

ASSEMBLY, No. 1441

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Revises application and issuance procedures for employment certificates for minors.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning employment certificates for minors,
2 supplementing P.L.1940, c.153 (C.34:2-21.1 et seq.), and
3 revising various parts of the statutory law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) a. No minor under 18 years of age shall be
9 employed, permitted, or suffered to work in, about, or in connection
10 with any gainful occupation in this State, unless and until the person
11 employing the minor shall receive and keep on file an employment
12 certificate for the minor, issued by the Department of Labor and
13 Workforce Development, except that this section shall not apply to
14 the following:

15 (1) Employment in the occupations permitted pursuant to
16 section 15 of P.L.1940, c.153 (C.34:2-21.15);

17 (2) Employment of any minor who is 16 years of age or older in
18 agricultural pursuits;

19 (3) Employment of any minor who is 14 years of age or older,
20 during the times that the minor's school is not in session, at any
21 agricultural fair, or horse, dog, or farm show the duration of which
22 does not exceed 10 days; and

23 (4) Employment of any minor who is 15 years of age or older in
24 the first 14 days of employment in seasonal amusement, food
25 service, restaurant, or retail occupations, during the times that the
26 minor's school is not in session;

27 b. The employment certificate required pursuant to subsection a.
28 of this section shall be issued in the form and in accordance with
29 requirements prescribed by the Department of Labor and Workforce
30 Development. The original copy of any employment certificate
31 issued to a minor shall be forwarded to the prospective employer of
32 the minor for whom it was issued, and duplicate copies of the
33 employment certificate shall be retained by the Department of
34 Labor and Workforce Development and forwarded to the minor for
35 whom it was issued.

36 c. The Department of Labor and Workforce Development may
37 refuse to issue an employment certificate to any minor if, in the
38 judgment of the department, the best interests of the minor would
39 be served by the refusal. The department shall keep a record of any
40 refusals and the reasons for any refusals.

41 d. No employment certificate, or any other permit or special
42 permit, shall be required for any minor under 18 years of age if the
43 minor is a high school graduate or if the minor has completed a
44 course of study resulting in the minor's attainment of a certificate of
45 high school equivalency.

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

Matter underlined thus is new matter.

1 2. (New section) a. The issuance of employment certificates
2 shall require an application by the minor desiring employment and
3 shall require the minor to provide documentation of the following:
4 (1) A promise of employment signed by the prospective
5 employer or the prospective employer's representative or agent,
6 setting forth the specific nature of the work in which the employer
7 intends to employ the minor, the wage rate to be paid to the minor,
8 and the estimated number of hours the employer intends the minor
9 to work per week; and
10 (2) Evidence of the age of the minor in order to prove that the
11 minor is of the age required by law to work.
12 b. Every employment certificate issued by the Department of
13 Labor and Workforce Development for a minor shall bear the
14 minor's signature and state the following:
15 (1) The minor's name, sex, race, date and place of birth, address
16 of legal residence, color of hair and eyes, height, weight, and any
17 distinguishing facial marks of the minor;
18 (2) The prospective employer's name, address, type of business,
19 and the occupation of the minor; and
20 (3) The type of evidence of age submitted in the application for
21 the employment certificate.
22 c. The employment certificate issued for a minor pursuant to
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 shall serve as conclusive evidence of the age of the minor in any
25 proceeding involving the employment of the minor under P.L.1940,
26 c.153 (C.34:2-21.1 et seq.), the workers' compensation law
27 (R.S.34:15-1 et seq.), or any other labor law of the State.
28
29 3. (New section) a. An employment certificate shall be valid
30 only for the prospective employer indicated on the employment
31 certificate and only for the occupation designated in the promise of
32 employment signed by the prospective employer or the prospective
33 employer's representative or agent.
34 b. Every employer that receives an employment certificate
35 shall, throughout the duration of the minor's employment, keep the
36 employment certificate on file at the place of employment and
37 accessible to any inspection by the Department of Labor and
38 Workforce Development. The failure of any employer to produce
39 for inspection the employment certificate of a minor shall be prima
40 facie evidence of the unlawful employment of the minor. The
41 presence of any minor under 18 years of age shall be prima facie
42 evidence of the employment of the minor, except that the presence
43 on any farm or place of agricultural pursuit of any minor shall not
44 constitute prima facie evidence. The provisions of this subsection b.
45 shall not apply to any employer that employs a minor who is
46 exempt from the requirement to obtain an employment certificate

1 pursuant to subsection d. of section 1 of P.L. , c. (C.)
2 (pending before the Legislature as this bill).

