



# Child Labor Law Enforcement On The Rise

Insights

2.28.20

The Department of Labor started off 2020 by focusing its enforcement efforts on child labor law compliance. In January, several large quick-service franchisee restaurants were slapped with hefty penalties for violating child labor laws. The Department of Labor's Wage and Hour Division, as well as state labor agencies, are auditing and investigating businesses employing minors – and they are paying special attention to the restaurant industry.

Recent audits have revealed that most violations relate to the more expansive law protecting the youngest workers: 14- and 15-year-olds. Restaurants are often unknowingly violating the law when minors are working in the early morning or late evening, or exceeding the daily hourly limit on school days.

For 16- and 17-year old minors, federal regulations are less strict and do not limit the number of hours these minors can work (provided that the occupation has not been declared hazardous by the Secretary of Labor). States and localities, however, provide more expansive coverage for minors and limit hours and time frames that 16- and 17-year old minors can work. Several states also require employment certification or permits when employing minors.

## Primer On Federal Child Labor Laws

Though the law is not new, here is a quick federal labor law refresher for employing minors.

### ***Under 14 Years Old***

Do not employ unless the employment fits under a prescribed exception.

### ***14- And 15-Year-Old Minors***

These minors can perform certain tasks in your hospitality business, including cashiering, table service, busing, clean-up, and food and beverage preparation. However, they may not operate broilers, rotisseries, pressure cookers, high-speed ovens, or rapid toasters. Moreover, you must restrict their work to the following limits:

- Must be outside school hours;
- No more than three hours on a school day;
- No more than eight hours on a non-school day;
- No more than 18 hours a week when school is in session;

- No more than 40 hours a week when school is not in session; and
- Between 7 a.m. and 7 p.m., except from June 1 through Labor Day, when nighttime work hours are extended to 9 p.m.”

### ***16- And 17-Year-Old Minors***

Children in this age range may be employed for unlimited hours in any occupation other than those declared hazardous by the Secretary of Labor (i.e., meat slicers, saws, commercial mixers, etc.). Moreover, they cannot operate motor vehicles involving time sensitive deliveries (i.e. pizza deliveries).

### **What Should You Do?**

There is no easy, one-size-fits-all solution to employing minors in the hospitality industry, especially because most states and many localities provide for more expansive regulation of minors. And the consequences of violations can be steep: penalties for federal child labor violations can be quite substantial, with up to \$10,000 for each employee who was subject to a violation.

To avoid liability, many employers have ceased employing minors under the age of 16 because of the administrative burden of complying with the intricacies relating to this age group. Other employers require separate uniforms for minors and institute managerial checks during the evening shifts to ensure compliance.

A key step towards ensuring compliance is maintaining a clear policy relating to your employment of minors, including detailed managerial training and regular internal auditing. Catching non-compliance before the Department of Labor knocks at your door may save your business from some unintended attention and unwelcome expense. Be sure to check with your Fisher Phillips attorney for more information about the specific laws in your jurisdiction and best practices to avoid liability.

*For more information, contact the author at [ELitzinger@fisherphillips.com](mailto:ELitzinger@fisherphillips.com) or 502.561.3978.*

### ***Related People***

---





**Emily N. Litzinger**

Partner

502.561.3978

Email

## ***Service Focus***

Wage and Hour

## ***Industry Focus***

Hospitality