

ACT 61

H.B. NO. 1198

A Bill for an Act Relating to Child Labor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. It is the purpose of the child labor law, chapter 390, Hawaii Revised Statutes, to establish standards in the employment of minors relating to their safety, health, education, and welfare. To this end, this Act seeks to provide protections against and sanctions for the exploitation and injury of Hawaii's youth while employed during their formative years.

SECTION 2. Section 390-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Adult entertainment” means an activity to which a minor would not be able to legally gain admittance and shall include but not be limited to:

- (1) Performing of exotic entertainment;
- (2) Nude, exotic, or lap dancing;
- (3) Showing of film, video, still picture, electronic reproduction, or other visual reproduction depicting:
 - (A) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by law;
 - (B) Any person being touched, caressed, or fondled on the breast, buttocks, anus, or genitalia;
 - (C) Scenes wherein a person displays the anus or genitalia; or
 - (D) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.”

SECTION 3. Section 390-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) No minor under eighteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation at any time except as otherwise provided in this section. In no event, however, shall the minor be permitted to be employed or permitted to work in, about, or in connection with adult entertainment or any gainful occupation prohibited by law or which has been declared by rule [~~or regulation~~] of the director to be hazardous for the minor.”

2. By amending subsections (c) and (d) to read:

“(c) A minor who has attained the age of fourteen years but not sixteen years may be employed or permitted to work:

- (1) During periods when the minor is not legally required to attend school or when the minor is excused by school authorities from attending school; ~~and~~
- (2) If the employer of the minor procures and keeps on file a valid certificate of employment; ~~and~~
- (3) No more than five hours continuously without an interval of at least thirty consecutive minutes for a rest or lunch period; ~~and~~
- (4) ~~No more than six consecutive days nor more than forty hours in any one week, nor more than eight hours in any one day, nor before 7:00 a.m. nor after 7:00 p.m. of any day; provided that from June 1 through the day before Labor Day of each year the minor may be employed between 6:00 a.m. and 9:00 p.m. The combined hours of work and hours in school of the minor employed outside school hours shall not exceed ten in a day.] Between 7:00 a.m. and 7:00 p.m. of any day; provided that during any authorized school break, the minor may be employed between 6:00 a.m. and 9:00 p.m.;~~
- (5) No more than six consecutive days;
- (6) No more than eighteen hours in a calendar week during which the minor is legally required to attend school, and no more than forty hours in a calendar week during which the minor is not legally required to attend school or when the minor is excused by school authorities from attending school;
- (7) No more than three hours on any school day; and
- (8) No more than eight hours on any nonschool day.

(d) A minor under fourteen years of age may be employed or permitted to work in theatrical employment or in harvesting of coffee under circumstances and conditions prescribed by the director by ~~regulation;~~ rule; provided that:

- (1) The work is performed during periods when the minor is not legally required to attend school or when the minor is excused by school authorities from attending school;
- (2) With respect to employment in harvesting of coffee, the director has determined after a public hearing that sufficient adult labor to perform the work is unavailable; and
- (3) The employer of the minor procures and keeps on file a valid certificate of employment.”

SECTION 4. Section 390-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§390-5[H]~~ **Exceptions.** This chapter shall not apply to any minor employed:

- (1) By the minor’s parent or legal guardian ~~[during periods when the minor is not legally required to attend school or when the minor is excused by school authorities from attending school in an occupation which has not been declared by rule or regulation of the director to be hazardous; or];~~
- (2) In performance of work in connection with the sale or distribution of newspapers; ~~[or]~~
- (3) In domestic service in or about the private home of the employer; ~~[or]~~
- (4) As a golf caddy; or
- (5) By any religious, charitable, or nonprofit organization in exempt employment as prescribed by the director by rule ~~[or regulation.];~~

provided that such employment is during periods when the minor is not legally required to attend school or when the minor has been excused by school authorities from attending school; in an occupation which has not been declared by rule of the director to be hazardous; and not in connection with adult entertainment.”

SECTION 5. Section 390-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§390-6]] Rules [and regulations].~~ The director ~~[may]~~ shall adopt rules ~~[and regulations]~~ pursuant to chapter 91, necessary for the purpose of ~~[carrying out]~~ this chapter. ~~[and may, by rules or regulations, make variation in the number of hours or days or the hours of commencement or termination of the work day specified in section 390-2(c)(4) where the variation will not be detrimental to the health or well-being of a minor.]”~~

SECTION 6. Section 390-7, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§390-7]] [Penalty.] Child labor crime.~~ Any person, other than the minor employee, who wilfully knowingly violates any provision of this chapter shall be ~~[fined not more than \$1,000 or imprisoned not more than one year, or both.] guilty of a misdemeanor.”~~

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved May 19, 2003.)