3 c. Every employer that receives an employment certificate shall,
4 within seven calendar days after termination of the minor's
5 employment, return the employment certificate to the Department
6 of Labor and Workforce Development. A new employment
7 certificate shall not be issued for the minor except upon
8 presentation of a new promise of employment signed by the
9 prospective employer or the prospective employer's representative
10 or agent.

11
12 4. Section 1 of P.L.1940, c.153 (C.34:2-21.1) is amended to
13 read as follows:

14 1. (a) **["Employment certificate"** means a certificate granted
15 by the issuing officer authorizing the employment of a child as
16 permitted under this act.] (Deleted by amendment, P.L. , c.)
17 (pending before the Legislature as this bill)

18 (b) "Age certificate" means a certificate issued for a person
19 between the ages of 18 and 21 years.

20 (c) **["Issuing officer"** means any superintendent of schools,
21 supervising principal, or teacher in a school district who is
22 designated by the board of education in the district to issue
23 certificates or permits in accordance with the provisions of this
24 act.] (Deleted by amendment, P.L. , c.) (pending before the
25 Legislature as this bill)

26 (d) "School district" means any geographical area having
27 authority over the public schools within that area.

28 (e) "Agriculture" includes farming in all its branches and among
29 other things includes the cultivation and tillage of the soil, dairying,
30 the production, cultivation, growing, and harvesting of any
31 agricultural or horticultural commodities (including commodities
32 defined as agricultural commodities in subsection (g) of section 15
33 of the Agricultural Marketing Act, 46 Stat. 11 (12 U.S.C. s. **[141]**
34 **1141** et seq.), as amended), the planting, transplanting and care of
35 trees and shrubs and plants, the raising of livestock, bees, fur-
36 bearing animals or poultry, and any practices (including any
37 forestry or lumbering operations) performed by a farmer or on a
38 farm as an incident to or in conjunction with such farming
39 operations, including preparation for market, delivery to storage or
40 to market or to carriers for transportation to market, provided that
41 such practices shall be performed in connection with the handling
42 of agricultural or horticultural commodities the major portion of
43 which have been produced upon the premises of an owning or
44 leasing employer.

45 (f) "Newspaper carrier" means any minor between 12 and 18
46 years of age who engages in the occupation of delivering, soliciting,

1 selling and collecting for, newspapers outside of school hours on
2 residential routes.

3 (g) "Restaurant" means any establishment or business primarily
4 engaged in the preparation and serving of meals or refreshments,
5 both food and drink, and shall include but not be limited to the
6 following: dining establishments, catering establishments, industrial
7 caterers, and drive-in restaurants.

8 (h) "Theatrical production" means and includes stage, motion
9 picture and television performances and rehearsals therefor.

10 (i) "Seasonal amusement" means any exclusively recreational or
11 amusement establishment or business which does not operate more
12 than seven months in any calendar year or which has received
13 during any consecutive six months of the preceding calendar year
14 average receipts equal to or less than 33 1/3% percent of its average
15 receipts for the other six months of that year. "Seasonal
16 amusement" includes but is not limited to amusement rides and
17 amusement device ticket sales, and operations of games. However,
18 "seasonal amusement" does not include retail, eating or drinking
19 concessions, camps, beach and swimming facilities, movie theatres,
20 theatrical productions, athletic events, professional entertainment,
21 pool and billiard parlors, circuses and outdoor shows, sport
22 activities or centers, country club athletic facilities, bowling alleys,
23 race tracks and like facilities which are not part of a diversified
24 amusement enterprise.

