

LABOR CODE

TITLE 2. PROTECTION OF LABORERS

SUBTITLE B. RESTRICTIONS ON LABOR

CHAPTER 51. EMPLOYMENT OF CHILDREN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51.001. PURPOSE. The purpose of this chapter is to ensure that a child is not employed in an occupation or manner that is detrimental to the child's safety, health, or well-being.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 51.002. DEFINITIONS. In this chapter:

(1) "Child" means an individual under 18 years of age.

(2) "Commission" means the Texas Workforce Commission.

(3) "Delivery of newspapers" means the distribution of newspapers on or the maintenance of a newspaper route. The term does not include direct sales of newspapers to the general public.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. [648](#), Sec. 1, eff. September 1, 2005.

Sec. 51.003. GENERAL EXEMPTIONS. (a) This chapter does not apply to employment of a child:

(1) employed:

(A) in a nonhazardous occupation;

(B) under the direct supervision of the child's parent or an adult having custody of the child; and

(C) in a business or enterprise owned or operated by the parent or custodian;

(2) 11 years or older engaged in delivery of newspapers to the consumer;

(3) participating in a school-supervised and school-administered work-study program approved by the commission;

(4) employed in agriculture during a period when the child is not legally required to be attending school;

(5) employed through a rehabilitation program supervised by a county judge;

(6) engaged in nonhazardous casual employment that will not endanger the safety, health, or well-being of the child and to which the parent or adult having custody of the child has consented; or

(7) 16 years or older engaged in the direct sale of newspapers to the general public.

(b) In this section, "employment in agriculture" means engaged in producing crops or livestock and includes:

(1) cultivating and tilling the soil;

(2) producing, cultivating, growing, and harvesting an agricultural or horticultural commodity;

(3) dairying; and

(4) raising livestock, bees, fur-bearing animals, or poultry.

(c) For the purposes of Subsection (a)(6), the commission by rule may define nonhazardous casual employment that the commission determines is dangerous to the safety, health, or well-being of a child.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. [648](#), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1184](#), Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER B. RESTRICTIONS ON EMPLOYMENT

Sec. 51.011. MINIMUM AGE. Except as provided by this chapter, a person commits an offense if the person employs a child under 14 years of age.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 51.012. PERFORMER EXEMPTION. The commission by rule may authorize the employment of children under 14 years of age as performers in a motion picture or a theatrical, radio, or television production.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 51.013. HOURS OF EMPLOYMENT; HARDSHIP EXEMPTION. (a) A person commits an offense if the person permits a child who is 14 or 15 years of age and who is employed by the person to work more than:

- (1) eight hours in one day; or
- (2) 48 hours in one week.

(b) A person commits an offense if the person permits a child who is 14 or 15 years of age, is employed by the person, and is enrolled in a term of a public or private school to work:

- (1) between the hours of 10 p.m. and 5 a.m. on a day that is followed by a school day; or
- (2) between the hours of midnight and 5 a.m. on a day that is not followed by a school day.

(c) A person commits an offense if the person permits a child who is 14 or 15 years of age, is employed by the person, and is not enrolled in summer school to work between the hours of midnight and 5 a.m. on any day during the time that school is recessed for the summer.

(d) The commission may adopt rules for determining whether hardships exist. If, on the application of a child, the commission determines that a hardship exists for that child, this section does not apply to that child.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 51.014. HAZARDOUS OCCUPATIONS. (a) The commission by rule shall declare an occupation to be hazardous if:

- (1) the occupation has been declared to be hazardous by an agency of the federal government; and
- (2) the commission determines that the occupation is particularly hazardous for the employment of children.

(b) The commission by rule may restrict the employment of children 14 years of age or older in hazardous occupations.

(c) A person commits an offense if the person employs a child in violation of a rule adopted under this section.

(d) In addition to any occupation determined to be hazardous

under Subsection (a), the employment of a child to sell items or services for or solicit donations for any person other than an exempt organization or a business owned or operated by a parent, conservator, guardian, or other person who has possession of the child under a court order is a hazardous occupation for purposes of this chapter if the child is:

(1) younger than 14 years of age; and

(2) unaccompanied by a parent, conservator, guardian, or other person who has possession of the child under a court order.

(e) For purposes of this section, "exempt organization" means:

(1) a charitable organization, as that term is defined under Section 84.003, Civil Practice and Remedies Code;

(2) an organization regulated under Title 15, Election Code; or

(3) a club, organization, or other group engaged in a fund-raising activity for the club, organization, or group if the activity is sponsored by a public or private primary or secondary school.

(f) Subsection (d) does not apply to a child younger than 14 years of age selling items or services as a self-employed person with the consent of a parent.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 501, Sec. 1, eff. Sept. 1, 1995.

