

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Kansen Chu, Chair

AB 267 (Chu) – As Introduced January 24, 2019

SUBJECT: Employment of infants: entertainment industry.

SUMMARY: Expands health-related certification requirements for infants to cover employment in any aspect of the entertainment industry.

EXISTING STATE LAW:

- 1) Regulates the employment of minors in the entertainment industry and requires the written consent of the Labor Commissioner for a minor under 16 years of age to take part in certain types of employment.
- 2) Requires specified certification from a physician and surgeon in order for an infant under the age of one month to be employed on any motion picture set or location.
- 3) Provides that it is a misdemeanor to violate the provisions regarding infant employment.

EXISTING FEDERAL LAW:

- 1) Establishes the Fair Labor Standards Act that, among other things, sets the minimum legal work age for most types of employment, prohibits employing youth in dangerous jobs, and limits daily and weekly work hours for employees under the age of 16.
- 2) Exempts minors employed as actors or performers in motion pictures, the theater, radio, and television, from the above requirements.

FISCAL EFFECT: Unknown. This measure has been keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) *Author's statement of need: Infants work in entertainment is much broader than simply film and television.* According to the author, the bill will extend necessary workplace protections to infants employed in *all facets* of the entertainment industry, not just the motion picture industry. This measure recognizes that “the definition of entertainment industry is much more broad than on *any motion picture set or location*, as [current] California child labor laws define the entertainment industry as ‘any organization, or individual, using the services of any minor in: motion pictures of any type (film, videotape, etc.), using any format (theatrical, film, commercial documentary, television program, etc.), by any medium (theater, television, videocassette, etc.); photography; recording; modeling; theatrical productions; publicity; rodeos; circuses; musical performances; and any other performances; and any other performances where minors perform to entertain the public.’ (8 CCR 11751)”

- 2) *Background: Infants employed in entertainment.* In California there are many protections for infants in the “entertainment industry.” For example infants under 6 months are allowed on-set for two hours a day, but their actual workday can’t exceed 20 minutes. For every three children of ages between 15 days and 6 weeks, there must be one nurse and one studio teacher; California law also requires that a parent or guardian be in attendance. As noted above, existing law also requires that before an infant younger than one month of age can work on any motion picture set or location, it must be certified by a licensed pediatrician to be 15 days old, not premature, and physically capable of handling stress of film making, and that the infants lungs, eyes, heart and immune system are sufficiently developed to withstand the potential risks.

Prior to passage of existing law, advocates stated that some production companies would actively seek out premature infants, as much as six weeks before their due date, a state in which they are at risk of infection because their immune system is not fully developed. According to a Washington Post article, the top-rated show "ER" allegedly used premature month-old twins, who were born two months early, “smearred with cream cheese and jelly and used to depict a live birth scene.” This story highlighted the risks for infants working in the entertainment industry, stating that babies “are subject to the demands of production companies working under tight schedules and parents eager to push them into the business.”

According to the author, the pressures on families and employment abuses which gave rise to AB 744 in 1998 may also be faced in the broader “entertainment industry” today.

Information supplied by the author shows infants under one month of age engage in many forms of activity which would be covered under the current “entertainment definition,” detailed above, but are not covered by the health and safety requirements this measure would provide. Examples include modeling, appearing in commercial streaming or user generated content, or music video productions.

- 3) *Prior related legislation.* AB 744 (Washington), Chapter 239, Statutes of 1998 requires health-related certifications by a licensed physician and surgeon for infants younger than one month working in the motion picture industry.

REGISTERED SUPPORT / OPPOSITION:

Support

BizParentz Foundation

Opposition

There is no opposition on file.

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