25 (cf: P.L.1987, c.125, s.1)

26

27 5. Section 3 of P.L.1940, c.153 (C.34:2-21.3) is amended to
28 read as follows:

29 3. Except as provided in section 15 of P.L.1940, c.153 (C.34:2-
30 21.15) and except for domestic service or messengers employed by
31 communications companies subject to the supervision and control
32 of the Federal Communications Commission, no minor under 18
33 years of age shall be employed, permitted, or suffered to work in,
34 about, or in connection with any gainful occupation more than six
35 consecutive days in any one week, or more than 40 hours in any one
36 week, or more than eight hours in any one day, nor shall any minor
37 under 16 years of age be so employed, permitted, or suffered to
38 work before 7 a.m. or after 7 p.m. of any day, except a minor who is
39 14 or 15 years of age may work in a restaurant, supermarket or
40 other retail establishment, or in any occupation not prohibited by
41 the provisions of **【this act,】** P.L.1940, c.153 (C.34:2-21.1 et seq.) or
42 by regulations promulgated by the commissioner pursuant to **【this**
43 **act,】** P.L.1940, c.153 (C.34:2-21.1 et seq.), during the period
44 beginning on the last day of a minor's school year and ending on
45 Labor Day of each year until 9 p.m. of any day with written
46 permission from a parent or legal guardian, and except a minor who
47 is 14 or 15 years of age may be employed as a little league umpire

1 for little leagues chartered by Little League Baseball, Incorporated,
2 until 9 p.m. of any day with written permission from a parent or
3 legal guardian; nor shall any minor between 16 and 18 years of age
4 be so employed, permitted, or suffered to work before 6 a.m. or
5 after 11 p.m. of any day; provided that minors between 16 and 18
6 years of age may be employed after 11 p.m. during any regular
7 vacation season, and on days which do not precede a regularly
8 scheduled school day, with a special written permit from their
9 parents or legal guardian stating the hours they are permitted to
10 work; provided that minors between 16 and 18 years of age may be
11 employed in a seasonal amusement or restaurant occupation after 11
12 p.m. and following 12:01 a.m. of the next day, if that employment is
13 a continuation of a workday which began before 11 p.m., either
14 during any regular school vacation season, or on workdays which
15 do not begin on a day which precedes a regularly scheduled school
16 day, with a special written permit from their parents or legal
17 guardian stating the hours they are permitted to work, except that in
18 no case shall minors between 16 and 18 years of age be employed
19 after 3 a.m. or before 6 a.m. on a day which precedes a regularly
20 scheduled school day; provided, further, that minors may be
21 employed in a concert or a theatrical performance up to 11:30 p.m.;
22 and provided, further, that minors not less than 16 years of age and
23 who are attending school may be employed as pinsetters, lane
24 attendants, or busboys in public bowling alleys up to 11:30 p.m.,
25 but may not be so employed during the school term without a
26 special written permit from [the superintendent of schools or the
27 supervising principal, as the case may be, which permit shall state
28 that the minor has undergone a complete physical examination by
29 the medical inspector, and, in the opinion of the superintendent or
30 supervising principal, may be so employed, without injury to health
31 or interference with progress in school, such special permits to be
32 good for a period of three months only and are revocable in the
33 discretion of the superintendent or supervising principal. Such
34 permit may not be renewed until satisfactory evidence has been
35 submitted to the superintendent or supervising principal showing
36 that the minor has had a physical examination and the minor's
37 health is not being injured by said work] their parents or legal
38 guardian stating the minor may be so employed; and provided,
39 further, that minors between 16 and 18 years of age may not be
40 employed after 10 p.m. during the regular school vacation seasons
41 in or for a factory or in any occupation otherwise prohibited by law
42 or by order or regulation made in pursuance of law. The hours of
43 work of minors under 16 employed outside school hours shall not
44 exceed three hours in any one day when school is in session and
45 shall not exceed in any one week when school is in session the
46 maximum number of hours permitted for that period under the

1 federal "Fair Labor Standards Act of 1938," 29 U.S.C.s.201 et seq.,
2 and regulations promulgated pursuant to that federal act.

