



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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February 6, 2018

To: The Honorable Jill N. Tokuda, Chair,  
The Honorable J. Kalani English, Vice-Chair, and  
Members of the Senate Committee on Labor

Date: Tuesday, February 6, 2018  
Time: 3:30 p.m.  
Place: Conference Room 229, State Capitol

From: Leonard Hoshijo, Acting Director  
Department of Labor and Industrial Relations (DLIR)

**Re: S.B. 3044 RELATING TO THE EMPLOYMENT OF A MINOR**

**I. OVERVIEW OF PROPOSED LEGISLATION**

This proposal amends section 390-2, Hawaii Revised Statutes (HRS), of the Child Labor Law, by requiring an on-set teacher be present with and accompany the minor whenever a minor under fourteen years of age is working in theatrical employment.

DLIR provides comments on this measure and offers recommendations.

**II. CURRENT LAW**

There is no current law requiring an on-set teacher to be present when minors are employed in theatrical employment. §390-2 Employment of minors under eighteen years of age contains hours and times provisions for minors that are 16-18, 14-16, and under 14.

**III. COMMENTS ON THE SENATE BILL**

Majority of the theatrical employment certificates issued by the DLIR are for television or motion picture productions. The duration of these productions can range from a television commercial shooting for a few hours for one day only, to a television series or motion picture production filming for several hours a day for several months.

Requiring an on-set teacher to be present for all theatrical productions may be superfluous since the duration of these productions vary widely. An alternative would be to require an on-set teacher when the employer requests for a variance to permit minors to work beyond the hours and times permitted by law.

A production company that is signatory to the union (i.e., Screen Actors Guild) is subject to the union agreement which already requires the employer to provide an on-set teacher, under certain requirements.

Prior to the DLIR issuing a theatrical certificate of employment, the DLIR ensures that the minor is performing satisfactorily in school. Under section 12-25-22, Hawaii Administrative Rules, whenever the minor works during a school year, the employer must submit, to DLIR a statement signed by an authorized school official indicating that the minor's attendance and school work are satisfactory. When the minor's school work or attendance is not satisfactory, DLIR cannot issue the certificate of employment and the application is denied.

This bill as drafted requires an on-set teacher for minors under fourteen years of age. Employment certificates are issued for minors as young as newborn babies appearing in a movie or television show. DLIR recommends the bill clarify the minimum age at which an on-set teacher is required to minors at least age five.

In addition, there is no definition of an on-set teacher or the requirements or any certifications needed to qualify as an on-set teacher.



**Local 665**  
**HAWAII'S TECHNICIANS**  
for  
**FILM, TELEVISION, STAGE AND PROJECTION**  
Since 1937

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS  
OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

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The Senate  
The Twenty-Ninth Legislature  
Regular Session of 2018

Senate Committee on Labor  
Senator Jill N. Tokuda, Chair  
Senator J. Kalani English, Vice Chair

RE: SB3044 – RELATING TO EMPLOYMENT OF A MINOR

Date: Thursday, February 8, 2018  
Time: 3:30PM  
Place: Conference Room 229.  
State Capitol, 415 S. Beretania St. Honolulu, HI

Aloha, Chair Tokuda, Vice Chair English and Members of the Committee,

Mahalo for the opportunity to testify on this measure. IATSE Local 665 represents the film technicians who work behind the camera on TV series and films, and our local union represents members statewide, including Set Teachers.

We strongly support SB 3044 as it pertains to the requirement for a Set Teacher whenever a minor is employed for theatrical purposes. Currently, there is no such requirement in Hawaii although the practice is commonplace in California. We would like to enhance the existing Hawaii Child Labor Laws (HRS 12-25: Theatrical Employment, attached) with language that requires a Set Teacher accompany a minor whenever the child is working and raise the covered age of a minor to 18-years old.

Most films come from California to film in Hawaii. Over the years, these films have hired a Hawaii Set Teacher whenever Hawaii minors are working on the set. Three years ago, a television series discovered that a Set Teacher is only required if the child works more than three consecutive days. Our Set Teachers have not been hired since. We value our child actors, and we want to demonstrate this by requiring the presence of a Set Teacher whenever they are on set – a very fast-paced, sometimes dangerous, environment. This is the law in California.

