

***FREQUENTLY ASKED CHILD LABOR LAW QUESTIONS
POSED BY THE PFMA MEMBERSHIP***

Q: How do I know if state or federal child labor law regulations apply to my business?

A: The federal child labor provisions apply to an employer or an enterprise engaged in commerce whose gross volume of sales is not less than \$500,000 under the Fair Labor Standards Act (FLSA). State coverage extends to most businesses except where specifically exempted. In the case of employers earning an annual dollar volume of business less than \$500,000, employers may still be subject to the regulations if their individual employees work on goods/receive goods that are moving in interstate commerce (i.e. help unload and stock goods from a truck that is bringing in goods from out of state; handle credit card transactions – a copy of the credit card charge slip is normally sent out of state).

Q: Specifically, how are grocery stores covered by the FLSA?

A: Employees of a grocery store may be covered by the FLSA in either of two ways. Any establishment which is part of an enterprise with an annual dollar volume of sales of at least \$500,000 (exclusive of excise taxes at the retail level that are separately stated) must abide by the Act's requirements. Any employee of a grocery store, regardless of its sales volume, who is engaged in the receiving and stocking of merchandise that comes in directly from out of state; handles the merchandise that is returned to the manufacturer; handles merchandise coupons that are sent to the manufacturer; handles credit card transactions; works in the office with duties relating to purchasing or returning goods to a manufacturer located out of state, are subject to the child labor regulations. In other words, if the firm does a volume of business in excess of \$500,000, all employees are subject to the FLSA. If the volume is less than \$500,000, some employees may still be subject to the Act individually, depending on their job duties. Most grocery stores are subject to, and must comply with, the Federal child labor provisions.

Q: What is considered an enterprise?

A: An enterprise engaged in commerce is one that has employees engaged in commerce or handling, selling, or working on goods moved in or produced for commerce.

Q: If a child labor law issue is covered by state law, but not federal law, yet my gross volume of sales is \$500,000 or more, do I ignore state law?

A: No, if state law addresses child labor law provisions where the federal law does not, then the employer must follow state law regardless of the amount of their gross volume of sales. State and federal laws will work together to cover working standards for minors. The more stringent rule applies.

Q: What if I am in doubt about whether to follow state or federal regulations?

A: Follow the regulations that offer the most protection for minors – generally the more stringent rule.

Q: What is the minimum age requirement to be considered a minor under the child labor law for employment purposes?

A: Fourteen is the minimum age under Pennsylvania law that children are permitted to work. Fourteen is the minimum age under federal law, although there are exceptions (see question 9). Child labor law restrictions do not apply to those 18 and over. Under federal law, minors 14 years of age and younger are generally not allowed to work, even with parental permission. However, the FLSA does allow a parent who is the sole-owner of a business to employ his or her child in any occupation other than mining, manufacturing or those declared hazardous by the U.S. Secretary of Labor.

Q: Is anyone under the age of 18 not considered a minor?

A: Yes, if a minor who is either a bona fide high school graduate or has been declared to have attained his or her academic potential by the chief administrator of his or her school district and who is 17 years old, is not a minor under the age of 18 for purposes of the state child labor laws. However, under federal law an employee is still considered a minor until they become 18 years-old – with the exception of minors that graduate from a vocational/technical school who have participated in a bona fide educational program that has encompassed the necessary training requirements.

Q: What are the exceptions to the federal child labor law regarding 14-16 year olds (referenced in question 7)?

A: Some jobs are specifically allowed under federal law for 14-16 year olds. Of the jobs involving retail, food service, and gasoline service establishments, the following are permitted: cashiering, price marking, tagging by hand or machine, assembling orders, packing, shelving, bagging and carrying out customers' orders, kitchen work using grills, griddles, deep-fat fryers, toasters, popcorn poppers, milk shake blenders, coffee grinders, and hot dog rotisseries (if the work is in full sight of customers), cleaning vegetables and fruits, sealing, labeling, weighing, pricing and stocking goods (if performed in areas separate from freezers and meat coolers).