3 This section is not applicable to the employment of a minor
4 between 16 and 18 years of age during the months of June, July,
5 August or September by a summer resident camp, conference or
6 retreat operated by a nonprofit or religious corporation or
7 association, unless the employment is primarily general
8 maintenance work or food service activities.
9 (cf: P.L.1998, c.138, s.1)

10
11 6. Section 9 of P.L.1940, c.153 (C.34:2-21.9) is amended to read
12 as follows:

13 9. Upon request, **【it shall be the duty of the issuing officer to】**
14 the Department of Labor and Workforce Development shall issue to
15 any young person between the ages of eighteen and twenty-one
16 years **【residing in his district and applying in person,】** who
17 expresses a desire to enter employment, an age certificate upon
18 presentation of the same **【proof】** evidence of age as is required for
19 the issuance of employment certificates under **【this act. A young**
20 **person between the said ages nonresident of the State may apply to**
21 **the issuing authority of any district where such person states he**
22 **intends to seek employment】** section 2 of P.L. , c. (C)
23 (pending before the Legislature as this bill). The age certificate
24 shall state the **【color】** race or ethnicity, name, sex, date and place of
25 birth, residence, color of hair and eyes, height, and distinguishing
26 facial marks, if any, and the kind of **【proof】** evidence of age
27 submitted. All copies thereof shall be signed **【in person】** by the
28 applicant **【in the presence of the said issuing officer in whose name**
29 **it is issued】**.

30 Any employer before employing a minor may require him to
31 produce an age certificate and sign his name for comparison with
32 the signature on the certificate. If in his judgment the signature and
33 characteristics of the child correspond with the signature and
34 description in the certificate, the employer, on employing the child,
35 may require and retain the certificate during the minor's
36 employment and shall return it to the minor upon the termination of
37 his employment.

38 (cf: P.L.1940, c.153, s.9)

39
40 7. Section 15 of P.L.1940, c.153 (C.34:2-21.15) is amended to
41 read as follows:

42 15. Except as hereinafter provided as to newspaper carriers, no
43 minor under 14 years of age may engage in any street trade, which
44 term, for the purpose of this section shall include the selling,
45 offering for sale, soliciting for, collecting for, displaying, or
46 distributing any articles, goods, merchandise, commercial service,

1 posters, circulars, newspapers or magazines or in blacking shoes on
2 any street or other public place or from house to house. No minor
3 under 12 years of age may be employed in agricultural pursuits.

4 Whenever a minor has graduated from vocational school,
5 approved by the Commissioner of Education and is 17 years of age,
6 the minor's diploma or certified copy thereof [and an employment
7 certificate mailed to the employer by the issuing officer] shall be
8 deemed a special permit to engage in those pursuits in which the
9 minor majored in said vocational school during those hours
10 permitted for persons 18 years of age and over.

11 Except as hereinafter provided as to newspaper carriers,
12 whenever a minor under 16 years of age desires to work during such
13 times as the schools of the district in which the minor resides are
14 not in session in any street trade or in agricultural pursuits, the
15 parent, guardian or other person having the custody and control of
16 the minor may file with the [issuing officer in the school district in
17 which the minor resides] Department of Labor and Workforce
18 Development an application for a special permit authorizing such
19 work. Such application shall show the exact character of the work
20 the minor is to do, and the hours and wages and special conditions
21 under which said work is to be performed.

22 If upon investigation it is found that the facts set forth in the
23 application are true and that the work will not interfere with the
24 minor's health or standing in school, the [issuing officer]
25 Department of Labor and Workforce Development shall, upon
26 presentation [to the issuing officer] of the same proof of age as is
27 required for the issuance of an employment certificate, issue a
28 special permit, allowing the minor to work at such times as the
29 public schools in the district are not in session, but such work
30 except in agricultural pursuits, and as newspaper carriers, to be
31 otherwise subject to the maximum hours of labor provisions set for
32 minors under 16 years of age in section 3 of [this act] P.L.1940,
33 c.153 (C.34:2-21.3); provided, that nothing in [this act] P.L.1940,
34 c.153 (C.34:2-21.1 et seq.) shall prevent newspaper carriers as
35 defined in [this act] P.L.1940, c.153 (C.34:2-21.1 et seq.), between
36 11 and 14 years of age, from delivering, soliciting, selling and
37 collecting for newspapers on routes in residential neighborhoods
38 between the hours of 6:00 o'clock in the morning and 7:00 o'clock
39 in the evening of any day; and newspaper carriers 14 years of age
40 and older from delivering, soliciting, selling and collecting for
41 newspapers on routes in residential neighborhoods between the
42 hours of 5:30 o'clock in the morning and 8:00 o'clock in the evening
43 of any day; and provided further that no newspaper carrier under the
44 age of 18 years shall be permitted to engage in such occupation
45 beyond the period of time wherein the combined hours devoted to
46 said occupation as a newspaper carrier and the hours in school shall
47 exceed a total of 40 hours per week and not more than 8 hours in

