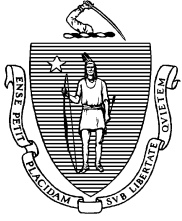


# SENATE NO. 2001



## AN ACT RELATIVE TO CHILD PERFORMER PROTECTION

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1 SECTION 1. Said chapter 149 is hereby amended by inserting after section 105, as appearing in the  
2 2004 Official Edition, the following section:-

3 Section 105 ½. (a) For purposes of this section “Entertainment production” means and  
4 includes the following activities performed in the commonwealth: motion pictures of any kind using  
5 any format distributed in any medium, photography, recording, modeling, motion picture, theatrical or  
6 stage production, television production, commercial production, voice-overs, publicity, rodeos,  
7 circuses, musical performances, or any other performance where minors perform to entertain the  
8 public.

9 (b) Notwithstanding any other general or special law to the contrary, a child under 18 years of age  
10 may be employed in entertainment production, provided the hours of work do not exceed the  
11 following:

12 (1) for a child at least 15 days but less than 6 months of age, 3 hours at the place of employment with  
13 no more than 20 minutes of consecutive work, excluding meal breaks;

14 (2) for a child at least 6 months but less than 2 years of age, 6 hours at the place of employment with  
15 no more than 2 hours of work and no more than 30 minutes of consecutive work, excluding meal  
16 breaks;

17 (3) for a child at least 2 years of age but less than 6 years of age, 6 hours at the place of employment  
18 with no more than 3 hours of work, excluding meal breaks;

19 (4) or a child at least 6 years of age but less than 9 years of age, 8 hours at the place of employment  
20 with no more than 5 hours of work, excluding meal breaks;

21 (5) for a child at least 9 years of age but less than 16 years of age, 9 hours at the place of employment  
22 with no more than 6 hours of work, excluding meal breaks.

23 (6) for a child at least 16 years of age but less than 18 years of age, 12 hours at the place of  
24 employment with no more than 9 hours of work, excluding meal breaks.

25 (c) The work day for a child under 18 years of age employed under this section shall begin no earlier  
26 than 5:00 a.m. and shall end not later than 10:00 p.m. on evenings preceding school days; but a child  
27 performer at least 8 years of age in a theatrical or stage production, circus, musical performance or  
28 other performance with a live audience may continue a performance until 12:00 midnight on an  
29 evening preceding a school day if the performance began before 10:00 p.m.. On evenings preceding  
30 non-school days, the child's work day shall end no later than 12:30 a.m. on the morning of the non-  
31 school day. A child shall have a 12-hour break between the end of work on one day and the beginning  
32 of the next work day. A child shall not work more than 6 consecutive days.

33 (d) Child performers shall be held to the hour requirements of subsections (b) and (c) and shall not be  
34 restricted by any other hour requirements.

35 (e) A child shall fulfill the educational requirements set forth by the department of education or by the  
36 state or country of his residence, if he is not a resident of the commonwealth. A child who has not  
37 completed the requirements and who is employed in entertainment production when school is in  
38 session shall be subject to the following requirements:

39 (1) An employer employing a child for 2 or more school days in a 30 day period shall provide a state  
40 certified teacher who has credentials issued by the department of education or recognized by the  
41 department of education. This requirement shall apply beginning on the second day that the child  
42 performer renders services for that employer and shall continue on each day thereafter that school is in  
43 session and the child is rendering services; but if the child has executed a contract with the employer to  
44 work for 2 or more school days in the next 30-day period, the requirement shall apply beginning on the  
45 first day of the child performer's employment. A child receiving instruction from a teacher as required  
46 by this section shall not be declared absent from school. The requirements of this section shall be  
47 applicable only when school is in session and the child performer is not receiving educational  
48 instruction due to his employment schedule. Local school districts shall retain the power to determine  
49 that a minor is meeting applicable educational standards.

50 (2) For any child performer under 16 years old employed under this section, a parent or legal guardian  
51 shall be present with and accompany the performer on the set or location of the entertainment  
52 production. A parent or legal guardian may designate in writing any person over 21 years old to serve  
53 as an accompanying guardian for purposes of this section.

