

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 291

(Chair, Economic Matters Committee)(By Request -
Departmental - Labor, Licensing, and Regulation)

Economic Matters

Labor and Employment - Employment of Minors - Work Permits

This departmental bill requires the Commissioner of Labor and Industry to issue a work permit for a minor directly to the employer of the minor instead of to the minor. It further repeals the authority of a county superintendent of schools, or the superintendent's designee, to issue a work permit to a minor. It also authorizes the commissioner to issue civil penalties against employers who unlawfully employ a minor.

Fiscal Summary

State Effect: The Department of Labor, Licensing, and Regulation (DLLR) advises that it can handle the conversion to full online submission of work permit applications with existing resources. Staff time currently devoted to processing paper applications for work permits may be reallocated to monitoring employers' compliance with child labor laws. Potential minimal increase in general fund revenues from the establishment of civil penalties.

Local Effect: Potential administrative and operational efficiencies for local school superintendents to the extent that they are no longer involved in processing or granting work permits to minors.

Small Business Effect: DLLR has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: Before a minor begins employment with an employer, the employer must apply online to DLLR for a work permit. When applying for a permit, the employer must certify that:

- the minor's parent or guardian has provided written approval on a form available from DLLR;
- the employer is familiar with the occupations in which a minor may not be employed, except as specified in statute;
- the minor will not be engaged in those restricted occupations; and
- the employer has confirmed the minor's age by examining either a baptismal or birth certificate or other government document that attests to the child's age.

Employers must retain the written parental approval and a copy of the document used to confirm the minor's age for one year after employment ends.

Either the commissioner or the commissioner's designee is authorized to issue a work permit for a restricted occupation under the conditions specified in statute.

The commissioner may assess a civil penalty of up to \$500 for each violation if, after investigation, the commissioner determines that an employer has unlawfully employed a minor. In determining the amount of the fine, the commissioner must consider (1) the gravity of the violation; (2) the employer's good faith; and (3) the employer's history of violating the State's child labor laws. The commissioner may assess twice the civil penalty amount if an investigation determines that an employer willfully or repeatedly violates the child labor laws. The bill establishes a procedure for employers to appeal civil penalties assessed against them.

Current Law: Children between the ages of 14 and 18 may not work without a permit unless the work is performed outside school hours, does not involve manufacturing or mining, is not hazardous, and is restricted to the following occupations:

- farming;
- domestic work;
- working in a business owned by a parent or guardian;
- caddying;
- sailing instruction;
- newspaper delivery;
- making an evergreen wreath;

- camp counselor or instructor; or
- volunteer work for a nonprofit or charitable organization.

Either the commissioner, a county school superintendent, or the superintendent's designee may issue a work permit to an eligible minor. Before issuing a work permit, the issuer must confirm the age of the minor by examining a birth certificate, a baptismal certificate, a school record, or any other governmental document that attests to the child's age.

Except under conditions specified in statute, a minor between the age of 14 and 18 may not work in about a dozen hazardous professions delineated in statute; additional occupations are restricted for minors younger than age 16. Statute includes additional requirements related to the working hours of minor children that generally limit the number of hours and time of day during which a minor may be employed.

A person who interferes with the commissioner's enforcement of the statute or knowingly gives false information to the commissioner is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000, imprisonment for up to 90 days, or both. A person who employs or who allows a minor to be employed in violation of the law is guilty of a misdemeanor and on conviction is subject to a fine of up to \$10,000, imprisonment for up to one year, or both. There is no provision for a civil penalty.

Background: The Commissioner of Labor and Industry within DLLR is responsible for enforcing the State's labor laws. Under current law, minors must present the necessary documents in person when applying for a work permit, which is inconvenient for families; the forms are available for printing from DLLR's website, but they cannot be submitted electronically. Therefore, DLLR is seeking authority to convert to an online system that requires employers, rather than minors, to obtain the work permits on behalf of their employees.

A 2011 preliminary sunset evaluation of the Division of Labor and Industry conducted by the Department of Legislative Services advised that the commissioner ceased active enforcement of child labor laws in 1991 due to cost containment efforts. Instead, serious complaints are referred to the federal Employment Standards Administration for investigation. The permit system is retained to comply with a federal requirement. DLLR advises that converting to an online employer-based system may enable it to devote some of its scarce resources to enforcement.

The number of work permits issued to minors has dropped dramatically from 59,600 in calendar 2005 to 39,000 in calendar 2010. The decrease is most likely due to the recent economic downturn.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent, Washington, and Worcester counties; Maryland State Department of Education; Department of Juvenile Services; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2012
mlm/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Labor and Employment – Employment of Minors – Work Permits

BILL NUMBER: HB 291

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.