

House Study Bill 546 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
WORKFORCE DEVELOPMENT BILL)

A BILL FOR

1 An Act relating to child labor requirements administered by
2 the labor commissioner, making penalties applicable, and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 92.1, Code 2011, is amended to read as
2 follows:

3 **92.1 Street occupations — ~~migratory labor.~~**

4 ~~1.—No~~ A person under ~~ten~~ twelve years of age shall not be
5 employed or permitted to work with or without compensation
6 at any time within this state in street occupations of
7 peddling, shoe polishing, the distribution or sale of
8 newspapers, magazines, periodicals or circulars, nor in any
9 other occupations in any street or public place. ~~The labor~~
10 ~~commissioner shall, when ordered by a judge of the juvenile~~
11 ~~court, issue a work permit as provided in this chapter to a~~
12 ~~person under ten years of age.~~

13 ~~2.—No person under twelve years of age shall be employed~~
14 ~~or permitted to work with or without compensation at any time~~
15 ~~within this state in connection with migratory labor, except~~
16 ~~that the labor commissioner may upon sufficient showing by a~~
17 ~~judge of the juvenile court, issue a work permit as provided in~~
18 ~~this chapter to a person under twelve years of age.~~

19 Sec. 2. Section 92.2, Code 2011, is amended to read as
20 follows:

21 **92.2 Over ~~ten~~ twelve and under sixteen years of age.**

22 1. A person over ~~ten~~ twelve and under sixteen years of age
23 cannot be employed, with or without compensation, in street
24 occupations ~~or migratory labor~~ as defined in section 92.1,
25 unless the person holds a child labor work permit issued
26 pursuant to this chapter ~~and the school the person attends has~~
27 ~~certified that the person is regularly attending school and~~
28 ~~the potential employment will not interfere with the person's~~
29 ~~progress in school. A written agreement, as defined in section~~
30 ~~92.11, subsection 1, shall not be required for the issuance of~~
31 ~~a work permit under this section.~~

32 ~~a.—Notwithstanding section 92.7, a person with a permit to~~
33 ~~engage in migratory labor shall only work between 5:00 a.m. and~~
34 ~~7:30 p.m. from Labor Day through June 1, and between 5:00 a.m.~~
35 ~~and 9:00 p.m. for the remainder of the year.~~

1 ~~b.~~ 2. Notwithstanding section 92.7, a person ~~with a permit~~
2 ~~to engage~~ engaged in street occupations shall only work between
3 4:00 a.m. and 7:30 p.m. when local public schools are in
4 session and between 4:00 a.m. and 8:30 p.m. for the remainder
5 of the year.

6 ~~2. The requirements of section 92.10 shall not apply to~~
7 ~~a person, firm, or corporation employing a person engaged in~~
8 ~~street occupations pursuant to this section.~~

9 Sec. 3. Section 92.3, Code 2011, is amended to read as
10 follows:

11 **92.3 Under fourteen — permitted occupations.**

12 ~~No~~ A person under fourteen years of age shall not be employed
13 or permitted to work with or without compensation in any
14 occupation, except in the street trade occupations ~~or migratory~~
15 ~~labor occupations~~ specified in section 92.1. ~~Any migratory~~
16 ~~laborer twelve to fourteen years of age may not work prior to~~
17 ~~or during the regular school hours of any day of any private~~
18 ~~or public school which teaches general education subjects and~~
19 ~~which is available to such child.~~

20 Sec. 4. Section 92.4, subsection 4, Code 2011, is amended by
21 striking the subsection.

22 Sec. 5. Section 92.8, subsection 19, Code 2011, is amended
23 to read as follows:

24 19. Occupations involving exposure to ~~lead fumes or its~~
25 ~~compounds, or to dangerous or poisonous dyes or~~ hazardous
26 chemicals.

27 Sec. 6. Section 92.10, Code 2011, is amended to read as
28 follows:

29 **92.10 Permit on file.**

30 Except as provided in section 92.2, a person under sixteen
31 years of age shall not be employed or permitted to work with or
32 without compensation unless the person, firm, or corporation
33 employing such person receives and keeps on file accessible
34 to any officer charged with the enforcement of this chapter,
35 a work permit issued as provided in this chapter, and keeps a

1 complete list of the names and ages of all such persons under
2 sixteen years of age employed. An employer may complete and
3 file a child labor work permit for an employee sixteen years of
4 age or older.

5 ~~Certificates of age shall be issued for persons sixteen and~~
6 ~~seventeen years of age and for all other persons eighteen and~~
7 ~~over upon request of the person's prospective employer.~~

8 Sec. 7. Section 92.11, Code 2011, is amended by striking the
9 section and inserting in lieu thereof the following:

10 **92.11 Issuance and revocation of child labor work permits.**

11 1. The labor commissioner shall develop and post on the
12 division of labor services' internet site all of the following:

13 a. A child labor work permit form as provided by this
14 section.

15 b. Information about the hours and occupation limitations as
16 provided by this chapter.

17 c. An affidavit that may be completed by a licensed
18 physician when no other proof of age is available.

19 2. Using the form created by the labor commissioner, the
20 child shall complete the child's name, age, address, date
21 of birth, place of birth, and gender, and shall sign the
22 form. The child shall provide to the employer evidence of age
23 consisting of one of the following forms of proof in descending
24 order of preference:

25 a. A certified copy of the child's birth certificate legally
26 filed with a registrar of vital statistics or other officer
27 charged with the duty of recording births.

28 b. A passport.

29 c. Official documentation issued by the state or federal
30 government that includes the child's age.

