

Enclosed herewith you will find a form of deed which I have prepared, which it is believed to be sufficient for the purposes of the act when properly executed and delivered.

It will be noted that the deed recites that the purchase price has been paid into the state treasury, and of course, that fact should exist before the same is executed.

The copy of the contract which you submitted is being herewith returned.

Respectfully,

C. C. CRABBE,

Attorney General.

2114.

APPROVAL, ARTICLES OF INCORPORATION OF "THE TRAFFIC ACCIDENT INSURANCE COMPANY".

COLUMBUS, OHIO, December 31, 1924.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

2115.

SCHOOLS—EMPLOYMENT OF BOYS OVER SIXTEEN YEARS OF AGE, SETTING UP PINS IN BOWLING ALLEY—AGE AND SCHOOLING CERTIFICATES NOT NEEDED, WHEN?—SECTION 7765-2 CONSTRUED.

SYLLABUS:

The employment of setting up pins in a bowling alley is not prohibited to boys over sixteen years of age, and may be engaged in as irregular service, not to exceed four hours per day and twenty-four hours per week, as provided in Section 7765-2 General Code.

However, such employment will be subject to the further provision of Section 7765-2 General Code, authorizing the health commissioner of the district in question to determine "whether the employment involves confinement or requires continual physical strain," so that it cannot be deemed irregular service within the meaning of this section. Such irregular employment can only be engaged in outside of school hours, and by virtue of Section 7765-2, an age and schooling certificate is not necessary.

COLUMBUS, OHIO, December 31, 1924.

HON. H. R. WITTER, *Director, Department of Industrial Relations, Columbus, Ohio.*

Dear Sir:—

This will acknowledge receipt of your communication in which you submit the following request:

"We respectfully refer for your opinion the matters set forth in the enclosed communications of October 14, 1924, from R. E. Dugale, Dtr., Extension & Attendance Department of the Toledo Public Schools, relative to the issuance of permits to boys between the ages of 16 and 18 to set up pins in bowling alleys."

Two paragraphs of the enclosed communications are necessary to a clear understanding of the question submitted. These paragraphs read as follows:

"The bowling alleys here have formed an 'owners organization', one of the purposes of which is to insist that we issue permits to boys between the ages of 16 and 18 to set up pins in their alleys. We have refused to issue permits prior to this time, because we felt the proprietors would not cooperate by discharging their employees at 10 p. m., as the law requires. It would seem that Section 13002 would exclude anyone under 16 years of age, but we are especially anxious to know what stand we should take in the matter relative to those over 16. Our experience with bowling alleys has been that children are employed until midnight regardless of the 10 o'clock ruling.

In studying this situation, I cannot see on what grounds we can refuse a permit to this group unless we consider that the work from seven to ten, or five to ten as the case may be, is not considered a day's work. From the standpoint of the best interests of the child, it would not seem that a child could be excused from school to do nothing all day long and qualify for his working permit by setting up pins from six to ten in the evening. I believe that the spirit of the law contemplates that a child should be in school unless he works during the day—that this evening employment would not be sufficient.'

In view of these statements, your inquiry seems to resolve itself as follows:

May the superintendent of schools be required to issue an age and schooling certificate to boys between 16 and 18 years to engage in employment in bowling alleys, when such employment occurs only between the hours of 6 and 10, or perhaps 6 and 12 o'clock in the evening?

This question requires an examination of several sections of the General Code. Section 7762-6 provides in part as follows:

"Every child of compulsory school age who is not employed on an age and schooling certificate shall attend a public, private or parochial school under the conditions prescribed in Sections 7763, 7763-1, 7764 and 7764-1, General Code."

Section 7763 provides in part as follows:

"Every parent, guardian, or other person having charge of any child of compulsory school age who is not employed on an age and schooling certificate, must send such child to a public, private, or parochial school for the full time the school attended is in session, which shall in no case be for less than thirty-two weeks per school year. * * * * *

But the child may be excused from attendance at school for the current school year upon satisfactory showing that the bodily or mental condition of the child does not permit of its attendance at school or that the

child is being instructed at home * * *. Excuses from school attendance under this section or Section 7762-5 General Code, shall be given only by the superintendent of schools having jurisdiction in the district in which the child is living. * * * *

*Compulsory school age shall mean six to eighteen years of age * * **

Section 7763-3 defines the term "superintendent of schools" as used in this chapter and provides that the expression "superintendent of schools" shall be interpreted to mean in the respective classes of school districts, the city, exempted village or county superintendent of schools or persons designated by such superintendent.

Section 7765 provides in part as follows:

"No minor of compulsory age shall be employed or be in the employment of any person, company or corporation, unless such minor presents to such person, company or corporation the proper age and schooling certificate, or age and pre-employment card as a condition of employment. * * *

This section further provides:

"Notice to the school authorities that the child has left the employ of an employer shall render void from that date the age and schooling certificate or age and pre-employment card filed with such employer in so far as it shall permit the further employment of such child."

