

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1393

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H.P. 943

House of Representatives, May 6, 2015

### An Act Regarding the Work Permitting Process for Minors

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Submitted by the Department of Labor pursuant to Joint Rule 204.

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

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

Presented by Representative STETKIS of Canaan.

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 in  
6 nonagricultural employment, ~~about~~ 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 retail, customer service or office areas are in a separate  
13 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 and 3**, as amended by PL 2001, c. 398, Pt. A,  
2           §1, are 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~~  
6           superintendent. The superintendent may designate a school official to sign a work permit  
7           and that official is directly responsible to the superintendent for this activity. Blank work  
8           permits required under this section must be developed by the director, approved by the  
9           Attorney General and furnished by the director to the superintendents.

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

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

21           **3-A. Issuance of work permit.** The ~~director~~ superintendent or the ~~director's agent~~  
22           superintendent's designee shall issue the work permit to the minor upon verification:

23           ~~A. Of the proper approval by the superintendent or other designated school official;~~  
24           ~~and~~

25           B. That the employment conforms with the provisions of this subchapter.

26           The superintendent's office shall distribute the work permit to the minor and provide a  
27           copy of the work permit to the director. The work permit is valid only for the employer  
28           and positions listed on the permit as issued by the ~~bureau~~ superintendent.

29           **Sec. 10. 26 MRSA §775, sub-§4**, as amended by PL 2001, c. 398, Pt. A, §1, is  
30           further amended to read:

31           **4. Conditions for revocation.** The superintendent may revoke the work permit  
32           issued to a minor ~~by the bureau~~ if the superintendent determines that the minor has not  
33           maintained the conditions for issuance of the work permit under subsection 2, paragraph  
34           A. The superintendent shall revoke 2nd work permits at the end of the summer vacation  
35           in accordance with the limits imposed by subsection 2, paragraph D. The superintendent  
36           shall notify the Director of the Bureau of Labor Standards and the minor's employer in  
37           writing upon revoking a minor's work permit. The revocation is effective upon receipt by  
38           the employer of the superintendent's notice.

39           The bureau may revoke the work permit if the director determines the minor has not been  
40           employed in accordance with section 773 or 774. The director shall notify the  
41           superintendent and the minor's employer in writing upon revoking a minor's work permit.



- 1           4. Eliminates the prohibition on minors under 18 years of age working more than 50  
2 hours per week when school is not in session.
- 3           5. It specifies that the restrictions on the hours of employment of minors does not  
4 apply to:
- 5           A. Agricultural employment that does not require direct contact with hazardous  
6 machinery or hazardous substances;
- 7           B. Employment or training as a theatrical actor or a film actor;
- 8           C. The taking or catching of lobsters, fish or other marine organisms, as long as the  
9 work does not require direct contact with hazardous machinery or hazardous  
10 substances; and
- 11          D. At a business that is solely owned by the minor's parent, as long as the work does  
12 not require direct contact with hazardous machinery or hazardous substances.
- 13          6. It specifies that superintendents of school administrative units issue work permits  
14 to minors and copy the Department of Labor, Bureau of Labor Standards; the bureau  
15 develops the blank permits, furnishes them to the superintendents and serves as a resource  
16 for superintendents regarding federal and state law.
- 17          7. It maintains the authority of the bureau to revoke work permits if state or federal  
18 law has been violated.
- 19          8. It repeals obsolete language dealing with triplicate permits and a master permit  
20 system.