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February 8, 1954
Opinion No. 54 22

TO: Mr. Robert E. Johnson
Chief Probation Officer
Juvenile Court
Pima County Courthouse
Tucson, Arizona

RE: The employment of boys under 14 years of age as bootblacks and newsboys.

QUESTION: Should all boys under 14 be required to produce an employment certificate authorizing them to be employed as newsboys and bootblacks.

Sections 56-301 and 56-314, A.C.A. 1939, provide:

"56-301. Employment of children under fourteen. No child under fourteen (14) years of age shall be employed or suffered to work in, about or in connection with any mill, factory, workshop, or mercantile establishment, tenement house, manufactory or workshop, store, business office, telegraph or telephone office, restaurant, bakery, barber shop, apartment house, bootblack stand or parlor, or in the distribution or transportation of merchandise or messages; except that boys over ten (10) and under fourteen (14) years of age may be authorized by the board of trustees of the school district where such child resides, to sell papers or engage in other work outside of school hours, when, in the judgment of said board said work will not be harmful to the boy, either physically or morally." (Emphasis supplied)

"56-314. Age of newsboys and bootblacks. No male child under ten (10) and no female child under sixteen (16) years of age shall in any city sell or expose or offer for sale newspapers, magazines, periodicals, or other merchandise in any street or public place. No child shall work as a bootblack in any street or public place unless he is over ten (10) years of age."

According to the provisions of the sections set forth above, under no circumstances may a boy under ten (10) years of age sell newspapers or work as a bootblack. No boy under fourteen (14) years of age may be employed or allowed to work in a bootblack stand or parlor or in the distribution of newspapers during school hours. However, when authorized by the board of trustees in a school district where such child resides, he may engage in such work outside of school hours, when in the judgment of the said board the work will not be either physically or morally harmful to the boy.

Sections 56-303 and 56-305, A.C.A. 1939, provide:

"56-303. Employment certificate for children under sixteen. No child under sixteen (16) years of age shall be employed or suffered to work in, about, or in connection with any place or establishment named in the first section (§56-301) of this article unless the person employing such child procures and keeps on file an employment certificate as hereinafter prescribed, and two (2) complete lists of all such children employed therein, one on file and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed. Inspectors of factories, mercantile establishments, or mines, and other authorized inspectors and school attendance officers, may require that the employment certificates and lists provided for in this chapter (article) be produced for their inspection. On termination of employment of a child whose employment certificate is on file, such certificate shall be forthwith surrendered by the employer to the person who issued it."

"56-305. When certificate may issue. The person authorized to issue an employment certificate shall not issue such certificate until he has received, examined, approved, and filed the following papers, duly executed: The school record of such child, a passport or duly attested transcript of the certificate of birth or baptism or other religious record, showing the date and place of birth of such child, or, if such is not obtainable, the affidavit of the parent or guardian or custodian of a child showing such place and date of birth, taken before the officer

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issuing the employment certificate, who shall administer such oath without demanding or receiving any fee therefor."

The employment certificate referred to in Sections 56-303, 56-304, 56-305 and 56-306, A.C.A. 1939, and issued by the county, city or town school superintendent, is required only for children over fourteen (14) years of age and under sixteen (16) years of age, who are employed in the occupations set forth in the first part of Section 56-301, A.C.A. 1939. The employment certificate referred to in Section 56-303, supra, may not be issued unless the issuing officer files a statement that in his opinion the child is fourteen (14) years of age or over and is in good health. Section 56-306, A.C.A. 1939.

"56-306. Personal examination of child Certificate. The employment certificate shall not be issued until the child has been personally examined by the officer issuing the certificate, nor until such officer, after making such examination, has signed and filed in his office a statement that the child can read and legibly write simple sentences in the English language, and that in his opinion the child is fourteen (14) years of age or upwards and has reached normal development of a child of its age, and is in sufficiently sound health and physically able to perform the work which it intends to do, which shall be stated. * * *"
(Emphasis supplied)

Likewise, the school records, referred to in Section 56-307, A.C.A. 1939, and required to be filed, before an employment certificate may be issued to an applicant, must contain a statement that the applicant has regularly attended school for not less than one hundred sixty (160) days during the year previous to his arriving at the age of fourteen (14) years.

"56-307. Certificate of school record. The school record required herein shall be signed by the principal or chief executive officer of the school which such child has attended, and shall be furnished on demand to a child entitled thereto. It shall contain a statement certifying that the child has regularly attended the public schools, or schools equivalent thereto, or a parochial or private school, for not less than one hundred and sixty days (160) during the year previous to his arriving at the age of fourteen (14) years. * * *"
(Emphasis supplied)

It thus appears that the employment certificate referred to in Chapter 56, Article 3, A.C.A. 1939, is necessary only for employment of children under sixteen (16) years of age and over fourteen (14) years of age when they are employed in those employments set forth in Section 56-301, supra. Children under fourteen (14) years of age are absolutely prohibited from working in those places and establishments set forth in Section 56-301, supra. The only exception to this absolute prohibition is that portion of Section 56-301, supra, which allows boys over ten (10) years of age and under fourteen (14) years of age to sell papers or engage in other work outside of school hours when the board of trustees allows them to do so. It is not required that the board of trustees' authorization to work after school hours in such cases be evidenced by employment certificates.

In conclusion, it is our considered opinion that boys under ten (10) years of age may not work as newsboys or bootblacks. Boys over ten (10) years of age and under fourteen (14) years of age may work, outside of school hours, as newsboys and bootblacks when so authorized by the board of trustees of a school district in which they reside. Chapter 56, Article 3, A.C.A. 1939, makes no provision for the issuing of employment certificates to boys under fourteen (14) years of age.

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