

DOCUMENT: 1

LEGAL REGULATION OF THE EMPLOYMENT OF CHILDREN IN NEW JERSEY (1924)

Excerpt from: Child Labor in New Jersey – Publication No. ____ - Employment of Sch. Children

The employment of children in New Jersey is regulated by three laws: the compulsory school attendance¹ and employment certificate law and the so-called “factory” and “mercantile” laws.¹

The factory law fixes a minimum age of 14 for children at work in factories, workshops, and other places where the manufacture of goods is carried on, limits the hours of work for children under 16 in such establishments to 8 a day and 48 a week, and prohibits their work between 7 p.m. and 7 a.m. and on Sundays. The law also specifies that children between 14 and 16 employed in these establishments shall be provided with “age and schooling certificates” in accordance with the compulsory school attendance and employment certificate law.

In regard to children working in occupations not coming under the factory provisions, the law is not clear, questions in regard to interpretation having arisen as to the provision for “age and working certificates” in the employment certificate law and as to the scope of the mercantile law.

As originally enacted in 1911, the mercantile law fixed a minimum age of 14 for children employed “in” mercantile establishments and provided that children between 14 and 16 so employed should have age and schooling certificates and should be subject to the same hours of labor and night work provisions as for factory occupations. The compulsory school attendance and employment certificate law passed in 1914, however, provided that children between 10 and 16 years of age might obtain age and working certificates (distinct from the age and school certificates issued to children between 14 and 16 for regular employment) to work at selling newspapers, blacking shoes, running errands, and other similar employment outside school hours. This provision was held to legalize the issuance of age and working certificates to children between 10 and 16 for work outside school hours, not only in street trades but also in connection with mercantile establishments provided they did not work “in” the establishment. In 1918, the mercantile law was amended so as to apply to work “in or in connection with” any mercantile establishment, an amendment that would seem to invalidate the provision of age and working certificates for children between 10 and 16 so far as it applied to work “in connection with” mercantile establishments. In 1924, (just before the Children’s Bureau study of the work of school children in Newark and Paterson) an opinion of the attorney general² held that this amendment to the mercantile law “limited” the application of the section of the school attendance and employment certificate law permitting the

¹ For the text of these laws, see pp. ____

² Dated April 21, 1924.

issuance of age and working certificates to children between 10 and 16, and this opinion has been interpreted in many cities throughout the State, including Newark and Paterson, as mollifying the provisions for age and working certificates.

In regard to the scope of the mercantile law, the law applying to mercantile establishments, as passed in 1911, defined a mercantile establishment as “any employment of labor other than a factory, workshop, mill, or other place where the manufacture of goods of any kind is carried on.” When the law was amended in 1918, the section defining “mercantile establishments” was changed to make the term “apply to any employment of any person for wages or other compensation other than a factory, workshop, mill, place, where the manufacture of goods of any kind is carried on, mine, quarry or in agricultural pursuits.” The definition under the earlier act was sufficiently inclusive to bring under the provisions of the act all occupations not included under the factory law, and the amendment in 1918 had the same effect except that it excluded work in mines and quarries (for which a higher minimum age had already been fixed) and in agricultural pursuits. Under opinions of the attorney general, however, this law has been interpreted not to apply to employment in any establishment “other than a mercantile establishment within the ordinary signification of that term” – that is, a place where merchandise is bought and sold. This interpretation is based upon the fact that the title of the act refers only to “mercantile establishments” and that the State constitution requires that a law shall embrace but one object, which must be expressed in the title.

Under this interpretation neither the minimum age nor the hour provisions of the child labor law are applicable to the work of children outside school hours in establishments not classed as manufacturing establishments, workshops, or stores.