Q: What are some jobs that 14-16 year olds are expressly not allowed to be employed in under federal law?

A: All baking and most cooking. These minors may not operate NEICO boilers, pressure cookers, ovens or large rotisseries; all work involving the loading and unloading of goods to and from trucks; all work in warehouses and all work involving the use of ladders or scaffolding; all work in freezers and meat coolers, and most work in the preparation of meats for sale.

FEDERAL LAW – HOUR RESTRICTIONS

Q: When can 14-15 year olds work the jobs listed above?

A: They must work outside of school hours.

Q: How many hours can 14-15 year olds work in any one week when school is not in session?

A: 40 hours.

Q: How many hours can 14-15 year olds work in any one week when school is in session?

A: 18 hours.

Q: How many hours can 14-15 year olds work in any one day when school is not in session?

A: Eight hours. 14 & 15 year olds may not work before 7 am and after 7 pm (except from June 1 through Labor Day when the evening limit is extended to 9 pm). The most frequent child labor violations occurring in grocery stores involve minors working too late at night or too many hours on a school day.

Q: How many hours can minors work in any one day when school is in session?

A: Three hours.

Q: Under federal law, how many hours can youths 16-17 years of age perform any nonhazardous job?

A: Unlimited hours. (State law may otherwise restrict employment for youths of this age.)

PENNSYLVANIA LAW – HOUR RESTRICTIONS

Q: How many hours can a minor work in any 24-hour period during summer vacations?

A: Eight hours.

Q: How many hours can a minor work in any workweek during summer vacations?

A: Forty-four hours.

Q: How many hours can a minor work in any 24-hour period during the school year?

A: Ages 14-15 – a maximum of 4 hours on school days. Ages 16-17 – a maximum of 8 hours.

Q: How many hours can 14-15 year olds work during a school week?

A: 18 hours (Monday – Friday), and only at a time that does not interfere with school attendance. Plus 8 additional hours on Saturday and/or Sunday. That is a 34-hour total for the whole week.

Q: How many hours can 16-17 year olds, who are enrolled in a regular day school and work outside of school hours, work during a week in which school is in session (Monday – Friday)?

A: 28 hours (Monday-Friday). Plus, an additional 8 hours on Saturday and 8 hours on Sunday. That is a 44 hour total for the whole week.

Q: Can home schooled children work during regular school hours?

A: Fourteen and fifteen year-olds may not work during regular school hours. 16 and 17 year-olds may work during regular school hours, but not in excess of state maximum hour restrictions.

Q: Can minors work for more than six consecutive days?

A: No, not in one workweek.

Q: What are acceptable night work hours for 14-15 year olds?

A: Employment is prohibited after 7:00 pm and before 7:00 am. *Exception:* summer vacation employment hours are permitted to be worked until 10 pm.

Q: What are acceptable hours of employment for 16-17 year olds?

A: Students may not work after midnight (Sunday through Thursday) or before 6 am during the week. *Exception:* Fridays, Saturdays, and days preceding school vacations (except for the last day of vacation), minors age 16 and 17 may be employed until – but no later than – 1:00 am.

Q: During summer vacations is there a night work limit for students 16-17 years old?

A: No.

Q: Do minors have to be given a lunch/meal break of at least 30 minutes in duration on or before 5 consecutive hours of work?

A: Yes.

Q: Does that lunch/meal break have to be paid?

A: No.

Q: If a minor works more than 5 hours, can I break up the required 30-minute break into two 15-minute breaks?

A: No. No period of less than 30 minutes break time is permissible.

EQUIPMENT USE QUESTIONS:

Q: What are the most common tasks which occur in grocery stores that are prohibited by the U.S. Department of Labor as hazardous occupations (on the federal level)?

