

(H.B. 2075)

(No. 161)

(Approved August 10, 2002)

AN ACT

To create an Act for the Promotion of Jobs and Vocational Training for Youths in the Construction Industry in Puerto Rico

STATEMENT OF MOTIVES

Around the beginning of the 1940 decade, the financial situation in Puerto Rico was deficient. The national production, mainly agricultural, had been directed to the monoculture of sugar cane. During the first third of the century the tillable land had been acquired by large landowners, leaving small farmers with no possessions, condemning them to live with their families as tenant farmers of the sugar mills. During the harvest season, those who worked, received a miserly salary, and during the so-called dead season they received no salary whatsoever. This situation caused that the entire family was subject to exploitation including the children, to which the great absentee interests were indifferent.

In view of this situation, the government in office began to approve laws to change such circumstances, concluding with the enactment of the Constitution of the Commonwealth of Puerto Rico. Two decades later, this government effort would be known throughout the world as “the great democratic revolution,” described by President L.B. Johnson as “the transformation of a beaten land into a vital society.” The circumstances of that time clamored for special protection, for the youngest. It was

established that children and adolescents should attend school instead of work that in many occasions, represented an unfair burden for them due to the working conditions of the time.

Fortunately, these efforts were fruitful, and for the first time in our history, education was extended to all the children of the country. Meanwhile, the condition of the country improved notably. As a whole, the labor laws passed by our Island and the United States Congress, technological advances, and modern techniques have achieved that workplaces are safer and more efficient, thus benefiting not only the employee but also the employer. In the universe of the industries that boost the economy, the construction industry is, among those that have flourished the most in the sense.

At present, the circumstances under which a construction worker works are radically different from those in the 1940's and 1950's. The environment of the construction industry is safer with greater care to protect the health of the worker, and thus his/her productivity and continuous development and improvement in the work they perform. Thus, we have vocational schools in our education system, that train youths under 18 years of age in worthy and honest occupations in construction. Such vocational schools emphasize occupational safety in courses which start at the beginning of the first year, and which subsequently continue.

Unfortunately, during the summer recess, the youths that attend those vocational schools cannot practice the tasks they have learned, because the laws and regulations in effect, which date from the 1940's–1950'; forbid them. These youths are bound to look for jobs in areas that differ from their chosen profession, such as fast-food restaurants. In many cases, these youths are discouraged due to the inability to practice their profession, and desist in

their interest in the construction industry, choosing other immediate job options, even though these options offer them less opportunities for development. In spite of the fact that working conditions have changed radically, the laws that regulate the employment of minors, protecting them from the dangers of the past that no longer exist, and exposing them, involuntarily, to the evils of our time such as idleness and easy living with their tragic consequences.

This legislation proposes, among other things, that youths between the ages of sixteen (16) and eighteen (18) years that are enrolled in a vocational school taking courses related to the construction industry, can work during the summer in a full-time job of forty (40) hours a week, with the consent of his/her father or mother and an authorization of the Secretary of Labor and Human Resources. In addition, to allow that public school students of those ages that are taking training courses in work related to construction, as part of their curriculum to work full-time. Finally, this measure intends that youths that have graduated from either a public or vocational school, who have not attained legal age can begin to work as regular employees in the construction industry, with the authorization of either of their parents.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- This Act shall be known as: an “Act for the Promotion of Jobs and Vocational Training of Youths in the Construction Industry”.

Section 2.- Definitions. For the purpose of this Act, the following terms and phrases shall have the meanings stated below:

- (a) “Training” means for the purposes of this Act, the type of education that is directed to train a person in the construction field.

- (b) “Certificate of Employment”, means a certificate issued by the Secretary of Labor and Human Resources, or a person or entity designated by him/her, to a person between sixteen (16) and eighteen (18) years of age, enrolled in a vocational course, to work during the summer recess with an employer or authorized entity, pursuant to the provisions of this Act; or the certificate of employment for the summer recess months, issued by the Secretary of Labor and Human Resources to a person between sixteen (16) and eighteen (18) years of age, attending a high school, who as part of his/her curriculum, has taken or is taking training courses in work related to the construction industry; or the certificate issued by the Secretary of Labor and Human Resources to a person between sixteen (16) and eighteen (18) years of age, who has graduated from a regular Department of Education Program, or any equivalent program approved by the Department of Education.
- (c) “Medical Certificate”, means the certificate of physical capacity signed by a physician, stating that the minor has been submitted to a physical examination, and that he/she has attained the normal physical development of a minor his/her age, that he/she is in sound health and physically and mentally fit for employment in the construction industry.
- (d) “Birth Certificate” means a certificate issued by request to a person between sixteen (16) and eighteen (18) years of age, attesting to the date of birth and age, and issued by the Puerto Rico General Registry of Vital Statistics.

