

AN ACT

To amend sections 3331.01, 3331.02, 3331.06, 3331.07, 3331.08, 3331.09, 3331.11, 3331.12, 3331.13, 3331.14, 4109.02, 4109.03, 4109.06, 4109.08, and 4109.09, and to repeal sections 3331.05 and 3331.15 of the Revised Code, to require the electronic filing of age and schooling certificates and, for nonpublic schools, require the chief administrative officer of a nonpublic school to issue age and schooling certificates instead of the superintendent of the school district, and to make other changes relative to age and schooling certificates.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3331.01, 3331.02, 3331.06, 3331.07, 3331.08, 3331.09, 3331.11, 3331.12, 3331.13, 3331.14, 4109.02, 4109.03, 4109.06, 4109.08, and 4109.09 of the Revised Code be amended to read as follows:

Sec. 3331.01. (A) As used in this chapter, the "superintendent":

(1) "Superintendent" or "superintendent of schools" of a school district or an educational service center means the person employed as the superintendent or that person's designee.

(2) "Chief administrative officer" means the chief administrative officer of a nonpublic or community school or that person's designee.

~~An (B)(1) Except as provided in division (B)(2) of this section, an age and schooling certificate may be issued only by the superintendent of the city, local, joint vocational, or exempted village school district or educational service center in which the child in whose name such certificate is issued resides or by the chief administrative officer of the nonpublic or community school the child attends, and only upon satisfactory proof that the child to whom the certificate is issued is at least sixteen fourteen years of age and has satisfactorily completed a vocational education or special education program adequate to prepare students for an occupation.~~

(2) A child who resides in this state shall apply for an age and schooling

certificate to the superintendent of the school district in which the child resides, or to the chief administrative officer of the school that the child attends. Residents of other states who work in Ohio must qualify with shall apply to the proper school authority in superintendent of the school district or educational service center service area in which the establishment place of employment is located, as a condition of employment or service.

(C) Any such age and schooling certificate may be issued only upon satisfactory proof that the employment contemplated by the child is not prohibited by any law regulating the employment of such children; and the employer of any minor for whom such age and schooling certificate has been issued shall keep such age and schooling certificate on file. Section 4113.08 of the Revised Code does not apply to such employer in respect to such child while engaged in an employment legal for a child of the age stated therein.

(D) Age and schooling certificate forms shall be formulated approved by the state board of education, and except in cases otherwise specified by sections 3331.04 and 3331.05 of the Revised Code must be printed on white paper, including forms submitted electronically. Forms shall not display the social security number of the child. Except as otherwise provided in this section, every such application for an age and schooling certificate must be signed in the presence of the officer issuing it by the child in whose name it is issued.

(E) A child who resides in a local school district shall apply for an age and schooling certificate with the superintendent of the local school district and shall furnish the superintendent or chief administrative officer all information required by this chapter in support of the issuance of a certificate. The local superintendent shall forward all such information to the educational service center superintendent. If upon receiving, examining, approving, and filing such information the educational service center superintendent issues a certificate, such superintendent shall deliver it to the local superintendent. No certificate issued in this manner shall be valid until signed in the presence of the local superintendent by the child in whose name it is issued. During any time the offices of the local school district close during regular business hours, a child who resides in the local district may apply directly to the educational service center superintendent who may issue an age and schooling certificate directly to the child. The educational service center superintendent shall inform the local superintendent of each certificate issued in this manner.

(F) On and after September 1, 2002, each superintendent and chief administrative officer who issues an age and schooling certificate shall file

electronically the certificate with the director of commerce in accordance with rules adopted by the director of administrative services pursuant to section 1306.21 of the Revised Code. On and after September 1, 2002, only electronically filed certificates are valid to satisfy the requirements of Chapter 4109. of the Revised Code.

