



# Hiring Minors This Holiday Season? 8 Top FAQs for Kentucky Employers

Insights

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Employers across various industries continue to adjust to a disrupted workforce in the wake of the pandemic and the resulting labor shortage, which has led many to consider expanding their recruitment efforts to include minors — particularly in the service industries. This new strategy, however, does not come without new risks: Both federal and state laws impose strict rules on employing minors and even stricter penalties for violating those laws. Like many states, Kentucky has more restrictions than federal law when it comes to employing minors, including additional restraints on the hours minors can work and duties they can be assigned. This Insight provides Kentucky employers with answers to the eight most common questions to guide you through the process of hiring minors this holiday season.

## 1. Who is Considered a ‘Minor’ in Kentucky?

Kentucky’s Department of Workplace Standards defines a “minor” as a person between the ages of 14 and 18, unless the person has a high school diploma or the required number of credits to graduate from high school. This definition does not, however, identify all ages permitted to work in the Commonwealth.

For instance, Kentuckians under the age of 14 may work in connection with an employment program sponsored and supervised by the child’s school or school district, so long as the program has been approved by Kentucky’s Department of Education and is subject to the regulations issued by the Department of Workplace Standards.

Another exception is made for Kentucky’s golf courses, where those as young as 11 may be employed to work as caddies. As is common with child labor laws, there are a variety of work restrictions for caddies of different ages. For example, caddies who are 11 and 12 years old may not carry golf bags (they may only caddy with a “pull cart”), and no caddy younger than 16 may drive a golf cart.

Kentucky also exempts certain occupations from its child labor laws. Those exemptions may be found in Kentucky’s statutes. There are a variety of exemptions, which include (but are not limited to):

- casual domestic tasks and household work performed at the minor’s home.

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- newspaper delivery;
- acting in movies, plays, television, and radio; and
- employment of minors by their own parents or guardians (so long as the work is not in connection with manufacturing, mining, or other occupations deemed hazardous by Kentucky's Department of Workplace Standards).

Another exemption is made for youth athletic programs, where minors as young as 12 may work as a referee, umpire, or sideline official for age groups younger than the minor, but an adult must be present, and the minor's parents or guardians must sign a consent form.

Aside from these exceptions and exemptions, minors must be at least 14 to be employed in Kentucky. You should note, however, that the types of work that minor employees may perform — and the hours in which they may do it — vary for different age groups.

## 2. What Types of Work May Minors Perform?

As a general rule, minors are prohibited from working in occupations that pose a hazard to their health and well-being. Beyond this general rule lies a variety of work restrictions specific to prohibited work environments, assignments, and even industries.

For children ages 14 and 15, the U.S. Department of Labor (DOL) has provided lists of occupations that are and are not permissible under federal laws. The DOL also has a list of occupations deemed "particularly hazardous" for minors between ages 16 and 18, as well as one that identifies agricultural occupations that are hazardous to children younger than 16.

Kentucky's rules for minor employees largely mirror those enforced by the DOL but add at least one restriction not anticipated by the federal law, which forbids minors from working for a business where "alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption, or dispensed unless permitted by ... the Alcoholic Beverage Control Board." Minors may, however, work in businesses where the sale of packaged alcohol is merely incidental to the company's primary business.

These rules are nuanced and varied, so it is important that employers use them as a reference when employing younger workers and reach out to counsel for additional guidance. Oftentimes, employers will find that their younger employees are allowed to perform some functions but not others. For instance, while a diner in Kentucky may employ a 14-year-old to work the cash register and prepare some food, their supervisor cannot assign them to operate a grill with an open flame.

## 3. How Are Hours Restricted?

The federal Fair Labor Standards Act (FLSA) and Kentucky law limit the number of hours minors can work based on their age and whether school is in session.

In Kentucky, minors who are 14 and 15 years old are restricted from working:

- During regular school hours unless:
  - The minor is working for a school-sponsored program;
  - School authorities have arranged for the minor to attend school at times outside of regular school hours; or
  - The minor has graduated high school;
- More than three hours on school days;
- More than eight hours on days with no school, regardless of whether school is in session;
- More than 18 hours during any week in which school is in session;
- More than 40 hours during any week in which school is not in session;
- Earlier than 7:00 a.m.;
- Later than 7:00 p.m., except for the period between June 1 and Labor Day, during which they may work as late as 9:00 p.m.