Sec. 51.0145. USE OF CHILD FOR SALES AND SOLICITATION. (a) For purposes of this section:

(1) "Exempt organization" means:

(A) a charitable organization, as defined by Section 84.003, Civil Practice and Remedies Code;

(B) an organization regulated under Title 15, Election Code; or

(C) a club, organization, or other group engaged in a fund-raising activity for the club, organization, or group if the activity is sponsored by a public or private primary or secondary school.

(2) "Solicit" means an action of a person to:

(A) sell goods or services in a setting other than a retail establishment;

(B) request donations; or

(C) distribute items, information, or advertising.

(b) The employment of a child to solicit is a hazardous occupation for purposes of this chapter.

(c) A person may not employ a child to solicit unless the person:

(1) at least seven days before the date the child begins employment, obtains on a form approved by the commission the signed consent of a parent of the child or of a conservator, guardian, or other person who has possession of the child under a court order;

(2) provides to the individual who gives consent:

(A) a map of the route the child will follow during each solicitation trip; and

(B) the name of each individual who will be supervising each solicitation trip;

(3) provides at each location where children will be engaged to solicit at least one adult supervisor for every three children engaged in that solicitation trip; and

(4) limits each solicitation trip to:

(A) no later than 7 p.m. on a day when the child is legally required to attend school; and

(B) the hours between 10 a.m. and 7 p.m. on all other days.

(d) The commission may make additional requirements by rule for a person employing a child under this section to protect the safety, health, or well-being of the child.

(e) This section does not apply to an exempt organization or a business owned or operated by a parent, conservator, guardian, or other person who has possession of the child under a court order.

(f) A person commits an offense if the person employs a child in violation of this section or a rule adopted under this section.

Added by Acts 1999, 76th Leg., ch. 648, Sec. 1, eff. Sept. 1, 1999.

Sec. 51.015. OPERATION OF MOTOR VEHICLE FOR CERTAIN COMMERCIAL PURPOSES. (a) An occupation that involves the operation of a motor vehicle by a child for a commercial purpose is not a hazardous occupation under this chapter if the child:

(1) has a driver's license under Chapter 521, Transportation Code;

(2) is not required to obtain a commercial driver's license under Chapter 522, Transportation Code, to perform the duties of the occupation;

(3) performs the duties of the occupation:

(A) under the direct supervision of the child's parent or an adult having custody of the child; and

(B) for a business owned or operated by the child's parent or guardian; and

(4) operates a vehicle that has no more than two axles and does not exceed a gross vehicle weight rating of 15,000 pounds.

(b) The commission shall adopt rules consistent with this section.

Added by Acts 1995, 74th Leg., ch. 903, Sec. 1, eff. Aug. 28, 1995.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.213, eff. Sept. 1, 1997.

Sec. 51.016. SEXUALLY ORIENTED BUSINESSES. (a) In this section, "sexually oriented business" has the meaning assigned by Section 243.002, Local Government Code.

(b) A sexually oriented business may not employ an individual younger than 18 years of age.

(c) A sexually oriented business shall maintain at the business a record that contains a copy of a valid proof of identification of each employee or independent contractor working at the premises of the business.

(d) A proof of identification satisfies the requirements of Subsection (c) if the identification:

(1) contains a physical description and photograph consistent with the person's appearance;

(2) contains the date of birth of the person; and

(3) was issued by a government agency.

(e) The form of identification under Subsection (c) may include:

(1) a driver's license issued by this state or another state;

(2) a passport; or

(3) an identification card issued by this or another state or the federal government.

(f) A sexually oriented business shall maintain a record under this section for at least two years after the date the employee or independent contractor ends employment with or a contractual obligation to the business.

(g) The requirements of Subsections (c) and (f) do not apply with regard to an independent contractor who contracts with a sexually oriented business solely to perform repair, maintenance, or construction services at the business.

(h) The commission, the attorney general, or a local law enforcement agency may inspect a record maintained under this section if there is good reason to believe that an individual younger than 18 years of age is employed or has been employed by the sexually oriented business within the two years preceding the date of the inspection.

(i) A person commits an offense if the person:

(1) fails to maintain a record as required by this section; or

(2) knowingly or intentionally hinders an inspection authorized under Subsection (h).

Added by Acts 2009, 81st Leg., R.S., Ch. [489](#), Sec. 1, eff. September 1, 2009.

#### SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Sec. 51.021. INSPECTION; COLLECTION OF INFORMATION. (a) The commission, or a person designated by the commission, may, during working hours:

(1) inspect a place where there is good reason to believe that a child is employed or has been employed within the

last two years; and

(2) collect information concerning the employment of a child who works or within the last two years has worked at that place.

(b) A person commits an offense if the person knowingly or intentionally hinders an inspection or the collection of information authorized by this section.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 905, Sec. 1, eff. Sept. 1, 1995.