Sec. 3331.02. (A) The superintendent of schools or the chief administrative officer, as appropriate pursuant to section 3331.01 of the Revised Code, shall not issue an age and schooling certificate until ~~he~~ the superintendent or chief administrative officer has received, examined, approved, and filed the following papers duly executed:

~~(A)(1)~~ (1) The written pledge or promise of the person, partnership, or corporation to legally employ the child, and for this purpose work performed by a minor, directly and exclusively for the benefit of such minor's parent, in the farm home or on the farm of such parent is legal employment, irrespective of any contract of employment, or the absence thereof, to permit ~~him~~ the child to attend school as provided in section 3321.08 of the Revised Code, and to return to the superintendent the age and schooling certificate of the child or give notice of the nonuse thereof of an age and schooling certificate within two five days from the date of the child's withdrawal or dismissal from the service of that person, partnership, or corporation, giving the reasons for such withdrawal or dismissal;

~~(B) (2)~~ (2) The child's school record or notification. As used in this division, a "school record of the child," means documents properly filled out and signed by the person in charge of the school which the child last attended; giving the recorded age of the child, ~~his~~ the child's address, standing in studies, rating in conduct, and attendance in days during the school year of ~~his~~ the child's last attendance, and if that was not a full year, during the preceding school year; "notification" means the information submitted to the superintendent by the parent of a child excused from attendance at school pursuant to division (A)(2) of section 3321.04 of the Revised Code, as the notification is required by rules adopted by the department of education.

~~(C)(3)~~ (3) Evidence of the age of the child as follows:

~~(1)(a)~~ (a) A certified copy of an original birth record or a certification of birth, issued in accordance with Chapter 3705. of the Revised Code, or by an officer charged with the duty of recording births in another state or country, shall be conclusive evidence of the age of the child;

~~(2)(b)~~ (b) In the absence of such birth record or certification of birth, a passport, or duly attested transcript thereof, showing the date and place of birth of the child, filed with a register of passports at a port of entry of the

United States; or an attested transcript of the certificate of birth or baptism or other religious record, showing the date and place of birth of the child, shall be conclusive evidence of the age of the child;

~~(3)(c)~~ In case none of the above proofs of age can be produced, other documentary evidence, except the affidavit of the parent, guardian, or custodian, satisfactory to the superintendent or chief administrative officer may be accepted in lieu thereof;

~~(4)(d)~~ In case no documentary proof of age can be procured, the superintendent or chief administrative officer may receive and file an application signed by the parent, guardian, or custodian of the child that a physician's certificate be secured to establish the sufficiency of the age of the child, which application shall state the alleged age of the child, the place and date of birth, ~~his~~ the child's present residence, and such further facts as may be of assistance in determining the age of the child, and shall certify that the person signing the application is unable to obtain any of the documentary proofs specified in divisions ~~(C)(1)(A)(3)(a), (2)(b), and (3)(c)~~ of this section; and if the superintendent or chief administrative officer is satisfied that a reasonable effort to procure such documentary proof has been without success such application shall be granted and the certificate of the school physician or if there be none, of a physician employed by the board of education, that said physician is satisfied that the child is above the age required for an age and schooling certificate as stated in section 3331.01 of the Revised Code, shall be accepted as sufficient evidence of age;

~~(D)(4)~~ A certificate, including an athletic certificate of examination, from ~~the school~~ a physician licensed pursuant to Chapter 4731. of the Revised Code or physician designated by him assistant licensed pursuant to Chapter 4730. of the Revised Code, or if there is no school physician from the district health commission, or physician designated by him commissioner, showing after a thorough examination that the child is physically fit to be employed in such occupations as are not prohibited by law for a boy or girl, as the case may be, under eighteen years of age; but a certificate with "limited" written, printed, marked, or stamped ~~diagonally across its face~~ thereon may be furnished by such physician or physician assistant and accepted by the superintendent or chief administrative officer in issuing a "limited" age and schooling certificate provided in section 3331.06 of the Revised Code, showing that the child is physically fit to be employed in some particular occupation not prohibited by law for a boy or girl of such child's age, as the case may be, even if the child's complete physical ability to engage in such occupation cannot be vouched for.

(B)(1) Except as provided in division (B)(2) of this section, a physical

fitness certificate described in division (A)(4) of this section is valid for purposes of that division while the child remains employed in job duties of a similar nature as the job duties for which the child last was issued an age and schooling certificate. The superintendent or chief administrative officer who issues an age and schooling certificate shall determine whether job duties are similar for purposes of this division.