Committee on Labor

February 8, 2018

RE: SB3044 – Relating to Employment of a Minor

Please consider the benefits to having a Set Teacher:

- No one comes to Hawaii to shoot indoors. Our working children are often exposed to rough weather and terrain – in the surf, in the sun, on the beach, in the jungle, trudging through mud, etc. Our Set Teachers live here, and they know how to adapt to adverse conditions, assess the abilities of the child and deem whether a situation is safe or unsafe.
- Our Set Teachers are licensed teachers with the State of Hawai'i and are responsible for tutoring the child between scenes. Based on the academic struggles Hawai'i's students often have, our children can't afford to miss even one day of schooling, let alone three. Working on a set should not be considered a vacation from school. It sends the wrong message on where our priorities are.
- Our Set Teachers are trained in set protocol, knowledgeable in child labor laws, and are adept in anticipating potential problems. They also act as an intermediary for the guardians and the production company to be sure the family feels safe and informed. They also help to temper overzealous parents.
- Until about three years ago, productions out of L.A. always hired our Set Teachers whenever a Hawaii minor was working on the set. Because there is no requirement to have a Set Teacher unless the child works more than three consecutive days, our Set Teachers have not worked on an ongoing for the last three years. Another TV series is gearing up, and they will likely continue this trend. It's apparent that schedules are adjusted to ensure that the children are not working for more than three consecutive days for budgetary reasons. This sends the wrong message about the value we place on our children.
- Due to the recent reports by actors who were sexually abused as children, we want to be proactive in having a Set Teacher on set whenever Hawaii minors are working, regardless of how many days they are there. This has been our past practice until three years ago.
- The State will not incur any cost that I am aware of by approving this measure. In fact, it reduces the State's and the employer's liability to have a Set Teacher present to ensure the child is safe – on and off camera.

Please amend the language in the bill to raise the level of covered minors to the age of 18.


Within our local, we follow the procedures practiced by Hollywood Studio Teachers. Here is their website for more information, and a chart of information is attached to my testimony:

<http://www.thestudioteachers.com/>.

In conclusion, it is our belief that allowing a Hawaii minor to be without a Set Teacher, even for one day, goes counter to the value we place on their welfare.

Committee on Labor  
February 8, 2018  
RE: SB3044 – Relating to Employment of a Minor

Respectfully submitted,

  
Irish Barber  
Business Representative

Encls  
HRS 12-25: Theatrical Employment

## SUBCHAPTER 2

## THEATRICAL EMPLOYMENT

**Historical Note:** Subchapter 2, chapter 25 of title 12 is based substantially upon "Regulation XIV, Relating to Minors in Theatrical Employment" of the Department of Labor and Industrial Relations. [Eff. 11/1/51; am 3/22/65; am 7/18/74; R Oct. 5, 1981]

**§12-25-21 Definitions.** As used in this subchapter:

"Department" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Director" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Employer" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Gainful occupation" shall be as defined in section 390-1, Hawaii Revised Statutes.

"Theatrical employment" shall be as defined in section 390-1, Hawaii Revised Statutes. [Eff. Oct. 5, 1981]

(Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

**§12-25-22 Theatrical employment permitted.** A minor under fourteen years of age may be employed or permitted to work in theatrical employment provided that:

- (1) A written consent to the employment is filed with the director by a guardian or parent with whom the minor resides; or, if the guardian or parent is not a resident of the State, the person who is primarily responsible for the care and custody of the minor;
- (2) The minor is accompanied by and is under the immediate and direct control of the person who is required to file the consent as herein provided or by a responsible adult person designated by the person who files the consent;
- (3) The employer submits to the director, whenever employment would occur during a school year, a statement signed by an authorized school official indicating that the attendance at school and the school work of the minor are satisfactory;
- (4) The employment does not injuriously affect the health, safety, or well-being of the minor or contribute to the minor's delinquency;
- (5) Where liquor is sold for consumption on the premises, the licensee shall comply with the rules of the appropriate county liquor commission relating to employment of minors as entertainers;
- (6) 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; and
- (7) The employer of the minor procures and keeps on file a valid certificate of employment. [Eff. Oct. 5, 1981; am 12/27/99] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

**§12-25-23 Hours and conditions of employment.** (a) A minor under sixteen years of age may be employed or permitted to work in theatrical employment as follows:

