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# OHIO LEGISLATIVE SERVICE COMMISSION

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135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Reported by Senate Workforce & Higher Education

**Primary Sponsor:** Sen. Schaffer

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### SUMMARY

- Allows a 14- or 15-year-old to be employed between 7 p.m. and 9 p.m. at any time of the year if the minor has approval to do so from a parent or legal guardian.
- Requires a minor who wishes to receive an age and schooling certificate (commonly referred to as a “work permit”) to submit a minor work hour notification form that is signed by the child’s parent or legal guardian.

### DETAILED ANALYSIS

#### Hours of work for 14- and 15-year-olds

The bill allows a 14- or 15-year-old to be employed between 7 p.m. and 9 p.m. at any time during the year if the minor has approval to do so from the minor’s parent or legal guardian.

Continuing law allows a 14- or 15-year-old to work between 7 a.m. and 9 p.m. between June 1 and September 1 or during any school holiday of five school days or more. However, current law generally prohibits a 14- or 15-year-old from being employed after 7 p.m. at any other time of the year. The bill retains this prohibition, but allows for the exception to work until 9 p.m. with permission as discussed above.<sup>1</sup>

Under continuing law, the penalty for a violation related to the hours of work for 14- or 15- year olds is a minor misdemeanor on a first offense and a third degree misdemeanor on each subsequent offense.<sup>2</sup>

<sup>1</sup> R.C. 4109.07.

<sup>2</sup> R.C. 4109.99, not in the bill.

The bill does not change the limitation on hours of work for minors under age 16 who engage in door-to-door sales activity. Under continuing law, a minor under age 16 cannot work in any door-to-door sales activity before 7 a.m. or after 7 p.m.<sup>3</sup>

### **Interaction with federal law**

The federal Fair Labor Standards Act<sup>4</sup> (FLSA) generally prohibits a 14- or 15-year-old from working past 7 p.m. except during summer. However, a 14- or 15-year-old may work until 9 p.m. between June 1 and Labor Day.<sup>5</sup>

If an employer is subject to both the FLSA and a state law, whichever law is more protective of the minor prevails.<sup>6</sup> Thus, if an employer is subject to both the FLSA and Ohio's Minor Labor Law as amended by the bill, it appears that the more protective FLSA would prevail regarding a 14- or 15-year-old working past 7 p.m. during the school year.

### **Continuing law applicable to other minors**

Continuing law generally prohibits any person under 14 years of age from being employed.<sup>7</sup> The work hours for a 16- or 17-year-old who must attend school is limited to between 7 a.m. and, on a night that precedes a school day, 11 p.m. However, the 16- or 17-year-old may begin work after 6 a.m. if the minor did not work after 8 p.m. the previous night.<sup>8</sup>

### **Work hour notification form**

The bill requires a minor who wishes to receive an age and schooling certificate (commonly referred to as a "work permit") to submit a minor work hour notification form that is signed by the child's parent or legal guardian. The Director of Commerce must create, and make available to the public, a minor work hour notification form that provides notice of the hours a minor may work under Ohio law. By signing the form, the parent or guardian acknowledges that the parent or guardian has received notice of the information on the form.<sup>9</sup>

### **Continuing law work permit requirement**

With certain exceptions, a minor in Ohio who is of compulsory school age<sup>10</sup> may not be employed by any employer unless the minor presents to the employer a proper work permit.<sup>11</sup>

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<sup>3</sup> R.C. 4109.21, not in the bill.

<sup>4</sup> 29 United States Code (U.S.C.) 201 *et seq.*

<sup>5</sup> 29 Code of Federal Regulations (C.F.R.) 570.35.

<sup>6</sup> 29 U.S.C. 218.

<sup>7</sup> 29 U.S.C. 203(l), 29 C.F.R. 570.119, and R.C. 4109.05, not in the bill.

<sup>8</sup> R.C. 4109.07, by reference to R.C. Chapter 3321.

<sup>9</sup> R.C. 3331.02.

<sup>10</sup> A child between ages six and 18 is considered to be of compulsory school age (R.C. 3321.01, not in the bill).

<sup>11</sup> R.C. 4109.02(A), not in the bill.

The permit may be issued only by the superintendent of the school district in which the minor resides or by the chief administrative officer of a nonpublic or community school at which the minor is a student.<sup>12</sup>

### Exceptions

A minor who is 16 or 17 years old may work during summer vacation without a work permit in nonagricultural and nonhazardous employment or in other employment not prohibited to minors of that age. Ohio's work permit requirement also contains numerous exceptions for specific industries for which minor labor is common, including lawn mowing, snow shoveling, or newspaper delivery, or work on a family farm. Additionally, a minor does not have to obtain a work permit if the minor has received a high school diploma or a certificate of attendance from an accredited secondary school or a certificate of high school equivalence. Additional exceptions also may apply.<sup>13</sup>

### Requirements for issuance

For a superintendent or chief administrative officer to issue a work permit, the superintendent or chief administrative officer must receive satisfactory proof that the individual to whom the certificate is issued is at least 14 years old and must receive, examine, approve, and file all of the following duly executed papers:

- A written pledge or promise by the employer to (1) legally employ the minor, (2) permit the minor to attend school as prescribed in the law, and (3) give notice of the nonuse of a work permit;
- The minor's school record (including the minor's recorded age) or information submitted to the superintendent by the parent of a minor who is instructed at home;
- Evidence of the minor's age as prescribed in the law;
- A certificate from a health care provider showing that the minor is physically fit to be employed.<sup>14</sup>

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## HISTORY

Action	Date
Introduced	01-26-23
Reported, S. Workforce and Higher Education	03-01-23

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<sup>12</sup> R.C. 3331.01, not in the bill.

<sup>13</sup> R.C. 4109.02 and 4109.06, not in the bill.

<sup>14</sup> R.C. 3331.02 and R.C. 3331.01, not in the bill.