(2) A "limited" physical fitness certificate described in division (A)(4) of this section is valid for one year.

(C) The superintendent of schools or the chief administrative officer shall require a child who resides out of this state to file all the information required under division (A) of this section. The superintendent of schools or the chief administrative officer shall evaluate the information filed and determine whether to issue the age and schooling certificate using the same standards as those the superintendent or officer uses for in-state children.

Sec. 3331.06. The age and schooling certificate provided in sections 3331.01 to ~~3331.05, inclusive,~~ 3331.04 of the Revised Code, shall be issued only with the word "limited" printed, marked, or stamped ~~diagonally across its face thereon~~ if the certificate of the physician provided in section 3331.02 or 3331.07 of the Revised Code, is a limited certificate, and in that case the particular employment to which it is limited shall be stated in the certificate, and the certificate cannot serve as the legal age and schooling certificate for employment in another occupation.

Sec. 3331.07. When an age and schooling certificate, ~~returned according to section 3331.02 of the Revised Code,~~ is reissued, the pledge of the new employer ~~and~~ shall be secured and filed. A physical fitness certificate from ~~the school a~~ physician or ~~other person in his stead~~ physician assistant as described in division (A)(4) of section 3331.02 of the Revised Code shall also be secured and filed if the physical fitness certificate used in the issuing of the previously issued age and schooling certificate is no longer valid, as determined pursuant to division (B) of section 3331.02 of the Revised Code.

Sec. 3331.08. In case a superintendent of schools refuses to excuse a child from attendance at school for one of the reasons stated in section 3321.04 of the Revised Code, or a superintendent or a chief administrative officer refuses upon request to grant an age and schooling certificate as provided in section 3331.01 of the Revised Code, an appeal may be taken from such decision to the juvenile judge of the county, upon the giving of bond, within ten days thereafter, to the approval of such judge, to pay the costs of appeal. ~~His~~ The juvenile judge's decision in the matter shall be final.

Sec. 3331.09. The superintendent of schools or chief administrative officer issuing an age and schooling certificate may revoke such certificate

on account of noncompliance with stipulations, physical condition of the child, or other sufficient cause. ~~The superintendent, or other issuing authority of the district in which the child is employed may revoke the age and schooling certificate of such child~~ for failure to attend part-time schools or classes as required by sections 3321.08 and 3321.10 of the Revised Code.

Sec. 3331.11. Records shall be ~~kept on file in~~ available from the office issuing the age and schooling certificate:

(A) Giving all the facts contained in every age and school certificate issued;

(B) The names and addresses of the children to whom certificates have been refused, together with the names of the schools and grades which such children should attend and the reasons for the refusal;

(C) All certificates ~~returned or~~ no longer used, as provided in ~~sections section 3331.02 and 3331.05~~ of the Revised Code, with the reasons therefor, and the subsequent assignment of the child to a school;

(D) The conditions on which any certificates were issued;

(E) The pledge given in connection with the certificate;

(F) The special facts connected with the issuing of nonstandard or limited certificates. The superintendent of public instruction may prescribe methods for the filing, including electronic filing, of all such facts, records, and papers, for the purpose of effective reference. These records are not required in cases of certificates denied to those determined immediately at the time of inquiry to be of insufficient age.

~~No age and schooling certificate shall be valid for employment in any other school district than that in which it is issued, unless it is countersigned by the certificate issuing authority of the district in which the child is employed, which issuing authority shall give its countersignature upon presentation of such certificate.~~

Sec. 3331.12. When any officer charged with the enforcement of child labor laws discovers any child who in ~~his~~ the officer's judgment is under fourteen years of age employed by a person who is not the parent or guardian of such child, the officer may cause such child to discontinue employment until satisfactory proof of lawful age is furnished. ~~Any child over fourteen years of age employed during hours when the public school to which he is assigned is not in session in occupations not prohibited to him by Chapter 4109. of the Revised Code, may upon application receive from the certificate issuing authority of the school district in which he lives a part time and vacation certificate under the conditions provided for such certificates.~~

Sec. 3331.13. Whenever the school record of a child or notification

regarding a child, as specified in section 3331.02 of the Revised Code, is required for the purpose of determining ~~his~~ the child's eligibility to an age and schooling certificate, such record shall be furnished by the superintendent, principal, teacher, or other official in charge of the ~~public, private, or parochial~~ school attended by the child within two days after a request for the same is made by the parent, guardian, or custodian of the child.

