

AMENDED IN SENATE AUGUST 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1401

**Introduced by Committee on Arts, Entertainment, Sports, Tourism,
and Internet Media (Assembly Members Campos (Chair), Carter,
Gatto, Mendoza, and Monning)**

March 2, 2011

An act to amend Section 1308.5 of, and to add Section 1308.10 to, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1401, as amended, Committee on Arts, Entertainment, Sports, Tourism, and Internet Media. Employment: minors.

Existing law regulates the employment of minors in the entertainment industry and requires the written consent of the Labor Commissioner for a minor under the age of 16 to take part in certain types of employment.

This bill would establish a program to be administered by the Labor Commissioner that would enable a minor's parent or guardian, prior to the first employment of a minor performer and under specified conditions, obtain a temporary permit for the employment of a minor. This bill would also create the Entertainment Work Permit Fund into which would be deposited an application fee, set by the Labor Commissioner that would be required for the issuance of a temporary permit. Upon appropriation by the Legislature, the proceeds from this fund would be used to pay the costs of administrating the temporary minor's entertainment work permit program.

This bill would also authorize the Labor Commissioner, on a one-time basis, to borrow and repay up to \$250,000 from the Labor Enforcement

and Compliance Fund to the Entertainment Work Permit Fund to pay for startup costs incurred in the creation of the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1308.5 of the Labor Code is amended to
 2 read:
- 3 1308.5. (a) This section, with the exception of paragraph (4)
 4 of this subdivision, shall apply to all minors under the age of 16
 5 years. The written consent of the Labor Commissioner in the form
 6 of a permit to employ a minor in the entertainment industry is
 7 required for any minor, not otherwise exempted by this chapter,
 8 for any of the following:
- 9 (1) The employment of any minor, in the presentation of any
 10 drama, legitimate play, or in any radio broadcasting or television
 11 studio.
- 12 (2) The employment of any minor 12 years of age or over in
 13 any other performance, concert, or entertainment.
- 14 (3) The appearance of any minor over the age of eight years in
 15 any performance, concert, or entertainment during the public school
 16 vacation.
- 17 (4) Allowing any minor between the ages of 8 and 18 years,
 18 who is by any law of this state permitted to be employed as an
 19 actor, actress, or performer in a theater, motion picture studio,
 20 radio broadcasting studio, or television studio, before 10 p.m., in
 21 the presentation of a performance, play, or drama continuing from
 22 an earlier hour until after 10p.m., to continue his or her part in
 23 such presentation between the hours of 10 ~~and 12 p.m.~~ *p.m. and*
 24 *midnight.*
- 25 (5) The appearance of any minor in any entertainment which is
 26 noncommercial in nature.
- 27 (6) The employment of any minor artist in the making of
 28 phonograph recordings.
- 29 (7) The employment of any minor as an advertising or
 30 photographic model.
- 31 (8) The employment or appearance of any minor pursuant to a
 32 contract approved by the superior court under Chapter 3

1 (commencing with Section 6750) of Part 3 of Division 11 of the
2 Family Code.

3 (b) Any person, or the agent, manager, superintendent, or officer
4 thereof, employing either directly or indirectly through third
5 persons, or any parent or guardian of a minor who employs, or
6 permits any minor to be employed in violation of any of the
7 provisions of this section is guilty of a misdemeanor. Failure to
8 produce the written consent from the Labor Commissioner is prima
9 facie evidence of the illegal employment of any minor whose
10 written consent is not produced.

11 SEC. 2. Section 1308.10 is added to the Labor Code, to read:

12 1308.10. (a) Prior to the employment of a minor under the age
13 of 16 years in any of the circumstances listed in subdivision (a) of
14 Section 1308.5, the Labor Commissioner may issue a temporary
15 permit authorizing employment of the minor to enable a parent or
16 guardian of the minor to meet the requirement for a permit under
17 subdivision (a) of Section 1308.5 and to establish a trust account
18 for the minor or to produce the documentation required by the
19 Labor Commissioner for the issuance of a permit under Section
20 1308.5, subject to all of the following conditions:

21 (1) A temporary permit shall be valid for a period not to exceed
22 10 days from the date of issuance.

23 (2) A temporary permit shall not be issued for the employment
24 of a minor if the minor's parent or guardian has previously applied
25 for or been issued a permit by the Labor Commissioner pursuant
26 to Section 1308.5 or a temporary permit pursuant to this section
27 for employment of the minor.

28 (3) The Division of Labor Standards Enforcement shall prepare
29 and make available on its Internet Web site the application form
30 for a temporary permit. An applicant for a temporary permit shall
31 submit a completed application and application fee online to the
32 division. Upon receipt of the completed application and fee, the
33 division shall immediately issue a temporary permit.

34 (b) The Labor Commissioner shall deposit all fees for temporary
35 permits received into the Entertainment Work Permit Fund, which
36 is hereby created in the State Treasury. The funds deposited in the
37 Entertainment Work Permit Fund shall be available to the Labor
38 Commissioner, upon appropriation by the Legislature, to pay for
39 the costs of administration of the online temporary minor's
40 entertainment work permit ~~program~~. *program and to repay any*

1 *loan from the Labor Enforcement and Compliance Fund made*
2 *pursuant to subdivision (c).*
3 *(c) The Labor Commissioner is authorized on a one-time basis*
4 *to borrow up to two hundred fifty thousand dollars (\$250,000)*
5 *from the Labor Enforcement and Compliance Fund, as established*
6 *by subdivision (e) of Section 62.5, for deposit in the Entertainment*
7 *and Compliance Fund to cover the one-time startup costs related*
8 *to the temporary permit program. The loan shall be repaid to the*
9 *Law Enforcement and Compliance Fund as soon as sufficient funds*
10 *exist in the Entertainment Work Permit Fund to repay the loan*
11 *without compromising the operations of the temporary work permit*
12 *program.*
13 *(e)*
14 *(d) The Labor Commissioner shall set forth the fee in an amount*
15 *sufficient to pay for these costs, but not to exceed fifty dollars*
16 *(\$50).*