31 d. An affidavit on a form available from the labor
32 commissioner signed by a licensed physician stating how old the
33 physician believes the child to be.

34 3. A parent, guardian, or custodian of the child shall
35 complete the parent's, guardian's, or custodian's name,

1 address, and telephone number, and shall sign the form.

2 4. The employer shall complete the business name, address,
3 and telephone number. The employer shall review the relevant
4 limitations on hours and occupations as set forth in this
5 chapter. The employer shall personally view the evidence of
6 the child's age and shall make a copy of the proof of age and
7 keep it on file. The employer shall sign the child labor work
8 permit including certification of each of the following:

9 a. The employer has viewed and copied the child's proof of
10 age.

11 b. The employer has read and understands the hours and
12 occupation limitations pertaining to the child.

13 c. The employer agrees not to employ the child in a manner
14 inconsistent with the hours and occupation limitations.

15 d. The information on the child labor work permit is true
16 and accurate.

17 e. The employer understands that criminal and civil
18 penalties may result from violations of this chapter.

19 5. The employer shall make at least three copies of the
20 completed child labor work permit. The employer shall provide
21 one copy of the completed child labor work permit to the child
22 and one copy to the parent, guardian, or custodian. The
23 employer shall retain at least one copy of the completed child
24 labor work permit.

25 6. The employer shall file the original, completed child
26 labor work permit with the labor commissioner. The child may
27 begin work upon filing of the permit. The labor commissioner
28 may contact the employer regarding correcting deficiencies in
29 the child labor work permit. If the employer does not make
30 needed corrections within seven days, the labor commissioner
31 may initiate revocation proceedings.

32 7. The labor commissioner may revoke a child labor work
33 permit upon good cause in accordance with the provisions of
34 chapter 17A.

35 Sec. 8. Section 92.17, subsections 3 and 6, Code 2011, are

1 amended to read as follows:

2 3. Work in the production of seed, limited to removal of
3 off-type plants, corn tassels and hand-pollinating during the
4 months of June, July, and August by persons fourteen years of
5 age or over, and part-time work in agriculture, ~~not including~~
6 ~~migratory labor~~.

7 6. A juvenile court from ordering a child ~~at least twelve~~
8 ~~years old~~ to complete a work assignment of value to the state
9 or to the public or to the victim of a crime committed by
10 the child, in accordance with section 232.52, subsection 2,
11 paragraph "a".

12 Sec. 9. Section 92.20, subsection 1, Code 2011, is amended
13 to read as follows:

14 1. The parent, guardian, or person in charge of any
15 ~~migratory worker or of~~ any child who engages in any street
16 occupation in violation of any of the provisions of this
17 chapter shall be guilty of a serious misdemeanor.

18 Sec. 10. Section 92.22, Code 2011, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 8. The commissioner may file a petition for
21 enforcement concerning a civil penalty that is final pursuant
22 to chapter 17A. The clerk of court, unless otherwise ordered
23 by the court, shall forthwith enter a decree and shall transmit
24 a copy of the decree to the commissioner and the employer named
25 in the petition.

26 Sec. 11. REPEAL. Sections 92.12, 92.13, 92.14, 92.15,
27 92.16, and 92.18, Code 2011, are repealed.

28 Sec. 12. EFFECTIVE DATE. This Act takes effect January 1,
29 2013.

30 EXPLANATION

31 This bill makes various changes to child labor requirements
32 administered by the labor commissioner under Code chapter 92.

33 The bill removes all specific references in Code chapter
34 92 to migratory labor, which is defined to include any person
35 who customarily and repeatedly travels from state to state for

1 the purpose of obtaining seasonal employment. The general
2 provisions of Code chapter 92 remain applicable to such
3 activity.

4 The bill raises the age at which a child may engage in street
5 occupations such as newspaper delivery from 10 to 12 years of
6 age. The bill removes an exemption for street occupations from
7 the work permitting process.

8 The bill removes a provision requiring an issuing officer to
9 issue certificates of age.

10 The bill revises the process for the issuance of work permits
11 for child labor. The bill removes the responsibility of a
12 superintendent of schools or other school official to issue a
13 work permit. Under the bill, a child may begin work upon the
14 child's employer filing a completed work permit form with the
15 labor commissioner. The commissioner may contact the employer
16 regarding any deficiencies in the form, and the employer will
17 have seven days to make any corrections. The commissioner may
18 revoke a work permit for good cause in accordance with Code
19 chapter 17A, the Iowa administrative procedure Act. The bill
20 sets out the information that must be included on a work permit
21 form, including identifying information, contact information,
22 and proof of age. The bill specifies that certain parts of a
23 work permit form are to be filled out by the child; the child's
24 parent, guardian, or custodian; and the child's employer. The
25 bill requires an employer to verify the child's age, and to
26 review and agree to obey the requirements of Code chapter 92.
27 The bill removes from the information required on a work permit
28 form the child's work hours and duties, height, weight, hair
29 color, eye color, and last grade completed. The bill allows an
30 employer to fill out a work permit for an employee 16 years of
31 age or older.

32 Code chapter 92 provides that it is not to be construed to
33 prohibit a juvenile court from ordering a child at least 12
34 years old to complete a work assignment of value to the state
35 or to the public or to the victim of a crime committed by the

1 child. The bill removes this age limitation.

2 The bill allows the labor commissioner to file a petition
3 for enforcement for a civil penalty if the penalty is final
4 pursuant to Code chapter 17A and to promptly receive an
5 enforcement decree.

6 The bill makes additional technical changes to Code chapter
7 92.

8 The bill takes effect January 1, 2013.