- (e) “Student” means a person studying in an educational institution duly credited by the Department of Education.
- (f) “Graduate Student”, means that person who is graduated from an educational institution duly-accredited by the Department of Education, after having completed the regular high school or vocational school program, or through courses or GED tests approved by the Department of Education.
- (g) “Apprentice Permit” means a certificate issued by the Secretary of Labor and Human Resources to a person between the ages of 16 and 18 years, permitting his/her employment by an employer or authorized entity, while attending vocational courses, as part of his/her practical training in an area related to construction.
- (h) “Employment Permit” means the permit issued by the Secretary of Labor and Human Resources to a person between sixteen (16) and eighteen (18) years of age, who is attending school or has graduated from a vocational or regular school that include vocational courses, accredited by the Department of Education or the Department of Labor and Human Resources, authorizing his/her employment by an employer or authorized entity, as part of his/her practical work training in an area related to construction. Such authorization shall be for a fixed term.
- (i) “Minor,” for the purposes of this Act, means any person between the ages of sixteen (16) and eighteen (18) years.
- (j) “Employer” means any natural or juridical person, whether principal or agent, that employs a minor.
- (k) “Authorized Employer” means every employer, contractor, special partnership, company, corporation or entity of any sort engaged in

construction industry, duly accredited by the Secretary of Labor and Human Resources to employ a minor who has been granted an employment or apprentice permit. In order to be authorized, such employer shall have to certify that he/she has implemented successful safety program in his/her enterprise and that he/she has followed it. Likewise, he/she shall have consistently met every requirement established by federal and state laws regarding the employment of minors.

- (1) “Lucrative Occupation” means work carried out in any construction work or job, directly or indirectly performed in any part of the Commonwealth of Puerto Rico, and for which the person who performs or carries it out is remunerated.

Section 3.- Employment of Minors, prior medical evaluation.

The Secretary of Labor and Human Resources, or the person duly authorized or appointed by him/her, to grant authorizations for the employment of minors between sixteen (16) and eighteen (18) years of age, in any occupation related to construction which is carried out by any authorized employer, while attending vocational courses, or after the completion thereof, as provided by Section 2 (a) of this Act. In order for the permit to be granted, the minor must be examined by a physician who shall issue a certificate establishing the physical capacity of the minor to be employed in the construction industry.

Section 4.- Working Hours

The minors to whom the permits described in Section 2 (a) of this Act are granted, who are between sixteen (16) and eighteen (18) years of age, can be employed in construction work or activities by an authorized employer, and may work for not more than five (5) consecutive days in one

week, nor more than eight (8) hours in a single day. No working day fixed for the minors to whom this Act applies, shall begin before six (6) o'clock in the morning or after six (6) o'clock in the afternoon. No working schedule shall conflict with the school schedule of said minor. The Secretary of Labor and Human Resources shall adopt the pertinent regulations to enforce these purposes. The Secretary of Labor and Human Resources shall establish pertinent and adequate regulations to grant the job permits mentioned in Section 2 (a) of this Act, as well as any others that are pertinent, to protect the physical and mental integrity of the minor and his/her general well-being, in addition to the records that are hereinafter provided. Said regulations shall take full effect not later than sixty (60) days after their approval.

Section 5.- Rest Period

A minor between sixteen (16) and eighteen (18) years of age, employed in a construction project by an authorized employer, shall not be permitted nor allowed to work for a period of more than five (5) consecutive hours, without being allowed a period of at least one (1) hour to eat or rest.

Section 6.- Employment Permits and Apprentices Permits; Issuing Procedure.

The employment or apprenticeship permit shall be issued by the Secretary of Labor and Human Resources or by any person duly-authorized by him/her, in cases of minors attending school, or that have graduated from a public or vocational school as the case may be, from vocational or occupational training courses related to construction. Said permit shall state the name, sex, date of birth and the residence of the minor, and shall be signed by the person issuing it, and also shall include the nature of the occupation specifically related to the construction field which the minor is taking or has completed as part of his/her vocational training.

In the case of the apprenticeship permits, they shall be issued only after sixty (60) days that the minor has been enrolled and is attending a vocational program. Said apprenticeship permits may also be issued to those regular students (of regular courses) in institutions accredited by the Department of Education, even though they are not vocational schools, or any other program accredited by the Department of Education, provided they do not conflict with the normal class curriculum or equivalent program of studies approved by the Department of Education.

