

This email summarizes a recent change in or clarification to New Mexico law that may have some impact on entities doing business in the state. The Board has made arrangements with Business Law Section Intern, Marshall Ray, to send out emails of this nature on to Section members over the next several months. The emails are designed to apprise Section Members of select changes in or clarifications to New Mexico law.

NMSA 1978 § 57-12-26 (2007). Employment of Children

Although many of the amendments made to this section deal with child labor in the film industry, at least a few are of general applicability and may affect the hiring practices of various businesses. The main amendments provide that:

* Children between the ages of 14-16 must obtain a work permit to be employed. NMSA 1978 § 50-6-2 (2007). Such children may not be employed more than 40 hours per week or 8 hours per day when school is not in session.

Moreover, they may not be employed before 7:00 A.M. or after 7:00 P.M. during the calendar school year, before 7:00 A.M. or after 9:00 P.M. outside the calendar school year, or more than 3 hours per day or 18 hours per week during the calendar school year. Finally, they may not be employed during school hours except for work experience or career exploration programs.

* For children in the film industry, much of the above does not apply. First, "child" is defined as someone under 18 who is not legally emancipated, married, a member of the armed forces, or someone who has completed compulsory education requirements. Children cannot work in film earlier than 5:00 A.M. or later than 10:00 P.M. preceding school days or later than 12:00 A.M. preceding non-school days. Children under 6 cannot work more than 6 hours per day; children older than 6 and younger than nine cannot work more than 8 hours per day; children over 9 but under 16 cannot work more than 9 hours per day; children over 16 and under 18 can work 10 hours a day. If children are employed in film during school hours, a teacher credentialed to the appropriate level of education must be provided by the employer. One other major provision for children in film is for the creation of a trust account into which a certain part of the child's earnings are deposited, and which the child can access after his or her 18th birthday.

* Persons who employ a child, or a parent or guardian who permits a child to be employed in violation of any of the provisions of the Act is guilty of a petty misdemeanor. Each violation is a separate offense, and second or subsequent violations are misdemeanors.

* None of the provisions of this Act apply to children in cooperative education or apprenticeships.

As stated above, these represent the major changes to the Act, and not a comprehensive breakdown of the entire statute.

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