- (1) A minor under six years of age shall not work later than 7:00 p.m.
- (2) For minors six years of age or over but under sixteen, the following limitations shall apply:
  - (A) On any night preceding a day when the minor is not legally required to attend school:
    - (i) A minor six years of age or over but under fourteen shall not work later than 10:30 p.m.;
    - (ii) A minor fourteen years of age or over but under sixteen shall not work later than 11:30 p.m.
  - (B) On any night preceding a day when the minor is legally required to attend school:
    - (i) A minor six years of age or over but under fourteen shall not work later than 8:30 p.m.;
    - (ii) A minor fourteen years of age or over but under sixteen shall not work later than 9:30 p.m.
- (3) The combined hours of work and hours in school shall not exceed ten in a day.
- (4) The employment does not exceed four nights in any calendar week.
- (5) A minor shall not engage in theatrical employment more than the following number of hours in any one day:
  - (A) A minor under six years of age, not more than two hours;
  - (B) A minor six years of age or over but under ten, not more than three hours;
  - (C) A minor ten years of age or over but under fourteen, not more than four hours; and
  - (D) A minor fourteen years of age or over but under sixteen, not more than eight hours.
- (b) Time spent by a minor in learning, practicing, or rehearsing any of the arts, such as singing or dancing, shall be counted as theatrical employment time if the learning, practicing, or rehearsing is in connection with a public performance. Time spent in waiting to appear in a performance shall also count as theatrical employment time.

## 12-25-23

(c) Upon an employer's written application showing good cause, the director may grant an extension of the time, hours, and days to be worked; provided that the employer of the minor and the person who is responsible for the control of the minor as required in section 12-25-22(2) shall adhere to any other conditions that may be prescribed by the director, such as adequate rest periods, rest facilities, transportation, compensation, safety, supervision, and tutoring. As used in this subsection, "good cause" includes practical difficulties and undue hardship by the employer in complying with the work hour restrictions. The director shall grant or deny a request for variance from the work hour restrictions within sixty days from the date that all required information is received by the department. [Eff. Oct. 5, 1981; am 12/27/99] (Auth: HRS §§390-2, 390-6) (Imp: HRS §390-2)

**§12-25-24 Application and issuance of employment certificate.** (a) Application for employment of a minor in theatrical employment shall be made by the employer on forms furnished by the department. The application shall be completed and signed by the employer, parent, and minor.

(b) Upon receipt of an application, the director or an authorized representative may issue the employment certificate under the terms and conditions established in this subchapter. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §§390-2, 390-3)

**§12-25-25 Revocation or cancellation of employment certificate.** A certificate for theatrical employment may be revoked or cancelled for cause at any time by the director after affording all interested parties an opportunity for a hearing. Cause shall include:

- (1) Violation of this subchapter or chapter 390, Hawaii Revised Statutes; or
- (2) Falsification of any information required by the application; or
- (3) Disapproval or withdrawal of approval of the minor's employment by an authorized official of the school attended by the minor; or
- (4) Finding by the director that the employment is detrimental to the health, safety, or well-being of the minor or will contribute to the minor's delinquency. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §§390-2, 390-4)

**§12-25-26 Reconsideration and appeal.** (a) Any person aggrieved by the director's action in denying, granting, revoking, or cancelling of an employment certificate for theatrical employment may file, within ten days after the director's action, a written request for reconsideration by the director.

(b) A request for reconsideration shall be granted where the applicant shows that there is additional evidence which may materially affect the decision and that there are reasonable grounds for failure to offer such evidence prior to the director's action.

(c) Any person aggrieved by the action of the director in denying a request for reconsideration may file, within thirty days after denial, an appeal for judicial review under section 91-14, Hawaii Revised Statutes. [Eff. Oct. 5, 1981] (Auth: HRS §§390-2, 390-6) (Imp: HRS §§91-14, 390-2 to 390-4)

**§§12-25-27 to 12-25-30** (Reserved)

**SB-3044**

Submitted on: 2/6/2018 10:22:55 AM

Testimony for LBR on 2/8/2018 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
GERARD KAMAN	IATSE 665	Support	No

Comments:

BILL SB3004 PROVIDES OUR HAWAIIAN CHILDREN THE PROTECTION AND EDUCATION THEY CURRENTLY LACK. A CHILD WILL SPEND MOST OF THE DAY SITTING IN A TRAILER ON LOCATION WAITING FOR HIS CALL ON SET. IATSE LOCAL 665 TEACHERS PROVIDED THE EDUCATION AND PROTECTION OUR CHILDREN WANTED. THE PAST SEVERAL YEARS THAT HAS BEEN DENIED. SB3044 WILL ONCE AGAIN PROVIDE THE KNOWLEDGE AND SECURITY OUR CHILDREN NEED.

