

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1890

S.P. 668

In Senate, March 19, 2012

An Act To Streamline the Process for Minors To Obtain a Work Permit

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

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator RECTOR of Knox. (GOVERNOR'S BILL)
Cosponsored by Representative VOLK of Scarborough and
Representatives: BENNETT of Kennebunk, DOW of Waldoboro, MALABY of Hancock.

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

2 **Sec. 1. 26 MRSA §775**, as amended by PL 2001, c. 398, Pt. A, §1, is repealed.

3 **Sec. 2. 26 MRSA §775-A** is enacted to read:

4 **§775-A. General work permit; master certificate**

5 **1. General work permit.** A minor under 16 years of age may not be employed
6 without a general work permit signed and issued by the superintendent of schools of the
7 school administrative unit in which the minor resides. The superintendent may designate
8 a school official to sign the permit, and that school official is directly responsible to the
9 superintendent for this activity.

10 **2. Conditions for signature.** The superintendent of schools of the school
11 administrative unit in which the minor resides shall sign a permit in the following
12 circumstances:

13 A. If the minor's school is in session or the minor is attending summer school, the
14 minor must be enrolled in school, not habitually truant, not under suspension and
15 passing a majority of courses during the current grading period. Upon request of the
16 minor, the superintendent may waive the requirements for one grading period if, in
17 the opinion of the superintendent, there are extenuating circumstances or if imposing
18 the requirements would create an undue hardship for the minor;

19 B. If school is not in session, the minor must furnish to the superintendent a
20 certificate signed by the principal of the school last attended showing that the minor
21 has satisfactorily completed kindergarten to grade 8 in the public schools or their
22 equivalent. If the certificate cannot be obtained, the superintendent shall examine the
23 minor to determine whether the minor meets these educational standards; or

24 C. If the minor has been granted an exception to compulsory education under Title
25 20-A, section 5001-A, subsection 2, the minor must only submit proof of age as
26 provided in this subsection.

27 The superintendent may issue a permit only upon receiving and examining satisfactory
28 evidence of the minor's age. Satisfactory evidence consists of a certified copy of the
29 minor's birth certificate or baptismal record, a passport showing the date of birth or other
30 documentary evidence of age satisfactory to the superintendent and approved by the
31 director. The superintendent may require, in doubtful cases, a certificate signed by a
32 physician appointed by the school board, stating that the minor has been examined and, in
33 that physician's opinion, has reached the normal development of a minor of the same age
34 and is in sufficiently sound health and physically able to perform the work the minor
35 intends to do.

36 **3. Issuance of general work permit.** The director shall create a blank general work
37 permit, the form of which must be approved by the Attorney General, and provide copies
38 of it to superintendents of schools. A superintendent's office shall issue 4 copies of a
39 general work permit and distribute them as follows:

1 A. One copy with the original signature of the superintendent of schools of the
2 school administrative unit in which the minor resides must be delivered to the bureau;

3 B. One copy must be retained by the superintendent's office; and

4 C. The remaining 2 copies must be given to the permitted minor to deliver to an
5 employer prior to starting work for that employer. These copies are valid for 2 years
6 from the date of the signature of the superintendent of schools or until the minor turns
7 16 years of age, whichever occurs first. Of these 2 copies, one copy must be valid for
8 use while school is in session, and the other copy must be valid only when school is
9 not officially in session.

10 A superintendent may revoke a general work permit issued to a minor if the
11 superintendent determines that the minor has not maintained the conditions for issuance
12 of the general work permit under subsection 2, paragraph A. The superintendent shall
13 notify the director and the minor's employer in writing upon revoking a minor's general
14 work permit. The revocation is effective upon receipt by the employer of the
15 superintendent's notice.

16 Unless revoked in accordance with this subsection, a general work permit is valid for 2
17 years after the date of signature. If there is reason to believe that a general work permit
18 was improperly signed, the director or the director's designee shall notify the
19 superintendent of schools of the school administrative unit in which the minor resides.
20 The superintendent shall cancel the permit when directed to do so by the director. The
21 director may develop an electronic transmittal system to fulfill these requirements.

22 **4. Master certificate.** The director shall create a master certificate for employers
23 who provide jobs that are safe and age-appropriate for minors and provide copies of it to
24 employers.

25 A. Upon application by an employer, the director shall issue a master certificate to an
26 employer after verifying that:

27 (1) The employer meets the requirements of this subchapter; and

28 (2) The employment of minors by the employer conforms with the provisions of
29 this subchapter.

30 B. The master certificate must specify, or refer to, a list that must be maintained by
31 the bureau specifying which jobs are not approved for minors under state or federal
32 law.

33 C. A minor employed under a master certificate may be removed from the master
34 certificate for the same reasons and in the same manner as from a general work
35 permit.

36 **5. Report of employment.** Upon acceptance of employment, a minor shall deliver
37 to the employer a copy of the minor's general work permit appropriate to year-round or
38 summer-only employment, as applicable. The employer shall then enter the following
39 items onto the master certificate:

40 A. The name of the minor employee;

41 B. The job title of the minor employee; and

1 C. A brief description of duties that the minor employee will perform.

2 **6. Combining the permit and the certificate.** Upon receiving the minor's general
3 work permit pursuant to subsection 5, the employer shall sign and date the completed
4 master certificate and shall then copy and combine both documents.