54 (3) A child performer employed in an entertainment production under this section shall obtain a  
55 permit issued in accordance with this section and sections 86 to 88, inclusive. A child performer who  
56 resides in and attends school in the commonwealth shall obtain said permit from the attorney general,  
57 from the superintendent of schools in the town where the student resides or by a party authorized by

58 the school committee of the town. A child performer who resides in, but does not attend school in the  
59 commonwealth shall obtain the permit from the attorney general once the attorney general receives,  
60 examines, approves and files all of the documents required by section 87 with the exception of a  
61 school record. A child performer who does not reside in or attend school in the commonwealth shall  
62 obtain the permit from the attorney general or from the appropriate issuing authority in the student's  
63 state or country of residence. If a child performer resides in a state or country that does not require  
64 child actors to obtain work permits, then the child performer shall obtain a work permit from the  
65 attorney general. The attorney general shall promulgate regulations pertaining to the application  
66 process for expedited or emergency permits to enable eligible performers to receive permits within 24  
67 hours of submitting an application. A permit issued under this section shall be valid for employment  
68 by multiple employers and shall be valid for the longer of (i) the full duration of a child performer's  
69 service with an employer, or (ii) 6 months.

70 (f) (1) Every contract executed by or on behalf of a minor rendering artistic or creative services for  
71 compensation in this state shall require that fifteen percent of the gross earnings for the minor under  
72 the contract be placed in a trust fund created for the benefit of the minor and, except as provided in  
73 Subsection (l) of this section, that the trust fund be created in a financial institution authorized to  
74 transact business in this state and which institution is federally insured by the Federal Deposit  
75 Insurance Corporation, or its successor or by the National Credit Union Share Insurance Fund, or its  
76 successor.

77 (2) Monies placed in a trust fund pursuant to the provisions of this Chapter shall be placed in a blocked  
78 account and no funds shall be withdrawn prior to the date the minor attains the age of eighteen unless  
79 the minor is determined to be in necessitous circumstances by a court of competent jurisdiction.

80 (3) All monies deposited in trust pursuant to the provisions of this Chapter shall be administered by the  
81 financial institution as a fiduciary for the benefit of the minor. No fees shall be charged the trust until  
82 the minor reaches the age of eighteen.

83 (g) Funds may be withdrawn from the trust fund by the beneficiary only after the beneficiary provides  
84 a certified copy of his birth certificate to the is at least eighteen years of age.

85 (h). Both parents of a minor on whose behalf monies are placed in trust pursuant to this Section shall  
86 serve as trustees of the trust unless otherwise provided in writing by both parents or in the case of  
87 divorce or death of a parent by the person appointed by the state.

88 (I). Prior to execution of a contract subject to the provisions of this Chapter, the trustee or trustees  
89 shall establish the trust required under this Section, unless an account has been previously established,  
90 and no contract subject to the provisions of this Chapter shall be executed until the trustee or trustees  
91 provide a written statement to the employer which shall include the name, address, and telephone  
92 number of the financial institution holding the trust account, the name of the account, the number of  
93 the account, the name of the minor beneficiary, the name of the trustee or trustees of the account and  
94 such additional information as may be required by the employer to make the deposit required under 1  
95 this Section. The trustee or trustees shall attach to this written statement a true and accurate photocopy  
96 of any information received from the financial institution confirming the creation and existence of the  
97 trust account on behalf of the minor, and may include a copy of the account agreement, account terms,  
98 passbook, or other similar writings required by the employer.

99 (j). In the event that a trust account is not established on behalf of a minor performer within thirty days  
100 of the last day of employment, the employer shall forward the fifteen percent of the minor's gross  
101 earnings, accompanied by the name of the minor, and if known, the minor's address and social security  
102 number, to the treasurer of the state of Massachusetts, who shall hold such funds in trust to be tendered

103 to a trust account that is subsequently established on behalf of the minor, or if no such trust account is  
104 established, then to the minor upon reaching the age of majority.

105 (k). Once the employer has transferred monies pursuant to this Section to either the minor's trust  
106 account or the treasurer's office in those circumstances where a trust account has not been established,  
107 the employer has no further duty or obligation with respect to the transferred monies.

108 (l). If a trust account is already established on behalf of the minor in another state, all monies required  
109 to be deposited in a trust fund under the provisions of this Section, may be deposited into the trust  
110 account already established in another state for the benefit of the minor.

111 SECTION 2. Section 85P ½ of chapter 231 of the General Laws, as so appearing, is hereby amended  
112 by striking out, in lines 42 and 43, the words “and occurs during hours when attendance for instruction  
113 is not required in accordance with law”.”