

Subpart B—Certificates of Age

AUTHORITY: 29 U.S.C. 203(l), 211, 212.

SOURCE: 41 FR 26835, June 29, 1976, unless otherwise noted.

§ 570.5 Certificates of age and their effect.

(a) To protect an employer from unwitting violation of the minimum age standards under the Act, section 3(l) of the Act provides that "oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child-labor age." The provisions of this subpart provide for age certificates based on the best available documentary evidence of age. Certificates issued and effective pursuant to this subpart furnish an employer with proof of the age of a minor employee upon which he may rely in determining whether the minor is at least the minimum age for the occupation in which he is to be employed.

(b) The employment of any minor shall not be deemed to constitute oppressive child labor under the Act if his employer shall have on file an unexpired certificate, issued and held in accordance with this subpart, which shall be either:

(1) A Federal certificate of age, issued by a person authorized by the Administrator of the Wage and Hour Division, showing that such minor is above the oppressive child-labor age applicable to the occupation in which he is employed, or

(2) A State certificate, which may be in the form of and known as an age, employment, or working certificate or permit, issued by or under the supervision of a State agency in a State which has been designated for this purpose by the Administrator showing that such minor is above the oppressive child-labor age applicable to the occupation in which the minor is employed. States so designated are listed in § 570.9(a). Any such certificate shall have the force and effect specified in § 570.9.

(c) The prospective employer of a minor, in order to protect himself from unwitting violation of the Act, should obtain a certificate (as specified in paragraphs (b) (1) and (2) of this section) for the minor if there is any reason to believe that the minor's age may be below the applicable minimum for the occupation in which he is to be employed. Such certificate should always be obtained where the minor claims to be only 1 or 2 years above the applicable minimum age for the occupation in which he is to be employed. It should also be obtained for every minor claiming to be older than 2 years above the applicable minimum age if his physical appearance indicates that this may not be true.

§ 570.6 Contents and disposition of certificates of age.

(a) Except as provided in §§ 570.9 and 570.10, a certificate of age which shall have the effect specified in § 570.5 shall contain the following information:

(1) Name and address of minor.

(2) Place and date of birth of minor, together with a statement indicating the evidence on which this is based. The place of birth need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.

(3) Sex of minor.

(4) Signature of minor.

(5) Name and address of minor's parent or person standing in place of parent. This information need not appear on the certificate if it is obtained and kept on file by the person issuing the certificate.

(6) Name and address of employer, if minor is under 18.

(7) Industry of employer, if minor is under 18.

(8) Occupation of minor, if minor is under 18.

(9) Signature of issuing officer.

(10) Date and place of issuance.

(b)(1) We will send a certificate of age for a minor under 18 years of age to the prospective employer of the minor. That employer must keep the certificate on file at the minor's workplace. When the minor terminates employment, the employer must give the certificate to the minor. The minor may

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then present the previously issued certificate to future employers as proof of age as described in § 570.5.

(2) Whenever a certificate of age is issued for a minor 18 or 19 years of age it may be given to the minor by the person issuing the certificate. Every minor 18 or 19 years of age shall, upon entering employment, deliver his certificate of age to his employer for filing and upon the termination of the employment, the employer shall return the certificate to the minor.

(The information collection requirements contained in paragraph (a) were approved by the Office of Management and Budget under control number 1215-0083)

[41 FR 26835, June 29, 1976, as amended at 49 FR 18294, Apr. 30, 1984; 69 FR 75402, Dec. 16, 2004]

§ 570.7 Documentary evidence required for issuance of a certificate of age.

(a) Except as otherwise provided in §§ 570.9 and 570.10, a certificate of age which shall have the effect specified in § 570.5 shall be issued only upon application of the minor desiring employment or of the prospective employer to the person authorized to issue such certificate and only after acceptable documentary evidence of age has been received, examined, and approved. Such evidence shall consist of one of the following to be required in the order of preference herein designated:

(1) A birth certificate or attested transcript thereof or a signed statement of the recorded date and place of birth, issued by a registrar of vital statistics or other officer charged with the duty of recording births.

(2) A record of baptism or attested transcript thereof showing the date and place of birth and date and place of baptism of the minor, or a bona fide contemporary record of the date and place of the minor's birth kept in the Bible in which the records of the births in the family of the minor are preserved, or other documentary evidence satisfactory to the Administrator, such as a passport showing the age of the minor, or a certificate of arrival in the United States issued by the United States immigration office and showing the age of the minor, or a life-insurance policy: *Provided*, That such other

documentary evidence has been in existence at least 1 year prior to the time it is offered as evidence: *And provided further*, That a school record of age or an affidavit of a parent or a person standing in place of a parent, or other written statement of age shall not be accepted except as specified in paragraph (a) (3) of this section;

(3) The school record or the school-census record of the age of the minor, together with the sworn statement of a parent or person standing in place of a parent as to the age of the minor and also a certificate signed by a physician specifying what in his opinion is the physical age of the minor. Such certificate shall show the height and weight of the minor and other facts concerning his physical development which were revealed by such examination and upon which the opinion of the physician as to the physical age of the minor is based. If the school or school-census record of age is not obtainable, the sworn statement of the parent or person standing in place of a parent as to the date of birth of the minor, together with a physician's certificate of age as hereinbefore specified, may be accepted as evidence of age.

(b) The officer issuing a certificate of age for a minor shall require the evidence of age specified in paragraph (a)(1) of this section in preference to that specified in paragraphs (a)(2) and (3) of this section, and shall not accept the evidence of age permitted by either subsequent paragraph unless he shall receive and file evidence that reasonable efforts have been made to obtain the preferred evidence required by the preceding paragraph or paragraphs before accepting any subsequently named evidence: *Provided*, That to avoid undue delay in the issuance of certificates, evidence specified in paragraph (a)(2) of this section may be accepted, or if such evidence is not available, evidence specified in paragraph (a)(3) of this section may be accepted if a verification of birth has been requested but has not been received from the appropriate bureau of vital statistics.

§ 570.8 Issuance of a Federal certificate of age.

A Federal certificate of age which shall have the effect specified in § 570.5