

"[CHAPTER 390]  
CHILD LABOR LAW

Section

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" **§390-1 Definitions.** As used in this chapter:

"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.

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations.

"Employer" includes any individual, partnership, association, joint stock company, trust, corporation, the personal representative of the estate of a deceased individual or the receiver, trustee, or successor of any of the same, employing any person, but shall not include the State or any political subdivision thereof or the United States.

"Gainful occupation" means any activity which produces pecuniary gain for any person or persons connected therewith.

"Theatrical employment" means gainful occupation as a model, dancer, singer, musician, entertainer or motion picture, television, radio or theatrical performer. [L 1969, c 162, pt of §2; am L 1976, c 200, pt of §1; am L 2003, c 61, §2]

#### **Revision Note**

Numeric designations deleted pursuant to §23G-15.

" **§390-2 Employment of minors under eighteen years of age.**

(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 of the director to be hazardous for the minor.

(b) A minor who has attained the age of sixteen years but not eighteen years may be employed during periods when the minor is not legally required to attend school or when the minor is excused by school authorities from attending school; provided that the employer of the minor records and keeps on file the number of a valid certificate of age issued to the minor by the department.

(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;
- (2) If the employer of the minor procures and keeps on file a valid certificate of employment;
- (3) No more than five hours continuously without an interval of at least thirty consecutive minutes for a rest or lunch period;
- (4) 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 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. [L 1969, c 162, pt of

§2; am L 1977, c 86, §1; gen ch 1985; am L 2003, c 61, §3]

### Case Notes

Inasmuch as the protections of the infancy doctrine have been incorporated into the statutory scheme of Hawaii's child labor law, the general rule that contracts entered into by minors are voidable is not applicable in the employment context; thus, trial court properly rejected plaintiff's argument that plaintiff was entitled to disaffirm plaintiff's employment contract, including the arbitration provision, by reason of plaintiff's minority status. 110 H. 520, 135 P.3d 129 (2006).

" **[§390-3] Certificates of employment and age.** (a) Certificates of employment and age shall be issued by persons appointed by the director in the form and under conditions prescribed by the director.

(b) A person designated to issue certificates of employment may refuse to issue a certificate if in the person's judgment the nature of the employment or the place thereof is such as to injuriously affect the health, safety or well-being of the minor or contribute toward the minor's delinquency.

(c) Every employer receiving a certificate of employment shall return the certificate to the department immediately after termination of the employment showing thereon the date of termination.

(d) The department may destroy or dispose of any certificate of employment on file which was issued on behalf of a minor who has attained the age of eighteen years and any application for a certificate of employment or age which was filed with the department more than five years prior to the destruction or disposition. [L 1969, c 162, pt of §2; gen ch 1985]

" **[§390-4] Suspension, revocation, invalidation of certificate.** The director may suspend, revoke or invalidate any certificate of employment or age if in the director's judgment it was improperly issued, the minor is illegally employed, or the nature or condition of employment is such as to injuriously affect the health, safety or well-being of the minor or contribute toward the minor's delinquency. [L 1969, c 162, pt of §2; gen ch 1985]

" **§390-5 Exceptions.** This chapter shall not apply to any minor employed:

(1) By the minor's parent or legal guardian;

- (2) In performance of work in connection with the sale or distribution of newspapers;
- (3) In domestic service in or about the private home of the employer;
- (4) As a golf caddy; or
- (5) By any religious, charitable, or nonprofit organization in exempt employment as prescribed by the director by rule;

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. [L 1969, c 162, pt of §2; gen ch 1985; am L 2003, c 61, §4]

" **§390-6 Rules.** The director shall adopt rules pursuant to chapter 91, necessary for the purpose of this chapter. [L 1969, c 162, pt of §2; am L 2003, c 61, §5]

" **§390-7 Child labor crime.** Any person, other than the minor employee, who knowingly violates any provision of this chapter shall be guilty of a misdemeanor. [L 1969, c 162, pt of §2; am L 2003, c 61, §6]