1 any 1 day; and provided, further, that minors engaged in
2 agricultural pursuits may be employed no more than 10 hours per
3 day.

4 Such special permit shall show the name, address, and date of
5 birth of the minor for whom it is issued, the kind of proof of age
6 submitted, the nature of the occupation in which the minor is to
7 engage, and such other information as the **【Commissioner of**
8 **Education】** Department of Labor and Workforce Development may
9 require.

10 Any such special permit for work in agriculture shall be issued
11 for a period not to exceed 6 months and shall show its date of
12 expiration. Any person employing a minor under 16 years of age in
13 agriculture shall obtain **【such a certificate】** the special permit from
14 the minor and keep it on file during the period of the minor's
15 employment and shall return it to the minor to whom it is issued
16 upon termination of the minor's employment.

17 Upon application by the parent, guardian or other person having
18 custody and control of a newspaper carrier as defined in **【this act】**
19 P.L.1940, c.153 (C.34:2-21.1 et seq.), between the ages of 11 and
20 18 years of age, to the publisher of any newspaper in this State and
21 upon receiving satisfactory proof of age and a signed statement of
22 physical fitness, such publisher may issue to such newspaper carrier
23 a special permit on a form prescribed and approved by the
24 **【Commissioner of Education】** Department of Labor and Workforce
25 Development, whereby the newspaper carrier shall be permitted to
26 deliver, solicit, sell and collect for newspapers outside of the
27 newspaper carrier's school hours on residential routes, and on
28 Sundays and during school vacations and no other employment
29 certificate shall be required.

30 Such special permit shall show the name, address and date of
31 birth of the newspaper carrier for whom it is issued, and such other
32 information as the **【Commissioner of Education】** Department of
33 Labor and Workforce Development may require.

34 The publisher shall forthwith mail **【3 copies】** a copy of such
35 special permit to the **【issuing officer as defined in section 1 of this**
36 **act, one of which copies shall be forwarded to the Commissioner of**
37 **Education and one copy to the Commissioner of Labor and**
38 **Industry】** Department of Labor and Workforce Development in
39 such manner as may be provided by regulation **【of said**
40 **commissioners】**. A copy of such special permit shall also be
41 furnished by the publisher to the parent, guardian or other person
42 having custody and control of the newspaper carrier and the
43 publisher shall retain at all times a file copy thereof.

44 The special permit shall remain in full force and effect unless
45 and until the publisher has knowledge of or is notified by the
46 **【issuing officer or the Commissioner of Labor and Industry】**

1 Department of Labor and Workforce Development that the
2 newspaper carrier is not physically fit or that in the opinion of the
3 **【issuing officer or the Commissioner of Labor and Industry】**
4 Department of Labor and Workforce Development, engaging in the
5 occupation as a newspaper carrier will be harmful to the newspaper
6 carrier's education. In such case, the said special permit shall be
7 suspended unless and until the **【issuing officer】** Department of
8 Labor and Workforce Development shall revoke said notification.
9 In the event of such notification and suspension, however, if either
10 the parent, guardian or other person having custody and control of
11 the newspaper carrier or the publisher shall deem such decision to
12 be erroneous, an appeal may be made to the **【Commissioner of**
13 **Education】** Department of Labor and Workforce Development who
14 shall have authority to affirm, reverse or modify such decision **【of**
15 **the issuing officer or the Commissioner of Labor and Industry】**.