The permits shall only be valid for the occupation or occupations designated therein. It shall also bear the number, the date of issue, and the signature signed of the minor in whose behalf it was issued.

The original of said employment permit shall be handed to the minor to be given to the employer, or shall be remitted to the employer directly. A copy of the original shall be given to the minor. A second copy of the authorization shall be kept in the pertinent office of the Department of Labor and Human Resources, and another copy shall be remitted to the Department of Education. The Secretary of Labor and Human Resources or the official authorized by him/her to issue employment permits or apprentice permits, may refuse to issue a certificate or permit to any minor if in his opinion, there is a reason to believe that the best interests of said minor will be better served by refusing the permit. A register shall be kept of the permits approved and of those denied, indicating in the latter the reasons for their denial. A registry shall also, be kept of the construction contractors available to employ minors.

The Secretary of Labor and Human Resources, whenever he/she deems it convenient, may revoke any previously granted permit, for which it shall only be necessary to communicate it to the employer and the minor.

Section 7.- Duties of the Employer

Every employer to whom a certificate has been issued, authorizing him/her to employ minors in construction works or jobs, shall regularly comply, the requirements of all labor laws and regulations, as well as all Federal and Commonwealth employment safety measures and specifically, the “Occupational Safety & Health Act” (OSHA) and its corresponding regulations. Minors may work with said employers, provided, that during the year prior to their employment, the employers certify that they have implemented a successful safety program and are following it. The employer shall obtain and keep accessible in his files, to any officer, inspector or any other person, authorized by the Secretary of Labor and Human Resources to enforce this Act, a copy of the work permits of the minors and evidence of the safety programs implemented. Likewise, the employer shall obtain and keep accessible, the employment authorizations issued to the minors while they are working with said employer, and, shall also keep all the records that show that he/she is complying with federal and state occupation safety legislation. The Secretary of Labor and Human Resources is hereby empowered to examine the records of the authorized employers listed in the office of OSHA and PROSHA, that are interested in, or are in fact employing minors. The refusal of any employer to furnish, the employment authorization or apprenticeship authorization of a minor during an inspection, shall be prima facie evidence of a violation of the provisions on the employment of minors.

In addition, every employer shall conspicuously post a printed notice. In all construction projects where a minor between sixteen (16) and eighteen (18) years of age is working, stating faithfully and exactly, the provisions of this Act.

Section 8.- Dangerous Occupations

No minor shall be permitted, or suffered to work in certain occupations or perform specific functions in construction that are dangerous to the minor's health, or life, or do not better serve his/her interests whenever said occupations or functions are so determined through regulations established by the Secretary of Labor and Human Resources. In order to establish which those occupations and functions are, the Secretary shall examine the normal conditions of the construction industry.

Any person who after a formal administrative hearing, as provided in the Uniform Administrative Procedures Act, is found to have acted or made an effort to employ, or allows the employment of a minor in violation of any provision of this Act, or of an order issued by the Secretary of Labor and Human Resources, or who refuses the entrance or inspection authorized by this Act, or through regulations approved hereunder, shall be punished with a fine of not less than one thousand (1,000) dollars nor more than five thousand (5,000) dollars.

Section 9.- Notice of Absence

Any authorized employer, who employs minors between sixteen (16) and eighteen (18) years of age, with their corresponding employment authorizations or apprentice authorizations, shall notify the name of any minor who has been absent from work during a week without furnishing a medical excuse or for just cause to the Secretary of Labor and Human Resources and the Secretary of the Department of Education.

Section 11.- Repeal

Any provision of law or portion thereof that is in contravention with the provisions of this Act, is hereby repealed. This Act is approved as a special Act, which specifically regulates the employment of youths between sixteen

(16) and eighteen (18) years of age in the construction industry, without affecting what is provided for other professions by Act No. 230 of May 12, 1942, as amended.

Section 12.- Severability Clause

If any paragraph, Section, part of this Act is declared unconstitutional by a court with competence and jurisdiction, the judgment pronounced shall neither affect nor invalidate the remaining provisions thereof, which shall be limited to the paragraph, Section or part declared unconstitutional.

Section 13.- Effectiveness

This Act shall take effect ninety (90) days after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 161 (H.B. 2075) of the 3rd Session of the 14th Legislature of Puerto Rico:

AN ACT to create an Act for the Promotion of Jobs and Vocational Training for Youths in the Construction Industry in Puerto Rico,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 30th of April of 2004.

Elba Rosa Rodríguez-Fuentes
Director