Sec. 3331.14. The parent or guardian of a child of compulsory school age shall secure and keep on file the proper age and schooling certificate of ~~his~~ the parent's or guardian's child or ward if such child or ward is employed by ~~him and shall return such certificate as provided in section 3331.02 of the Revised Code, but a~~ the parent or guardian ~~need not secure and keep on file a special or vacation certificate of his child or ward if such child or ward is to be employed by him personally when school is not in session.~~

Sec. 4109.02. (A) Except as provided in division (B) of this section or in section 4109.06 of the Revised Code, no minor of compulsory school age shall be employed by any employer unless the minor presents to the employer a proper age and schooling certificate as a condition of employment. ~~The employer shall keep the certificate on file in the establishment where the minor is employed or in the office of the business or in the residence in or about which the minor is employed for inspection by any enforcement official.~~

A valid certificate constitutes conclusive evidence of the age of the minor and of the employer's right to employ the minor in occupations not denied by law to minors of that age under section 4109.06 of the Revised Code or rules adopted under that section.

(B) The following minors aged sixteen or seventeen are not required to provide an age and schooling certificate as a condition of employment:

(1) Those who are to be employed during summer vacation months after the last day of the school term in the spring and before the first day of the school term in the fall, in nonagricultural and nonhazardous employment as defined by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 201, and similar state statutes, or in other employment not prohibited to minors age sixteen or seventeen by law;

(2) Unless required by the superintendent of schools of the school district where the minor resides or by the chief administrative officer of the nonpublic or community school the child attends, those who are to be employed not more than two months before the last day of the school term in the spring and not more than two months after the first day of the school term in the fall by a seasonal amusement or recreational establishment, on

the condition that the following are satisfied:

(a) For the period prior to Memorial day and after Labor day while school is in session, they are to be employed only for hours that occur between the end of the school day on Friday and eleven p.m. on Sunday.

(b) For the period from Memorial day until the last day of the school term in the spring and from the first day of the school term in the fall until Labor day, they are to be employed only for hours that occur between the end of the school day and nine p.m. on Monday through Thursday and only for hours that occur between the end of the school day on Friday and eleven p.m. on Sunday.

(C) To be hired for the type of employment described in division (B) of this section, minors shall provide the employer with the following:

(1) Evidence of proof of age in the same manner as proof of age is provided the superintendent of schools or chief administrative officer under division ~~(C)(A)(3)~~ of section 3331.02 of the Revised Code;

(2) A statement signed by the minor's parent or guardian consenting to the proposed employment. For the purposes of this section, in the absence of a parent or guardian, a person over eighteen years of age with whom the minor resides may sign the statement.

(3) An age and schooling certificate if one is required under division (B)(2) of this section by the superintendent of schools of the school district where the minor resides or by the chief administrative officer of the nonpublic or community school the child attends.

~~The employer shall retain a copy of the proof of age and the statement of consent with the employment records of the minor.~~

(D) As used in this section:

(1) "Labor day" and "Memorial day" have the same meanings as provided for those days in section 1.14 of the Revised Code.

(2) "Seasonal amusement or recreational establishment" means both of the following:

(a) An amusement or recreational establishment that does not operate for more than seven months in any calendar year;

(b) An amusement or recreational establishment whose average receipts for any six months during the preceding calendar year were not more than thirty-three and one-third per cent of its average receipts for the other six months of that calendar year.