16 The publisher shall keep a record of the name, address and birth
17 date of each newspaper carrier to whom such special permit is
18 issued; the date said newspaper carrier commenced and ceased
19 delivering newspapers published by said publisher together with a
20 record of the number of newspapers sold to each newspaper carrier
21 and a general description of the area of the route served by each
22 newspaper carrier. Such records shall be kept on file by said
23 publisher for a period of 2 years after the newspaper carrier has
24 ceased delivering newspapers published by said publisher.

25 **【The special permit shall remain in full force and effect unless**
26 **and until the publisher is notified by the issuing officer or the**
27 **Commissioner of Labor and Industry that the newspaper carrier is**
28 **not physically fit or that the newspaper carrier's school record is**
29 **such that engaging in the occupation of a newspaper carrier will be**
30 **harmful to the newspaper carrier's education. In such case,**
31 **however, if either the parent, guardian or other person having**
32 **custody and control of the newspaper carrier or the publisher shall**
33 **deem such decision to be erroneous, an appeal may be made to the**
34 **Commissioner of Education who shall have authority to reverse or**
35 **modify such decision of the issuing officer or the Commissioner of**
36 **Labor and Industry.】**

37 (cf: P.L.1981, c.490, s.1)

38

39 8. Section 3 of P.L.1962, c.91 (C.34:2-21.59) is amended to read
40 as follows:

41 3. a. Upon application of an employer, bearing the endorsed
42 approval of a parent or guardian of the minor a permit authorizing
43 employment of the minor in a theatrical production may be issued
44 if:

45 (a) The minor is in good health and will not likely be
46 endangered by the working conditions of the prospective
47 employment as certified by a currently issued statement of a

1 licensed physician based upon a physical examination which, for
2 minors under 8 years of age, includes a visual acuity screening if
3 practicable;

4 (b) The place of employment is approved by the Department of
5 Labor and Workforce Development and the period for which the
6 permit is desired is not in excess of 3 months;

7 (c) The minor is not attending public school and the application
8 is for a period other than during the school summer vacation period,
9 that he is receiving equivalent instruction approved by the
10 Department of Education or by the state or county of his residence
11 if he be a nonresident of New Jersey;

12 (d) The proposed employment will not exceed two shows or
13 productions in a day or a total of eight shows or productions in any
14 week where the professional employment is reasonably separable
15 into discrete shows or productions; that the employment will not be
16 for more than 6 days in any week, 5 hours in any day or a total of
17 24 hours, including rehearsal time, in any week and that the minor
18 will not be employed before 7:00 a.m. or after 11:30 p.m. and that
19 school and theatrical performance time shall not exceed 8 hours in
20 any 1 day and that the combined time spent on a set or on call and
21 performance time shall not exceed a total of eight hours in any one
22 day;

23 (e) The employment does not involve a type of prohibited
24 performance as hereinafter defined; and

25 (f) The minor will be under the direct care and supervision of an
26 adult who is a parent, guardian or a representative of the employer,
27 named in the application, at all times during his employment or
28 while living away from home when required as an incident of such
29 employment.

30 b. A permit or certificate, as the case may be, may be issued by
31 the **【issuing officer or by the】** Commissioner of Labor and
32 Workforce Development in cases involving a significant
33 contribution to the development of the motion picture industry in
34 the State as determined by the Motion Picture and Television
35 Development Commission. In such cases, the commissioner shall
36 also have the authority to alter or amend the hours of the day but
37 not the total hours in the day during which a minor may work as set
38 forth in paragraph (d), subsection a. of this section, if such
39 alteration or amendment will not foreseeably impair the educational
40 instruction, supervision, health and welfare of the minor, and such
41 an alteration or amendment is necessary for good reasons shown by
42 the employer. The commissioner shall set forth the terms of any
43 alteration or amendment in the permit or certificate.

44 (cf: P.L.1981, c.331, s.5)

45

46 9. Section 4 of P.L.1962, c.91 (C.34:2-21.60) is amended to read
47 as follows:

1 Finally, the bill provides that no employment certificate, or any
2 other permit or special permit, is required for any minor under 18
3 years of age who has graduated high school or has completed a
4 course of study resulting in the minor's attainment of a certificate of
5 high school equivalency.