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A Comparison of New Jersey Child Labor Laws With the Federal Wage and Hour Bill December 1938

The Federal Fair Labor Standards Bill went into effect October 24, 1938. It concerns only such products as are shipped in interstate commerce. The state with high standards may now protect itself against the unfair competition of manufacturers outside its borders shipping in the products of cheap "oppressive" child labor.

Definite provision is made for cooperation between the federal administrative agencies and state and local officials dealing with state labor-law administration. It is time to check up on our state laws and ask ourselves whether New Jersey meets national standards.

Under Federal Fair Labor Standards Act

Minimum employment age is 16 years, but 18 in occupations declared by the U.S. Children's Bureau hazardous or detrimental to health. The decision regarding hazardous industries will be reached on a basis of facts and information yet to be assembled by the Bureau's Division of Research, after public hearings and due notice to all interested parties.

Exceptions are:

1. Children working for parents or guardian, other than in manufacturing or mining.
2. Those between 14 and 16 granted working certificates by the Children's Bureau.
3. Children temporarily employed in agriculture while not legally required to attend school.
4. Child actors.

Employment certificates issued by the U.S. Children's Bureau to children 14 and 16 when the work does not tend to interfere with their health, well-being or schooling.

School attendance requirements: No provision in Act. (Under individual state laws, most generally accepted period is 7 to 16 years. Only 5 states refuse exemption under 16 for employment. Poverty, distance from school and other causes are frequently considered sufficient reasons. About half the states have established continuation schools under varying regulations.)

Wage and hour regulation: The minimum wage of \$.25 an hour for the first year and an ascending scale thereafter set for adults applies also to children legally employed. Provision is made for the employment of students, apprentices and messengers under special certificates and regulations at wages lower than the minimum wage; also of individuals whose earning capacity is impaired by age, physical or mental deficiency or injury.

Wage Boards are to be appointed as soon as possible to determine fair compensation for various industries in excess of the present \$.25 hour minimum. 44-hour work week set for first year; 42 second; 40 thereafter; with overtime paid at 1½ times regular rate.

Compensation for employed minors: No provision in Act.

Provisions for Enforcement: A wage and hour Division will be established in the Department of Labor to administer those provisions of the act. of the \$400,000 appropriation for enforcement of the Fair Labor-Standards Act, \$50,m000 has been allotted to the child labor provisions. Miss Katharine F. Lenroot, Chief of the Children's Bureau, has named Miss Beatrice McConnell as director of its Industrial Division, which will be in chart of enforcement, cooperation with state agencies, issuance of employment certificates and inspection. The staff will be subject to civil service regulations.

Offenders and Penalties Any producer, manufacturer or dealer who ships or delivers for shipment goods produced in an establishment where within 30 days prior to removal child labor has been employed, may be prosecuted. It is not necessary for conviction to prove that the actual goods seized were products of child labor. The penalties are the same as for violations of wage and hour provisions; a maximum fine of \$10,000 or imprisonment for six months, or both. No imprisonment for first offense. Prosecution and conviction shall bar further prosecution against same defendant for a former offense.

Under New Jersey Laws

Minimum employment age is 14 years provided 8th grade of school has been completed or 15 after the 6th grade or vocational training for one year beyond the 5th. Employment under 16 is prohibited in some 22 hazardous occupations. No child under 18 can be employed underground in mines or in processes or occupations declared by State Commissioner of Labor to be a menace to safety, health or future working efficiency. Children under 15 may not be employed as acrobats nor in any theatre or place of entertainment where liquor is served.

Exceptions are:

1. Agriculture and domestic service.
2. 2. Light outdoor employment outside of school hours for children 10 to 16, on issuance of age-and-working certificates.

Employment Certificates Issued: By public school officials to applicants under 16 complying with above conditions and presenting a physician's certificate of physical fitness. Age certificates are required for minors of 16 and over.

School Attendance Requirements: Compulsory attendance for minimum term of nine months for children between 7 and 16 years, except those lawfully employed and those physically or mentally incapacitated. Continuation school attendance 6 hours per week required for employed children under 16 hours of attendance to be counted as part of

working week. Regular school attendance required when unemployed. Establishment of continuation schools compulsory in districts having 20 eligible children.

Wage and Hour Regulation: Under the Minimum Wage Act for women and minors a wage standard has thus far been established only in laundries, and varies in different zones, but surveys are contemplated in other industries.

An 8-hour day, 48-hour week, 6-day week, and no night work from 7 p.m. to 7 a.m. for minors under 16 in any employment except agriculture. A 10-hour day, 54-hour week, 6-day week, for girls between 16 and 21 in manufacturing or mercantile establishments, bakeries, laundries, or restaurants, except in hotels and in canneries packing perishable products. Night work prohibited for girls, 16 to 21, in any manufacturing, bakery, restaurant or laundry, from midnight to 7 a.m. except canneries, glass manufactories, and hotel restaurants. Minors over 16 manufacturing foodstuffs and confections may work a 60-hour week, in cases of emergency an extra 2 hours a day with additional pay at regular rate. Night messenger service prohibited from 10 p.m. to 5 a.m. for minors under 21 in large cities, under 18 in other municipalities, except on special permit.

Compensation for Employed Minors: Legally employed children come under provisions of Workmen's Compensation Act, while under the same act double compensation is provided in case of injury to children under 14 employed in violation of labor law, and to those between 14 and 16 working without a certificate or at a prohibited occupation. A minor under 16 also has the legal right to sue his employer for any injury due to employer's negligence.

Provisions for Enforcement: Enforcement of the child labor laws comes under the State Department of Labor. Appropriations made each year to its Division of factory Inspection include cost of child labor inspection and prosecution. There are no special investigators but, during general inspection, time records, age-and-schooling certificates and other records are examined, young employees questioned and proofs of age required. John J. Toohey, Jr. is Commissioner for State Department of Labor.

Offenders and Penalties: Action may be brought against any person employing a child under 14 in factory, workshop, commercial laundry or mercantile establishment. Penalty \$50 fine, jail not more than 90 days, or both. For second offense premises may be declared disorderly house and fine of \$1,000, jail not more than 3 years, or both, imposed upon conviction. For employing minor without proper certificate, maximum fine is \$25, 60 days jail, or both. For employing minor more than 89 hours a day or before 7 a.m. or after 7 p.m., \$50 fine. On second offense premises may be declared disorderly house and consequent penalty imposed on conviction.

A study of the comparison will show where ages, hours and protective measures under New Jersey laws fall short of the standard set by the federal government.