Sec. 4109.03. No employer shall employ a minor before ~~exactng from such minor~~ thoroughly reviewing the minor's age and schooling certificate, required by law, or fail to keep such certificate on file, or fail to return give notice to the superintendent of schools or ~~his authorized representative chief~~

~~administrative officer who issued such certificate or give notice~~ of the nonuse ~~thereof of the certificate~~ within five working days from such minor's withdrawal or dismissal from ~~his the employer's~~ service, or continue to employ a minor after ~~his the minor's~~ age and schooling certificate is void, or refuse to permit an enforcement official ~~to examine such certificate~~, to observe the conditions under which minors are employed, or to make reasonable inquiry of minors or persons supposed by such official to be under eighteen in regard to matters pertaining to their age, employment, or schooling.

Sec. 4109.06. (A) This chapter does not apply to:

(1) Minors who are students working on any properly guarded machines in the manual training department of any school when the work is performed under the personal supervision of an instructor;

(2) Students participating in a vocational program approved by the Ohio department of education;

(3) A minor participating in a play, pageant, or concert produced by an outdoor historical drama corporation, a professional traveling theatrical production, a professional concert tour, or a personal appearance tour as a professional motion picture star, or as an actor or performer in motion pictures or in radio or television productions in accordance with the rules adopted pursuant to division (A) of section 4109.05 of the Revised Code;

(4) The participation without remuneration of a minor with the consent of a parent or guardian, in a performance given by a church, school, or academy, or at a concert or entertainment given solely for charitable purposes, or by a charitable or religious institution;

(5) To minors who are employed by their parents in occupations other than occupations prohibited by rule adopted under this chapter;

(6) Minors engaged in the delivery of newspapers to the consumer;

(7) Minors who have received a high school diploma or a certificate of attendance from an accredited secondary school or a certificate of high school equivalence;

(8) Minors who are currently heads of households or are parents contributing to the support of their children;

(9) Minors engaged in lawn mowing, snow shoveling, and other related employment;

(10) Minors employed in agricultural employment in connection with farms operated by their parents, grandparents, or guardians where they are members of the guardians' household. Minors are not exempt from this chapter if they reside in agricultural labor camps as defined in section 3733.41 of the Revised Code.

(B) Sections 4109.02, 4109.08, 4109.09, and 4109.11 of the Revised Code do not apply to:

(1) Minors who work in a sheltered workshop operated by a county board of mental retardation;

(2) Minors performing services for a nonprofit organization where the minor receives no compensation, except for any expenses incurred by the minor or except for meals provided to the minor;

(3) Minors employed in agricultural employment and who do not reside in agricultural labor camps.

(C) Division (D) of section 4109.07 of the Revised Code does not apply to minors who have their employment hours established as follows:

(1) A minor adjudicated to be an unruly child or delinquent child who, as a result of the adjudication is placed on probation may either file a petition in the juvenile court in whose jurisdiction the minor resides, or apply to the superintendent ~~of the school district~~ or to the chief administrative officer who issued the minor's age and schooling certificate pursuant to section 3331.01 of the Revised Code alleging the restrictions on the hours of employment described in division (D) of section 4109.07 of the Revised Code will cause a substantial hardship or are not in the minor's best interests. Upon receipt of a petition or application, the court ~~or~~ the superintendent, or the chief administrative officer, as appropriate, shall consult with the person required to supervise the minor on probation. If after such consultation the court ~~or~~ the superintendent, or the chief administrative officer finds the minor has failed to show the restrictions will result in a substantial hardship or that the restrictions are not in the minor's best interests, the court ~~or~~ the superintendent, or the chief administrative officer shall uphold the restrictions. If after such consultation the court ~~or~~ the superintendent, or the chief administrative officer finds the minor has shown the restricted hours will cause a substantial hardship or are not in the minor's best interests, the court ~~or~~ the superintendent, or the chief administrative officer shall establish differing hours of employment for the minor and notify the minor and the minor's employer of such hours, which shall be binding in lieu of the restrictions on the hours of employment described in division (D) of section 4109.07 of the Revised Code.

(2) Any minor to whom division (C)(1) of this section does not apply may either file a petition in the juvenile court in whose jurisdiction the person resides, or apply to the superintendent ~~of the school district~~ or to the chief administrative officer who issued the minor's age and schooling certificate pursuant to section 3331.01 of the Revised Code alleging the restrictions on the hours of employment described in division (D) of section

4109.07 of the Revised Code will cause a substantial hardship or are not in the minor's best interests.

