

elaws[®] - FLSA - Child Labor Rules Advisor

Exemptions from Child Labor Rules in Non-Agriculture

Complete Child Labor Exemptions

The Fair Labor Standards Act provides for certain exemptions. Youth younger than 16 years of age working in nonagricultural employment in a business solely owned by their parents or by persons standing in place of their parents, may work any time of day and for any number of hours. However, parents are prohibited from employing their child in manufacturing or mining or in any of the occupations declared hazardous by the Secretary of Labor.

In addition, the child labor rules do **not** apply to:

- Youth employed as actors or performers in motion pictures, theatrical, radio, or television productions;
- Youth engaged in the delivery of newspapers to consumers; and
- Youth working at home in the making of wreaths composed of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens).

Partial Exemptions from Non-Agricultural Hazardous Order Prohibitions

Limited exemptions from some of the hazardous occupations rules allow 16- and 17- year-old apprentices and student-learners to perform otherwise prohibited work (hazardous jobs) under certain conditions. The hazardous occupations in which youth may work if the those conditions are met are: HO #5 Power-driven woodworking machines; HO #8 Power-driven metal-forming, punching and shearing machines; HO #10 Meat and poultry slaughtering, packing, or processing (including the use of power-driven meat slicing machines); HO #12 Balers, compactors, and power-driven paper-product machines, including scrap paper balers and paper box compactors; HO #14 Power-driven circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs; HO #16 Roofing operations and all work on or about a roof; and HO #17 Excavation operations.

There are no similar exemptions from the hazardous occupations rules for youth younger than 16. Fourteen and 15-year-olds, however, may be employed in approved school-administered and school-supervised Work Experience and Career Exploration Programs (WECEP) or Work Study Programs (WSP). Such programs allow variations in the rules and permit employment during school hours. WECEP participants may also be employed in otherwise prohibited occupations for which an official exception has been authorized by the Department of Labor.

FLSA Section 13(c)(7) creates a limited exemption from the youth employment provisions for certain minors 14 through 17 years of age who are excused from compulsory school attendance beyond the eighth grade. This exemption allows eligible youth to be employed inside and outside of businesses that use machinery to process wood products (such as sawmills, furniture manufacturers, garden shed and gazebo manufacturers, cabinet makers and pallet shops) with some restrictions, but does not allow them to operate or assist in the operation of power-driven woodworking machinery.

Note: All states mandatory school attendance laws, and determine the minimum age at which youth may operate motor vehicles. You may want to check on your state rules after you have completed this section of the Advisor.

Exemptions from Child Labor Rules in Agriculture

Complete Child Labor Exemptions

Youth of any age may be employed at any time, in any occupation in agriculture on a farm owned or operated by their parent or person standing in place of their parent.

Exemptions from Hazardous Order Prohibitions

With the exception of the parental exemption explained above, there are only a few exemptions from the hazardous occupations in agriculture and they apply only to 14- and 15-year-olds. The circumstances where 14- and 15-year-olds may be employed in certain hazardous occupations are:

- Student-learners in a bona fide vocational agriculture program may work in Ag H.O. # 1 through #6, under a written agreement which provides that:
 1. Work is incidental to the training;
 2. Work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified, experienced person;
 3. School shall give safety instruction coordinated by the employer with on-the-job training; and
 4. A schedule of organized and progressive work processes to be performed on the job has been prepared.
- 14- or 15-year-olds who hold certificates of completion of the 4-H Federal Extension Training Programs for tractor operation and/or machine operation may work in occupations listed in HO/A# 1 and #2 for which they have been trained, provided that the youth:
 1. Has been instructed by his or her employer on safe and proper operation of the specific equipment to be used; and
 2. Is continuously and closely supervised by the employer where feasible; or, where not feasible, is checked for safety by the employer at least at mid-morning, noon, and mid-afternoon.

Employers must keep copies of written agreements and certificates under these programs.

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