

CHILD LABOR: <sup>Boys</sup> Children from fourteen to sixteen years of age may be employed as telegraph messengers if they have completed the common school

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September 24, 1942

9-28



Hon. Orville S. Traylor  
Commissioner of Labor  
and Industrial Inspection  
Jefferson City, Missouri

Dear Sir:

We have your letter of the 23rd in which you submit for our opinion the following:

"Upon demand, is it legal for the school authorities in the State of Missouri to issue an employment certificate for a child between the ages of 14 and 16 years to be engaged as a telegraph messenger for full-time employment between the hours of 7 A.M. and 7 P.M., not more than eight hours per day or forty-eight hours in any one week, or for more than six days per week, without compulsion of his attending school, part-time or otherwise, and providing this child has completed the common school course as prescribed by the constituted authorities, or its equivalent?"

"We should also like to have your definition as to the grade necessary to have been completed in school by a child in order to be so classified as a graduate of the common school course."

Section 9620, Art. 3, Chap. 56, R. S. Mo. 1939, provides as follows:

"It shall be unlawful for any child in this state under the age of 16 years to be employed, permitted or suffered to work at any gainful occupation unless such employment is authorized as in this article, or otherwise by law provided: \* \* \* \* \*"

Section 9621 of the same article provides as follows:

"No child under the age of sixteen years shall be employed, permitted or suffered to work at any gainful occupation for more than eight hours in any day, nor for more than forty-eight hours or six days in any one week, nor before the hour of seven o'clock in the forenoon nor after the hour of seven o'clock in the afternoon of any one day: \* \* \* \* \*"

From a reading of the foregoing sections it will be seen that the hours which are proposed for the telegraph messengers mentioned in your request meet the requirements of Article 3, Chapter 56, R. S. Mo. 1939.

We next turn to the school laws to see whether they prevent the proposed employment of such children. Section 10587 R. S. Mo. 1939, after providing that children between the ages of seven and fourteen years shall attend school regularly, reads as follows:

"Provided, that a child between the ages aforesaid may be excused temporarily from complying with the provisions of this section, in whole or in part, if it be shown to the satisfaction of the attendance officer, or if he declines to excuse, to the satisfaction of a court of competent jur-

isdiction, that said child is mentally or physically incapacitated to attend school for the whole period required, or any part thereof, or that said child has completed the common school course as prescribed by constituted authority, or its equivalent, and has received a certificate of graduation therefrom."

It will be seen that Section 10587, supra, permits excusing children from fourteen to sixteen years of age from attending school if they have completed the "common school course" and have a certificate of graduation therefrom. By "common school course" is meant the course of study prescribed for the first eight grades of the public schools. This expression has well defined meaning and is understood by the State Department of Education, and others, to refer to the instruction offered in the first eight grades.

Of course, under Section 4666, R. S. Mo. 1939, it is unlawful to employ girls under eighteen years of age to deliver telegraphic messages.

#### CONCLUSION

It is, therefore, the opinion of this office that it would be lawful for the school authorities in Missouri to issue employment certificates for boys between the ages of fourteen and sixteen years to be engaged as telegraph messengers for full time employment between the hours of seven a.m. and seven p.m. and for not more than eight hours per day or forty-eight hours in any one week, and for not more than six days per week, provided such boys have completed the course of study prescribed for the first eight grades of the public schools and have a certificate of graduation therefrom, or have completed work in other schools than the public schools, which work is equivalent to that required for the first eight grades of the public schools.

Respectfully submitted,

APPROVED:

HARRY H. KAY  
Assistant Attorney-General

ROY MCKITTRICK  
Attorney-General of Missouri.