A: Operating or assisting to operate, clean, oil, set up, adjust, or repair certain power-driven meat processing equipment including meat slicers, meat grinders, meat saws, and patty forming machines – even when used to process materials other than meats, such as vegetables or cheese; operating or assisting to operate, clean, oil, set up, adjust, or repair certain power-driven bakery machines such as horizontal or vertical dough mixers, dough sheeters/rollers, and combination bread slicing and wrapping machines; drive or serve as an outside helper on a motor vehicle on a public road; but 17-year-olds who meet certain specific requirements may drive for limited amounts of time as part of their job; operate or unload scrap paper balers or paper box compactors – 16-17 year olds may load such machines under certain specific circumstances; operate certain power driven hoists, including forklifts.

Q: Are minors allowed to handle hand-held knives?

A: Yes. They can use hand-held knives. They cannot handle electric-powered knives.

Q: What is the minimum age to use a meat slicer?

A: 18. Minors are prohibited from operating meat slicers.

Q: Can minors cut meat with a deli meat slicer, use a bread slicer?

A: The use of power-driven chopping, grinding, slicing, and processing machines is prohibited. Also, the use of mixing machines in bakeries by a minor is prohibited. The use of a bread slicer is permitted under federal law.

Q: Can minors operate a deep fryer?

A: Yes. A deep fryer may be operated by a minor.

Q: Can a minor clean a grill?

A: Yes, a minor may clean a grill.

Q: Can minors operate a hot wrapping machine?

A: 16 & 17 year olds are permitted. Minors under 16 are prohibited.

Q: Are minors allowed to operate a baler?

A: No, they may not operate a baler, they may only load the baler following certain conditions. See the baler instructions poster for more information (downloadable from the PFMA website via PDF format).

Q: Can minors operate a hand pallet jack?

A: Yes, if it is hydraulic or battery-powered, and the minor is 16 or 17 years old. Although they may operate a hand pallet jack, the use of any other hoisting devices is prohibited by state law.

Q: Are minors permitted to cook on a stove?

A: Yes, but they must be in the view of customers.

PENNSYLVANIA EMPLOYMENT/WAGE QUESTIONS:

Q: What types of wages must minors be paid?

A: Full time high school students must be paid 85% of the current Pennsylvania minimum wage as long as the employer has applied for a special certificate from the Secretary of Labor and Industry, but under federal law, it may not exceed a 90-day time limit.

Q: What does an employer have to do to employ a 'learner' at less than the prescribed minimum wage under Pennsylvania law?

A: An employer must complete an application on a form furnished by the Secretary of Labor and Industry which should contain the following information: occupation at which learners are to be employed, learning period duration, nature of instruction, and the number of regular employees employed.

Q: What happens if the secretary authorizes the learner's certificate?

A: The Secretary will issue a certificate to the employer authorizing employment at less than the prescribed minimum wage; provided however, that the wage may not be less than 85% of the otherwise applicable minimum wage. The certificate may limit the number of learners and

proportion of learners to nonlearners. The wage specified on the certificate shall constitute the minimum wage for learners in the particular occupation at the establishment named therein.

Q: Can my special certificate be revoked?

A: An application for a special certificate may be denied, or the special certificate may be revoked by the Secretary for misrepresentation of facts in the application, for violation of the act or for other good cause shown. In addition, the certificate may be modified because of changes in conditions or circumstances.

Q: Can an employer employ students at less than the prescribed minimum wage under PA law?

A: Yes, they must complete an application on a form furnished by the Secretary of Labor and Industry. The Secretary may issue a certificate to the employer authorizing employment at a wage less than the prescribed minimum rate; provided however, that the wage not be less than 85% of the otherwise applicable minimum wage.

Q: What types of student certificates can be issued?

A: The following two types of special certificates for students may be issued:

1. Six or less students. The employment of six or less students at less than the minimum hourly wage may not create a substantial probability of reducing the full-time employment opportunities for other workers, nor shall it impair or depress the wage rates or working standards established for other workers engaged in work of the same or comparable nature.
2. Seven or more students. If employment of students at subminimum wages increases to seven or more students, then the employer must file a new application for the appropriate certificate to hire seven or more students. To qualify for the certificate to hire seven or more students, the employer must maintain a ratio of at least three regular employees to each student employed.

