



126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1698

H.P. 1222

House of Representatives, January 7, 2014

**An Act To Streamline the Work Permitting Process for Minors and
To Conform Allowable Places That Minors May Work to Federal
Law**

(EMERGENCY)

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.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LOCKMAN of Amherst.
Cosponsored by Senator CUSHING of Penobscot and
Representatives: DAVIS of Sangerville, MALABY of Hancock, SIROCKI of Scarborough.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the last day of school occurs during the month of June each year for most
4 secondary schools; and

5 **Whereas,** the purpose of this legislation is to expedite the process for minors to
6 obtain their work permits for work occurring during the summer months; and

7 **Whereas,** it will be well into the summer of 2014 before nonemergency legislation
8 takes effect; and

9 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
10 the meaning of the Constitution of Maine and require the following legislation as
11 immediately necessary for the preservation of the public peace, health and safety; now,
12 therefore,

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

14 **Sec. 1. 26 MRSA §773, first ¶,** as amended by PL 2001, c. 43, §1, is further
15 amended to read:

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

29 **Sec. 2. 26 MRSA §775,** as amended by PL 2011, c. 614, §21, is further amended
30 to read:

31 **§775. Work permits**

32 **1. Work permit authority.** A minor under 16 years of age may not be employed
33 without a work permit ~~signed by the superintendent of schools of the school~~
34 ~~administrative unit in which the minor resides and~~ issued to the minor by the bureau.
35 When school is in session, the superintendent of schools of the school administrative unit
36 in which the minor resides shall certify to the bureau the minor's information and forward
37 the application for a work permit to the bureau for its approval. The superintendent may
38 designate a school official to ~~sign a work permit~~ certify the minor's information and
39 forward it to the bureau, and that official is directly responsible to the superintendent for

1 this activity. When school is not in session, the minor may obtain a work permit directly
2 from the bureau.

3 **2. Conditions for certification.** The superintendent shall ~~sign a permit~~ certify and
4 forward to the bureau the minor's information and application in the following
5 circumstances:

6 A. If the school is in session or the minor is attending summer school, the minor
7 must be enrolled in school, not truant, not under suspension and passing a majority of
8 courses during the current grading period. Upon request of the minor, the
9 superintendent may waive the requirements for one grading period if, in the opinion
10 of the superintendent, there are extenuating circumstances or if imposing the
11 requirements would create an undue hardship for the minor;

12 ~~B. If school is not in session, the minor must furnish to the superintendent a~~
13 ~~certificate signed by the principal of the school last attended showing that the minor~~
14 ~~has satisfactorily completed kindergarten to grade 8 in the public schools or their~~
15 ~~equivalent. If the certificate can not be obtained, the superintendent shall examine~~
16 ~~the minor to determine whether the minor meets these educational standards;~~

17 C. If the minor has been granted an exception to compulsory education under Title
18 20-A, section 5001-A, subsection 2, the minor must only submit proof of age as
19 provided in subsection 3; or

20 D. If school is in session, the superintendent may ~~have signed~~ certify to the bureau
21 the minor's information and forward the application for only one work permit for the
22 minor at any given time. The superintendent may sign forward to the bureau 2
23 applications for work permits for the minor for the summer vacation period.

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

34 **3-A. Issuance of work permit.** The director or the director's agent shall issue the
35 work permit to the minor upon verification:

36 A. Of the proper approval certification by the superintendent or other designated
37 school official if school is in session or, when school is not in session, of satisfactory
38 evidence of the minor's age pursuant to subsection 3; and

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

40 The superintendent's office shall distribute the work permit to the minor when school is in
41 session. The work permit is valid only for the employer and positions listed on the permit
42 as issued by the bureau. When school is not in session, the bureau shall issue the work

1 permit directly to the minor and provide a copy to the superintendent of schools of the
2 school administrative unit in which the minor resides.

3 **4. Conditions for revocation.** The superintendent or the bureau may revoke the
4 work permit issued to a minor ~~by the bureau~~ if the superintendent or the bureau
5 determines that the minor has not maintained the conditions for issuance of the work
6 permit under subsection 2, paragraph A. ~~The superintendent shall revoke 2nd work~~
7 ~~permits at the end of the summer vacation in accordance with the limits imposed by~~
8 ~~subsection 2, paragraph D. The~~ If the superintendent revokes the work permit, the
9 superintendent shall notify the ~~Director of the Bureau of Labor Standards~~ director and the
10 minor's employer in writing ~~upon revoking a minor's work permit.~~ If the bureau revokes
11 the work permit, the bureau shall notify the superintendent and the minor's employer in
12 writing. The revocation is effective upon receipt by the employer of the ~~superintendent's~~
13 notice.

14 **5. Permit on file.** The employer shall keep all work permits issued for the
15 employer's minor employees on file and accessible to any attendance officer, factory
16 inspector or other authorized officer charged with the enforcement of this subchapter.

17 **6. Exception.** This section does not apply to minors engaged in work performed in
18 the planting, cultivating or harvesting of field crops or other agricultural employment not
19 in direct contact with hazardous machinery or hazardous substances or to minors engaged
20 in household work. ~~Minors who are participants in summer youth employment and~~
21 ~~training programs funded by the Department of Labor are exempt from obtaining~~
22 ~~individual permits as long as the program employing the minor has submitted a master~~
23 ~~permit as developed by the director under section 777.~~

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

25 **Sec. 4. 26 MRSA §780**, as amended by PL 1991, c. 544, §9, is further amended to
26 read:

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

28 A work permit in regular form ~~signed~~ issued by a ~~duly authorized officer~~ the bureau,
29 for all minors under 16 years of age, is conclusive evidence of age and educational
30 attainment, in behalf of the employer of any minor, upon any prosecution for violation of
31 the law relating to the employment of minors. An inspector of factories, attendance
32 officer or other officer charged with the enforcement of this subchapter may make
33 demand on any employer in or about whose place or establishment a minor apparently
34 under the age of 16 years is employed, permitted or suffered to work, that such employer
35 shall either furnish the inspector within 10 days documentary evidence of age as specified
36 in section 775, or shall cease to employ, permit or suffer such minor to work in such
37 place or establishment.

38 **Emergency clause.** In view of the emergency cited in the preamble, this
39 legislation takes effect when approved.

1

SUMMARY

2 Current law requires that a minor start the work permitting process through the
3 superintendent of schools of the school administrative unit in which the minor resides
4 regardless of whether school is in session. This bill would allow a minor less than 16
5 years of age to obtain a work permit directly from the Department of Labor, Bureau of
6 Labor Standards when school is not in session. The bill clarifies the roles and
7 responsibilities of the superintendent of the school administrative unit and of the bureau
8 as they relate to the work permitting process. The bill specifies that the bureau may issue
9 a permit for a student who is attending summer school only after receiving certification
10 from the superintendent that the student is enrolled in summer school, not truant, not
11 under suspension and passing a majority of courses during the current grading period.
12 The bill specifies that when school is not in session the bureau may issue a permit for a
13 student only after receiving satisfactory evidence of the minor's age. The bill also
14 authorizes the bureau to revoke a permit when there is reason to believe the permit should
15 be revoked. Finally, the bill allows a minor less than 16 years of age to work in a
16 bowling alley or theater, which conforms to federal law, and repeals the language dealing
17 with triplicate permits and a master permit system.