and training program funded by the  
6           Department of Labor that is exempt from obtaining individual permits; or
- 7           D. Participating in a business solely owned by the minor's parent, as long as the  
8           parent is not employing the minor child in an occupation declared hazardous under  
9           the Fair Labor Standards Act of 1938, 29 United States Code, Section 212.

10           **Sec. 15. 26 MRSA §777**, as amended by PL 2001, c. 398, Pt. A, §2, is further  
11 amended to read:

12           **§777. Blanks furnished; filing of permits; surrender and cancellation of permits**

13           The blank work permit required by section 775 must be formulated by the director  
14 and ~~furnished by the director to the persons authorized to sign work permits made~~  
15 ~~available online and at bureau offices.~~ The forms of the permits must be approved by the  
16 Attorney General. ~~Every work permit must be made out in triplicate.~~ All triplicates work  
17 permits, accompanied by the original papers on which the permits were signed and proof  
18 of age, must be forwarded to the bureau by the officer parent or guardian signing the  
19 permits, ~~within 24 hours of the time the permit was signed.~~ The bureau shall examine the  
20 papers and proof of age and promptly return them to the officer parent or guardian who  
21 sent them after validating the copies and retaining one copy for bureau files. ~~The officer~~  
22 ~~may then return to the minor all papers filed in proof of age.~~ Whenever there is reason to  
23 believe that a work permit was improperly signed, the director, deputy director or agent  
24 shall ~~notify the local superintendent of schools of the place in which the certificate was~~  
25 ~~signed. The local superintendent shall cancel the permit when directed to do so by the~~  
26 ~~director. The director may develop an electronic transmittal system to fulfill these~~  
27 ~~requirements.~~

28           ~~The director shall develop a master permit system for participants in summer youth~~  
29 ~~employment and training programs funded by the Department of Labor. The master~~  
30 ~~permit eliminates the need for prior approval by the director or the superintendent of~~  
31 ~~schools. A minor on a master permit may be removed from the master permit for the~~  
32 ~~same reasons and in the same manner as applicable to an individual work permit.~~

33           **Sec. 16. 26 MRSA §779** is amended to read:

34           **§779. Record of age received as evidence**

35           Any record of age, as provided under section ~~775~~ 777 to determine whether or not a  
36 work permit may be issued to any child, ~~shall~~ must be received as evidence of the age of  
37 such child in any prosecution under this subchapter.

38           **Sec. 17. 26 MRSA §780**, as amended by PL 1991, c. 544, §9, is further amended  
39 to read:





- 1           A. Agricultural employment that does not require direct contact with hazardous  
2 machinery or hazardous substances;
- 3           B. Employment or training as a theatrical actor or a film actor;
- 4           C. The taking or catching of lobsters, fish or other marine organisms, as long as the  
5 work does not require direct contact with hazardous machinery or hazardous  
6 substances; and
- 7           D. At a business that is solely owned by the minor's parent, as long as the work does  
8 not require direct contact with hazardous machinery or hazardous substances.
- 9           6. It allows the parent or legal guardian of a minor under 16 years of age to sign a  
10 work permit for the minor and removes school superintendents from the work permit  
11 process. It requires copies of the minor's signed permit and proof of age to be kept at the  
12 minor's place of employment. It authorizes the Department of Labor, Bureau of Labor  
13 Standards to revoke a work permit.
- 14           7. It maintains the authority of the bureau to revoke work permits if state or federal  
15 law has been violated.
- 16           8. It repeals obsolete language dealing with triplicate permits and a master permit  
17 system.