Section 7765-1 provides in part as follows:

"The parent or guardian of a child of compulsory school age shall be required to secure and keep on file the proper age and schooling certificate of his child or ward if such child or ward is employed by him and shall be required to return such certificate as provided in Section 7766-1, General Code." *****

Section 7766, General Code, provides who may issue age and schooling certificates and reads in part as follows:

"An age and schooling certificate may be issued only by the superintendent of schools and only upon satisfactory proof that the child to whom the certificate is issued is over sixteen years of age and has satisfactorily passed a test for the completion of the work of the seventh grade ****."

This section further provides:

"Any such age and schooling certificate may be issued only upon satisfactory proof that the employment contemplated by the child is not prohibited by any law regulating the employment of, such children."

Section 7766-1, General Code, provides:

"The superintendent of schools shall not issue such certificate until he has received, examined, *approved* and filed the following papers duly executed:

"(1) The written pledge or promise of the person, partnership or corporation to legally employ the child, to permit him to attend school as provided in Section 7767 General Code, and to return to the superintendent of schools of age and schooling certificate of the child or give notice of the non-use thereof within two days from the date of the child's withdrawal or dismissal from the service of that person, partnership or corporation, giving the reasons for such withdrawal or dismissal."

This section provides a number of other requirements such as the school record of the child in question, evidence of the age of the child by various certificates, etc., a certificate from the school physician or certain other physicians designated, showing the child physically fit to be employed in such occupations as are not prohibited by law for a boy or a girl, as the case may be, under eighteen years of age.

Section 7766-2 makes provision under certain circumstances for the reissue of an age and schooling certificate.

Section 7767, General Code, provides in part that every child who has been granted an age and schooling certificate shall, until the age at which such certificate is no longer required by law, attend a part-time school or class when such school or class is made available by the school district in which the child resides or is employed.

Attention is also directed to the provisions of several of the penal sections of the General Code, particularly Section 13002, which provides in part as follows:

"No child under the age of sixteen years shall be employed, permitted or suffered to work in any capacity * * * (14) nor in a bowling alley; * * * nor in any other occupation dangerous to the life and limb, or injurious to the health or morals of such child."

Also section 13007-4, which provides that the state board of health may, after hearing duly had, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of children under eighteen years of age is not already forbidden by law, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of children under eighteen years of age to justify their exclusion therefrom, and further provides that no child under eighteen years of age shall be permitted to work in any occupation thus determined to be dangerous or injurious to such children, and further provides the right of appeal to the common pleas court from any such determination.

Examination of the provisions of the several sections as above quoted reveals that employment in bowling alleys is not prohibited to children over sixteen years of age, and from that standpoint the superintendent of schools might be justified in issuing an age and schooling certificate to a child sixteen years of age or over.

However, further considering your question, attention is directed to Section 7765-2, General Code of Ohio, which provides with reference to employment in irregular service and reads as follows:

"Notwithstanding the provisions of Sections 7765 and 12993, General Code, a child may be employed in irregular service not forbidden by Sections 13001, 13002 or 13007-3, General Code, without holding an age and schooling certificate.

"Irregular service shall be interpreted to mean service not forbidden by federal child labor laws which (a) does not involve confinement, (b) does not require continual physical strain, (c) is interrupted with rest or recreation periods, and (d) *does not require more than four of work in any day or twenty-four hours in any week. The health commissioner of the district*

in which employment is afforded to any child shall determine whether the employment involves confinement or requires continuous physical strain so that it cannot be deemed irregular service within the meaning of this section."

Considering the sections referred to in the first part of the above quoted section, the pertinent part of Section 7765, General Code, has already been quoted in the earlier part of this opinion.

Section 12993, General Code, prohibits the employments therein mentioned to children under sixteen years of age.

Examination of Sections 13001, 13002 and 13007-3, General Code of Ohio, reveals that the *employment of setting up pins in a bowling alley* is not prohibited by either of said sections to a child above sixteen years of age, and, subject to the limitation of four hours per day and the authority of the health commissioner of the district to declare that such employment cannot be deemed irregular service, it is believed such employment may be fairly interpreted as irregular service and that the boys in question who are over sixteen years of age may engage in such employment outside of school hours without holding an age and schooling certificate.

However, the provisions of Section 12993-1, General Code, which read as follows:

"It shall be unlawful for any person, firm or corporation to employ, permit or suffer to work any child *who is required by law to be in attendance at school in any business or occupation whatever during the hours when the public schools of the district in which the child resides, including the school or class to which the child is assigned, are in session,*"

must be observed, and such employment could not be engaged in *during the hours when the public schools of the district in which the child resides are in session.*

Respectfully,

C. C. CRABBE,
Attorney General.

2116.

JUVENILE COURT—AUTHORITY TO COMPEL FATHERS OF LEGITIMATE CHILDREN UNDER EIGHTEEN YEARS OF AGE TO SUPPORT SAID CHILDREN.

SYLLABUS:

The juvenile court has power under Section 1655 G. C. to compel the fathers of legitimate children of over sixteen and under eighteen years to support them in like manner as they are required to support their children who are under sixteen years of age.

COLUMBUS, OHIO, December 31, 1924.

HON. HOMER Z. BOSTWICK, *Probate Judge, Columbus, Ohio.*

Dear Sir:—

Acknowledgment is hereby made of your recent communication, which reads: