

# Labor and Employment Alert



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## Child Labor Laws During the Dog Days of Summer

By R. Scott Hetrick and Eric R. Miller

"School's Out!" With that refrain, many teens across the nation will enter or re-enter the job market this summer. To be prepared, every employer who intends to hire minors should take stock of applicable child labor laws.

**Federal Law.** The Fair Labor Standards Act (FLSA) restricts the employment of children by any "enterprise engaged in commerce or in the production of goods for commerce." Generally, the minor's age and the nature of the job will determine whether a minor may be employed. With limited exemptions for certain agricultural enterprises, newspaper delivery, actors and performers, wreath making, and for parents who are sole proprietors, minors under the age of 14 may not be employed.

**Ages 14 to 17.** Minors under age 18 cannot work in employment that the Secretary of Labor classifies as "particularly hazardous." Generally, this restriction means that 14- to 17-year-olds may not work in occupations involving manufacturing or processing goods, mining, warehousing, transportation, construction, communications, and public utilities, and they may not operate most power-driven machinery. Because the list of hazardous occupations is subject to change, employers should determine whether a particular occupation is classified as "hazardous" and, if it is, whether specific jobs have been exempted.

**Summer Hours.** During summer vacation (from June 1 through Labor Day) and other school holiday periods, minors age 14 and 15 may not work more than eight hours per day or 40 hours per week, and must also work only between the hours of 7:00 a.m. and 9:00 p.m. Minors age 16 and older are not subject to any limitations on the number of hours per day or week they may be required to work, and unless otherwise exempt, they must be paid overtime for any hours worked over 40 in a work week. After Labor Day, the permissible hours for 14- and 15-year-olds changes.

**Driving.** Employees age 17 and older may occasionally drive on-the-job on public roads and only during daylight hours if no more than one-third of their workday and no more than 20% of their work-week is spent driving. Also, the minor must have a valid state drivers' license, have successfully completed a state-approved driver education course, and have no moving violations at the time of hire. The FLSA imposes several other restrictions that employers should review before requiring 17-year-old employees to drive.

**Minimum Wage.** Minors are entitled to be paid the minimum wage (\$5.15) for all hours worked, and overtime hours for hours over 40 in a work-week. Should you seek to employ unpaid interns or pay less than the minimum wage, your company should determine whether it meets the various wage and hour exceptions.

**State Law.** Every state has its own child labor laws, many of which are stricter with regard to hours of work and "hazardous" occupations. If the state law is stricter than the FLSA, the state law applies. For example, in both Alabama and Louisiana, during the summer, minors under age 16 may not work for more than six consecutive days without a day off. In Louisiana, minors under 18 years old are entitled to a 30-minute meal break for every five hours of work, while in Alabama, the employer must only provide a 30-minute meal break for minors age 14 and 15.

State laws usually forbid employers from hiring minors under the age of 19 to work in places where the main purpose of the business involves the sale of alcoholic beverages (e.g., a bar). If alcohol sales are not the main business of the place of employment (e.g., a restaurant), a minor may be employed as long as the minor does not sell, mix, dispense or serve alcoholic beverages for consumption on the premises, or in other words, serves as a busboy, dishwasher, janitor, cook, server, hostess, or seater.

State laws also generally require employers to have a "work permit" and an informational "affidavit" or "certificate" on file for each employee under the age of 17 and to maintain a current list of such employees. Affidavits or certificates usually may be obtained from the minor's school principal, headmaster, or superintendent of schools in the school district where the minor lives. Work permits can be obtained from the state's labor department.

**Summer Care.** Employers are encouraged to employ minors in the summer to afford the minors work experience; however, you should understand and evaluate the risks associated with placing a minor in an inappropriate position.

*ADAMS AND REESE LLP represents employers in all phases of employee relations, including defending claims arising under state and federal labor and employment laws; assisting employers in drafting and seeking enforcement of employment contracts, policies and handbooks; and providing ongoing advice, counsel and training to clients regarding employment issues.*

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