If, as a result of a petition or application, the court ~~or~~, the superintendent, or the chief administrative officer, as appropriate, finds the minor has failed to show such restrictions will result in a substantial hardship or that the restrictions are not in the minor's best interests, the court ~~or~~, the superintendent, or the chief administrative officer shall uphold the restrictions. If the court ~~or~~, superintendent, or chief administrative officer finds the minor has shown the restricted hours will cause a substantial hardship or are not in the minor's best interests, the court ~~or~~, superintendent, or chief administrative officer shall establish the hours of employment for the minor and shall notify the minor and the minor's employer of such hours.

(D) As used in this section, "certificate of high school equivalence" means a statement issued by the state board of education or an equivalent agency of another state that the holder thereof has achieved the equivalent of a high school education as measured by scores obtained on the tests of general educational development published by the American council on education.

Sec. 4109.08. (A) No minor shall be employed unless the employer keeps on the premises a complete list of all minors employed by the employer at a particular establishment and a printed abstract to be furnished by the director of commerce summarizing the provisions of this chapter.

The list and abstract shall be posted in plain view in a conspicuous place which is frequented by the largest number of minor employees, and to which all minor employees have access.

(B) An enforcement official may require any employer, in or about whose establishment an employee apparently under eighteen years of age is employed and whose age and schooling certificate is not ~~filed on file with~~ the director of commerce as required by section ~~4109.02~~ 3331.01 of the Revised Code, to furnish the enforcement official satisfactory evidence that the employee is in fact eighteen years of age or older. The enforcement official shall require from the employer, ~~unless an over-age certificate issued in accordance with section 3331.15 of the Revised Code is held by the employee,~~ the same evidence of age of the employee as is required by section 3331.02 of the Revised Code upon the issuance of an age and schooling certificate. No employer shall fail to produce the evidence.

(C) Any employee apparently under eighteen years of age, working in any occupation or establishment with respect to which there are restrictions by rule or law governing the employment of minors, with respect to whom the employer has not furnished satisfactory evidence that the person is at or

above the age required for performance of employment with the employer after being requested to do so, and who refuses to give to an enforcement official the employee's name, age, and place of residence may be taken into custody and charged with being an unruly child or other appropriate charge under Chapter 2151. or 2152. of the Revised Code.

(D) No person shall, with the intent to assist a minor to procure employment, make a false statement by any means, including by submitting falsified forms electronically, to any employer or to any person authorized to issue an age and schooling certificate.

Sec. 4109.09. (A) After a minor employee has made a written request that an employer ~~return his~~ give notice of the nonuse of the minor's age and schooling certificate, should the employer fail to mail the document to the issuing authority within three days of receipt of the request, the minor shall be entitled to recover from the employer an amount equal to the wages which ~~he~~ would have been earned had ~~he~~ the minor continued in employment for the period between the receipt of the request by the employer and the initiation of the suit or compliance with the request by the employer.

(B) If any minor fails to appear for work without explanation for three days, an employer shall consider the employment terminated, and shall ~~return~~ give notice of the nonuse of the age and schooling certificate to the issuing authority.

SECTION 2. That existing sections 3331.01, 3331.02, 3331.06, 3331.07, 3331.08, 3331.09, 3331.11, 3331.12, 3331.13, 3331.14, 4109.02, 4109.03, 4109.06, 4109.08, and 4109.09 and sections 3331.05 and 3331.15 of the Revised Code are hereby repealed.

SECTION 3. On and before August 31, 2002, an employer who employs minors of compulsory school age shall do all of the following:

(A) Before employing a minor, extract from the minor the minor's age and schooling certificate and keep the certificate of each minor the employer employs on file in the establishment where the minor is employed or in the office of the business or in the residence in or about which the minor is employed for inspection by any enforcement official;

(B) Return a minor's age and schooling certificate to the superintendent of schools or the superintendent's authorized representative, or give notice of the nonuse of the certificate within five working days after the minor's withdrawal or dismissal from the employer's service;

Am. Sub. H. B. No. 402

(C) Permit an enforcement official to examine the age and schooling certificate of each minor employed by the employer.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____