5 **7. Documents on file.** The employer shall distribute the documents combined
6 pursuant to subsection 6 as follows:

7 A. The employer shall keep the original combined documents on file and accessible
8 to any attendance officer, factory inspector or other authorized officer charged with
9 the enforcement of this subchapter; and

10 B. The employer shall submit a copy of the combined documents to the bureau in
11 accordance with reporting requirements for new hires. The bureau shall:

12 (1) Verify the validity of the general work permit provided the minor;

13 (2) Determine whether the job title and description conform with the provisions
14 of this subchapter; and

15 (3) Promptly notify the employer, the minor and the superintendent of schools of
16 the school administrative unit in which the minor resides if a problem is detected.

17 **8. Safe working conditions.** At the discretion of the director, an employer that has 2
18 or more lost work day injuries reported within the previous 12 months may be
19 disqualified from the employment of minors and therefore from the issuance of a master
20 certificate and appearance on the bureau's list of qualified employers under subsection 11.

21 Upon notification that a minor has suffered a workplace illness or injury, the director may
22 initiate an inspection of the minor's workplace. Inspection may include a review of the
23 master certificate and general work permit, a review of the job description, a review of
24 the location where the minor became ill or was injured and an interview with the ill or
25 injured minor.

26 **9. Exceptions.** The employment of minors is not subject to this section under the
27 following circumstances.

28 A. This section does not apply to a minor engaged in work performed in the
29 planting, cultivating or harvesting of field crops or other agricultural employment not
30 in direct contact with hazardous machinery or hazardous substances or to a minor
31 engaged in household work.

32 B. A minor who is a participant in a summer youth employment and training
33 program funded by the Department of Labor is exempt from having to obtain a
34 general work permit under this section if the program employing the minor has a
35 master certificate issued under subsection 4.

36 **10. Fines.** An employer determined by the director to be in violation of this
37 subchapter is subject to a fine of not more than \$500 per violation per day.

38 **11. Database.** The bureau shall maintain a list of employers holding current master
39 certificates for the employment of minors. The bureau shall publish the list on the

1 department's publicly accessible website and shall distribute it to the department's career
2 centers and the state Job Bank.

3 **12. Certificate of employment.** The director shall develop a certificate of
4 employment for participants in summer youth employment and training programs funded
5 by the Department of Labor. The certificate of employment eliminates the need for prior
6 approval of an employer by the director or the superintendent of schools of the school
7 administrative unit in which the minor resides. An employer may not employ a minor
8 under 16 years of age under this subsection without a certificate of employment issued by
9 the director.

10 **Sec. 3. 26 MRSA §777**, as amended by PL 2001, c. 398, Pt. A, §2, is repealed.

11 **Sec. 4. 26 MRSA §779** is amended to read:

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

13 Any record of age, as provided under section ~~775~~ 775-A to determine whether or not
14 a work permit may be issued to any child, shall be received as evidence of the age of such
15 child in any prosecution under this subchapter.

16 **Sec. 5. 26 MRSA §780**, as amended by PL 1991, c. 544, §9, is further amended to
17 read:

18 **§780. Work permit conclusive for employer; documentary evidence of age**

19 A work permit in regular form signed by a duly authorized officer, for all minors
20 under 16 years of age, is conclusive evidence of age and educational attainment, in behalf
21 of the employer of any minor, upon any prosecution for violation of the law relating to
22 the employment of minors. An inspector of factories, attendance officer or other officer
23 charged with the enforcement of this subchapter may make demand on any employer in
24 or about whose place or establishment a minor apparently under the age of 16 years is
25 employed, permitted or suffered to work, that such employer shall either furnish the
26 inspector within 10 days documentary evidence of age as specified in section ~~775~~ 775-A,
27 or shall cease to employ, permit or suffer such minor to work in such place or
28 establishment.

29 **Sec. 6. 26 MRSA §782, sub-§2**, as enacted by PL 2003, c. 452, Pt. O, §2 and
30 affected by Pt. X, §2, is amended to read:

31 **2. Work permit containing false information.** A person may not present, or permit
32 or allow a child over which the person has control to present, to an employer, owner or
33 superintendent or an overseer or agent as required under section ~~775~~ 775-A a work permit
34 containing a false statement as to the date of birth or age of the child, knowing it to be
35 false.

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SUMMARY

2 This bill simplifies the process for minors to obtain work permits by creating a
3 general work permit, which may be issued to a minor by a superintendent of schools of
4 the school administrative unit in which the minor resides. The general work permit
5 allows for summer and school-year employment. The bill also creates a master certificate
6 for employers, which identifies those employers who provide jobs that are safe and
7 age-appropriate for minors. The bill describes the process of distributing information
8 regarding approved employers through the Department of Labor's publicly accessible
9 website and career centers and the state Job Bank. Finally, the bill sets out safe working
10 conditions and the consequences to employers if those conditions are not maintained.