Sec. 51.022. CERTIFICATE OF AGE. (a) A child who is at least 14 years of age may apply to the commission for a certificate of age that states the date of birth of the child.

(b) The application must include documentary proof of age as required by the commission.

(c) After approval by the commission of the proof of age, the commission shall issue to the child a certificate of age.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 51.023. RULEMAKING. The commission may adopt rules necessary to promote the purpose of this chapter but may not adopt a rule permitting the employment of a child under 14 years of age unless expressly authorized by this chapter.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 51.024. POWERS OF COMMISSION; PENALTY. (a) The commission may require reports, conduct investigations, and take other action it considers necessary to implement this chapter.

(b) In the discharge of the duties imposed by this chapter, a member of the commission or an authorized representative of the commission may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses who may be found within 100 miles of the relevant event and the production of books, papers, correspondence, memoranda, or other records considered necessary as evidence in the administration of this chapter. Notwithstanding Chapter 152 or 154, Local Government Code, or any other law of this state, the

commission shall pay the fee of a sheriff or constable for serving a subpoena under this subsection from the administrative funds of the commission, and the comptroller shall issue a warrant for that fee as directed by the commission.

(c) In the case of contumacy or other refusal to obey a subpoena issued by a member of the commission or an authorized representative of the commission, a county court or district court within the jurisdiction of which the inquiry is conducted or the person guilty of contumacy or refusal to obey is found, resides, or transacts business has jurisdiction on application by the commission or its representative to issue to the person an order requiring the person to appear before a commissioner, the commission, or an authorized representative of the commission to produce evidence or give testimony regarding the matter under investigation. Failure to obey the court order may be punished by the court as contempt.

(d) A person commits an offense if the person, without just cause, fails or refuses to obey a commission subpoena to:

- (1) attend and testify;
- (2) answer any lawful inquiry; or
- (3) produce books, papers, correspondence, memoranda, or other records.

(e) An offense under Subsection (d) is punishable by a fine of not less than \$200, by confinement for not more than 60 days, or by both fine and confinement. Each day of violation constitutes a separate offense.

Added by Acts 1995, 74th Leg., ch. 905, Sec. 2, eff. Sept. 1, 1995.

#### SUBCHAPTER D. PENALTY AND DEFENSE

Sec. 51.031. OFFENSE; PENALTY. (a) Except as provided by Subsection (b), an offense under this chapter is a Class B misdemeanor.

(b) An offense under Section 51.014(d) or Section 51.0145 is a Class A misdemeanor.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 9.10(a), eff. Sept. 1, 1995;

Acts 1995, 74th Leg., ch. 501, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 648, Sec. 2, eff. Sept. 1, 1999.

Sec. 51.032. DEFENSE TO PROSECUTION. It is a defense to prosecution of a person employing a child who does not meet the minimum age requirement for a type of employment that the person relied in good faith on an apparently valid certificate of age presented by the child that showed the child to meet the age requirement for that type of employment.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 51.033. ADMINISTRATIVE PENALTY. (a) If the commission determines that a person who employs a child has violated this chapter or a rule adopted under this chapter, the commission may assess an administrative penalty against that person as provided by this section.

(b) The penalty for a violation may be in an amount not to exceed \$10,000.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation; and

(5) any other matter that justice may require.

(d) If, after examination of a possible violation and the facts relating to that possible violation, the commission determines that a violation has occurred, the commission shall issue a preliminary determination that states the facts on which the determination is based, the fact that an administrative penalty is to be imposed, and the amount of the penalty.

(e) Not later than the 14th day after the date the report is issued, the commission shall give written notice of the preliminary determination to the person charged with the violation. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the

occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Not later than the 21st day after the date on which the notice is mailed, the person may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person requests a hearing, the commission shall set a hearing and give notice of the hearing to the person not later than the 21st day after the date a request for the hearing is received by the commission. As soon as practicable, but not later than the 45th day after the date the hearing notice is mailed, the commission shall conduct the hearing. The hearing is subject to the commission rules and hearings procedures used by the commission to determine a claim under Subtitle A, Title 4, but is not subject to Chapter 2001, Government Code. The hearings examiner shall issue a decision.

(h) If it is determined after the hearing that a penalty may be imposed, the commission shall enter a written order to that effect. The commission shall notify the person in writing of the decision and the amount of the penalty imposed by mailing the notice to the person at the person's last known address as reflected by commission records. The order of the commission becomes final 14 days after the date of mailing, unless, within 14 days after the date of the mailing, the hearing is reopened by commission order or the person files a written motion for rehearing.

(i) The notice of the commission's order must include a statement of the right of the person to judicial review of the order.

(j) Not later than the 30th day after the date the commission's final order is mailed, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a

petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a person who acts under Subsection (j)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond approved by the court that is for the amount of the penalty and that is effective until all judicial review of the commission's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the commission by certified mail.