SINCERELY

GERARD KAMAN

IATSE LOCAL 665



**SB-3044**

Submitted on: 2/6/2018 7:49:27 PM

Testimony for LBR on 2/8/2018 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Doug Boney	IATSE Local 884	Support	No

Comments:

I am the Business Representative of IATSE Local 884, The Studio Teachers and Welfare Workers. I am writing to offer my support for SB3044.

Having an education and welfare advocate on the set is integral in making sure the minors working in entertainment are not falling behind in school and are treated in a safe way. This is important not only for main cast minors working for weeks or months, but also for the background actors that work a day here and there. Making sure these minors can walk back into their classrooms without feeling left behind is why a Set Teacher is essential.

In addition to their education, a Set Teacher looks out for the welfare and safety of the minors. Many times directors and producers treat minor actors as if they are adults, resulting in minors being placed in situations that are not age appropriate. Though we would like to think a minor's guardian would look out for what is best for the minor, this is not always the case. Having an independent person knowledgeable of the labor laws and with experience on sets protects the child from being put in an unsafe situation.

Here in California a Set Teacher is called a Studio Teacher, which is a designation found in state law of someone with 2 teaching credentials and a certification issued by California. A Studio Teacher is required from day one when a minor is on set, no matter if it is a table read, rehearsal, wardrobe fitting, etc. A Studio Teacher is required for the education of all minors and for the welfare of all minors aged 15 and younger. This is not something that productions find as a hinderance because they want to make sure the minors in their employ are safe and getting the education they deserve.

In closing, requiring a Set Teacher from day one on productions in Hawaii gives the state the assurance that its minor residents are working in a safe environment and getting their required education.

**SB-3044**

Submitted on: 2/7/2018 11:48:42 AM

Testimony for LBR on 2/8/2018 3:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kaipu Seales		Support	No

Comments:

Aloha! I am here to provide comment in STRONG SUPPORT of this bill.

Our keiki are important and we would like to proactively protect them.

We are seeking the same legal protection and supervision for Hawaii minors that California law allows for children in the workplace.

Many of the keiki are exposed to rough weather and terrain – in the surf, in the sun, on the beach, in the jungle, trudging through mud, etc. Our Set Teachers live here, and they know how to adapt to adverse conditions.

Our Set Teachers are licensed teachers with the State of HI. They will be able to tutor the child during their idle time between scenes. Hawaii is consistently at the bottom nationwide in public school education, and our children can't afford to miss even one day of schooling. Working on a set should not be considered a vacation from school. It sends the wrong message on where our priorities are.

Education is not the only reason I support this bill. It's not just about missing three days of school. Our Set Teachers are trained in set protocol, knowledgeable in child labor laws, are adept in anticipating potential problems and act as an intermediary for the parents/guardians and the AD's to be sure the family feels safe and informed. They also help to temper overzealous parents.

Until about three years ago, productions out of L.A. always hired our Set Teachers whenever a Hawaii minor was working on the set. Then, they discovered the SAG-AFTRA Three-Day rule and none of our Set Teachers have been hired on "Hawaii Five-O" since. I believe the schedules are adjusted to ensure that the child(ren) are not working for more than three consecutive days for budgetary reasons.

Due to the recent horrifying reports by actors who were sexually abused as children, we want to be proactive in having a Set Teacher on set whenever Hawaii minors are working, regardless of how many days they are there. This has been our past practice until three years ago. The Set Teacher's presence helps to reduce employer liability and, in our opinion, is a small price to pay to ensure that the child is not put into dangerous situations – on and off camera.

Allowing a Hawaii minor to be without a Set Teacher, even for one day, goes counter to the value we place on their welfare.

Please support this bill. Our keiki depend on you for their wellbeing.

Mahalo,

Kaipu Seales, Member of IATSE 665