Q: How many hours can students work under a student certificate?

A: Students are permitted to work on a part-time basis, but not in excess of 20 hours in any work week at the subminimum wage rate during the school term, except that when school is not in session, the weekly limitation on the maximum number of hours which may be worked at the subminimum rate may be increased by 8 hours for each holiday, but in no event for more than 40 hours a week.

Q: How long does an employer have to keep the certificate on file?

A: A copy of the certificate permitting the employment of students at the student rate shall be retained at the place of employment and be made available for inspection by the secretary for not less than 3 years after termination of employment of students.

Q: Can my student certificate be revoked?

A: An application for a student certificate may be denied, or the special certificate may be revoked by the Secretary for misrepresentation of facts in the application, for violation of the act or for other good cause shown. In addition, the certificate may be modified because of changes in conditions or circumstances.

Q: What child labor law postings are required by the state?

A: An abstract of the child labor law, and a schedule/list showing all hours worked by minors under 18 years of age must be posted in a conspicuous place (such as a breakroom).

Q: Can a minor be employed in a meatpacking establishment?

A: While a minor may be employed in a meatpacking establishment, his or her occupational responsibilities are heavily restricted.

TOBACCO SALES

Q: Does a salesclerk have to be at least 18 years old to sell tobacco products?

A: No, there is no age limit to sell tobacco. The Pennsylvania Child Labor Law does not specifically prohibit tobacco sales by a minor.

EMPLOYMENT CERTIFICATE & CHILD LABOR LAW PENALTIES

Q: Must an employer file any special paperwork prior to hiring a minor?

A: Yes, an employer who engages a minor under the age of 18 in employment must obtain certificates and permits from public school officials of the district in which the minor resides. No person under the age of 18* shall be employed without a general or vacation employment certificate. The minor's parent, guardian, or legal custodian must make the application for such permits and certificates. The paperwork must be filed before the minor's start date.

**Exceptions:* A) 17 year olds, who have graduated from high school or who have attained their academic potential as determined by the Chief School Administrator, may be treated for purposes of the Child Labor Law as 18 years of age. B) Special rules apply to 16 & 17 year olds employed during the summer by summer resident camp or a conference or a retreat operated by a religious or scout organization.

Q: Does an employer have to report to any authority while minors are in their employ?

A: Yes, it is the responsibility of an employer to semi-annually report the name, age, residence, and name of the parent, guardian, or legal custodian of every minor in his or her employ to each minor's school district. Forms for reporting this information are provided by the Secretary of Education.

Q: Do you have to keep a copy of any employment certificates for students on file?

A: Yes, Pennsylvania law requires you to keep a record of each minor with a transferable work permit who is employed. This record must contain the name of the school district issuing the permit, the minor's birth date, the date the permit was issued, the permit number, and minor's occupation. Employers can obtain this information from the minors school district.

Q: Who enforces Pennsylvania's child labor law?

A: The law is enforced by the Secretary of Labor and Industry, Secretary of Education, attendance officers of various school districts, and the local police.

Q: What is the penalty of violating the Child Labor Law?

A: Any person, agent or manager of any person violating or permitting a violation of the law shall, upon conviction, be subject to a fine of not less than \$100 nor more than \$300 for the first offense and not less than \$250 nor more than \$1000 for any subsequent offense or imprisonment for 10 days, or both.

If you have further questions, or need to obtain more information, contact the Bureau of Labor Law Compliance, Pennsylvania Department of Labor and Industry by calling 1-800-932-0665 or consulting the following web site address: www.li.pa.us/PWAGE/lcd.html.

For information on federal child labor laws, contact the Employment Standards Administration, Wage and Hour Division – Philadelphia : (215) 597-4950; Pittsburgh: (412) 395-4996

A Pennsylvania child labor law abstract is also available from PFMA by calling 800.522.9983 (PA) and 800.543.8207 (National).

Approved: 7/00 by PA DOL