(1) If the commission receives a copy of an affidavit under Subsection (k)(2), the commission may file with the court not later than the fifth day after the date the copy is received a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the commission may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the commission:

(1) is instituted by bringing an action as provided by Subchapter E, Chapter 212; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that a penalty is not owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) The attorney general may bring a suit in a district court in Travis County to enforce a final order from which an appeal under this chapter has not been taken. In the suit and on the request of the attorney general, the court may order payment of attorney's fees and other costs of court.

(r) A penalty collected under this section shall be remitted to the comptroller for deposit in the general revenue fund.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.11(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 905, Sec. 3, eff. Sept. 1, 1995.

Sec. 51.034. INJUNCTION: ATTORNEY GENERAL'S ACTION. The attorney general may seek injunctive relief in district court against an employer who repeatedly violates the requirements established by this chapter relating to the employment of children. Added by Acts 1995, 74th Leg., ch. 76, Sec. 9.11(a), eff. Sept. 1, 1995.

#### SUBCHAPTER E. COLLECTION OF PENALTY

Sec. 51.041. DEFINITION. In this subchapter, "asset" means:

- (1) a credit, bank, or savings account or deposit; or
- (2) any other intangible or personal property.

Added by Acts 1995, 74th Leg., ch. 905, Sec. 4, eff. Sept. 1, 1995.

Sec. 51.042. NOTICE OF DELINQUENCY. (a) If, under a final order, a person is determined to be delinquent in the payment of any amount, including penalties, interest, or other amounts due under this chapter, the commission may notify personally or by mail any other person who:

- (1) possesses or controls an asset belonging to the delinquent person; or

- (2) owes a debt to the delinquent person.

(b) A notice under this section to a state officer, department, or agency must be given before the officer, department, or agency presents to the comptroller the claim of the delinquent person.

(c) A notice under this section may be given at any time after the amount due under this chapter becomes delinquent. The notice must state the amount of wages, penalties, interest, or other amounts due, and any additional amount that will accrue by operation of law in a period not to exceed 30 days after the date on which the notice is given and, in the case of a credit, bank, or savings account or deposit, is effective only up to that amount.

Added by Acts 1995, 74th Leg., ch. 905, Sec. 4, eff. Sept. 1, 1995.

Sec. 51.043. DUTIES OF NOTICE RECIPIENT. (a) On receipt of a notice under Section 51.042, the person receiving the notice:

- (1) shall advise the commission not later than the 20th day after the date on which the notice is received of each asset belonging to the delinquent person that is possessed or controlled by the person receiving the notice and of each debt owed by the person receiving the notice to the delinquent person; and

- (2) unless the commission consents to an earlier disposition, may not transfer or dispose of the asset or debt

possessed, controlled, or owed by the person receiving the notice on the date the person received the notice during the 60-day period after the date of receipt of the notice.

(b) A notice under Section 51.042 that attempts to prohibit the transfer or disposition of an asset possessed or controlled by a bank is effective if it is delivered or mailed to the principal or any branch office of the bank, including the office of the bank at which the deposit is carried or the credit or property is held.

(c) A person who receives a notice under this subchapter and who transfers or disposes of an asset or debt in a manner that violates Subsection (a)(2) is liable to the commission for the amount of the indebtedness of the delinquent person with respect to whose obligation the notice was given, to the extent of the value of the affected asset or debt.

Added by Acts 1995, 74th Leg., ch. 905, Sec. 4, eff. Sept. 1, 1995.

Sec. 51.044. LEVY. (a) At any time during the 60-day period provided by Section 51.043(a)(2), the commission may levy on the asset or debt by delivery of a notice of levy.

(b) On receipt of the levy notice, the person possessing the asset or debt shall transfer the asset to the commission or pay to the commission the amount owed to the delinquent person.

Added by Acts 1995, 74th Leg., ch. 905, Sec. 4, eff. Sept. 1, 1995.

Sec. 51.045. NOTICE EFFECT. A notice delivered under this subchapter is effective:

(1) at the time of delivery against all property, rights to property, credits, and debts involving the delinquent person that are not, as of the date of the notice, subject to a preexisting lien, attachment, garnishment, or execution issued through a judicial process; and

(2) against all property, rights to property, credits, or debts involving the delinquent person that come into the possession or control of the person served with the notice during the 60-day period provided by Section 51.043(a)(2).

Added by Acts 1995, 74th Leg., ch. 905, Sec. 4, eff. Sept. 1, 1995.

Sec. 51.046. DISCHARGE OF LIABILITY. A person acting in accordance with the terms of a notice issued by the commission under this subchapter is discharged from any obligation or liability to the delinquent person with respect to the affected property, rights to property, credits, and debts of the person affected by compliance with the notice of freeze or levy.

Added by Acts 1995, 74th Leg., ch. 905, Sec. 4, eff. Sept. 1, 1995.