The permissible hours for minors between ages 16 and 18 are a little less restrictive. Kentucky prohibits these employees from working:

- More than 30 hours during school weeks, with two exceptions:
  1. If the minor has written permission from a parent or guardian, then they may work as many as 32.5 hours during school weeks; and
  2. If, in addition to the parent's or guardian's written permission, the principal or head of the minor's school certifies that the minor has maintained a grade point average of at least 2.0 in the most recent grading period, then the minor may work as many as 40 hours during school weeks;
- More than six hours on a school day, or 6.5 hours on school days if the minor's parent or guardian gives written permission to do so;
- More than eight hours on non-school days during the school term;
- Earlier than 6:00 a.m.;
- Later than 10:30 p.m. on school nights or 11:00 p.m. if the minor has the written permission of a parent or guardian;
- Later than 1:00 a.m. during the school term if it is not a school night.

You are also advised to consider curfew laws when scheduling these employees. While Kentucky does not have a statewide curfew law, employers are encouraged to check whether your local county or city prohibits minors from being out past a certain time and whether there are exceptions for minors on their way to or from work

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#### **4. Are Minors Entitled to Additional Breaks?**

Kentucky's statute governing meal and rest breaks for minor employees does not significantly differ from the rules for adults. Like adult workers, minors must be provided a paid rest period of 10 minutes for every four hours worked. In addition to this 10-minute rest period, however, minors are entitled to at least a 30-minute lunch break for every five hours worked, which cannot be waived under any circumstance.

#### **5. Can You Pay Minors a Lower Wage?**

Yes. While Kentucky does not have any laws addressing the amount that minors must be paid, the FLSA provides an exception to its general requirement that employees be paid the federal minimum wage. Under the FLSA's youth minimum wage exception, employers are permitted to pay employees under the age of 20 at a rate of \$4.25 an hour for the first 90 days of employment, subject to certain requirements. Notably, the FLSA prohibits employers from taking any action to replace ineligible employees with those that may be paid the youth minimum wage. Given the ongoing labor shortage, not many employers are pursuing this option as it makes it hard to attract labor.

#### **6. Are There Additional Posting and Recordkeeping Requirements?**

Yes. You must keep a special register with the names, ages, and addresses of any minors they employ. These registers must also list the times the employee started and stopped working each day, as well as the time the employee's lunch break started and stopped. Additionally, when the minor's parent or guardian must sign a consent form or permission slip, such documents must be kept on file at your place of business.

You also must post: (1) a printed abstract of Kentucky's child labor statutes, (2) a list of the prohibited occupations for minors, and (3) a notice stating when, and for how long, minors are allowed to work.

#### **7. Are Work Permits Required?**

Yes. Kentucky employers must obtain proof that your employees are at least 18 years old. For any minor wanting to work before the age of 18, the local school board must issue a certificate of age, which must be kept at your place of business.

Note that inspectors and agents working for the Department of Workplace Standards are given the authority to enter and inspect, at any time, any establishment employing minors that are neither exempted nor excepted under Kentucky's child labor laws. The same power of entry and inspection is given to directors of the minor's school.

If any of these officials demand a copy of the minor's age certificate, the employer has 10 days to provide it. If the employer is unable to do so, such failure may be used as evidence in a prosecution

brought for violation of these laws.

## 8. What Are the Penalties for Violations?

Any violation of Kentucky's child labor laws is punishable by a fine ranging from \$100 to \$1,000. Any employer who continues to violate these laws after being notified of such violation will be fined an additional \$100 per day for each day the violation continues. Notably, these fines are cumulative, and each minor employed in violation of these laws will constitute a separate offense.

Employers also may face more severe penalties under the FLSA. Companies may be fined up to \$10,000 in civil monetary penalties for each minor employed in violation of federal law. Willful violations of the FLSA may result in criminal prosecution and possibly an additional penalty up to \$10,000. A second conviction may result in imprisonment.

## So, What Can You Do?

Reading this Insight and understanding the limits of employing minors in Kentucky is the first and biggest step to complying with federal and state laws. You also should apply and consistently follow internal policies and closely monitor your pay practices to ensure you are complying with state and federal laws for all employees.

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