

# GET SET FOR SUMMER: 8 THINGS HOSPITALITY EMPLOYERS SHOULD KNOW ABOUT HIRING TEENS THIS SEASON

Insights  
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Many employers in the hospitality industry are ramping up their hiring efforts as they get ready for their busiest season. Whether you're operating a restaurant, hotel, swim club, tourist attraction, or other business that's preparing for the summer surge, you're likely looking to hire teenagers to meet the uptick in demand —making now a good time for a refresher on federal and state child labor laws. Here are eight important things you should know about hiring minors to ensure compliance and help facilitate a successful summer season.

## 1. Both Federal and State Restrictions May Apply

Both federal and state laws restrict the time of day and number of hours that minors can work, the type of work that minors can perform, and the equipment they can use. The federal Fair Labor Standards Act (FLSA) governs child labor but allows states to enact more restrictive laws, so you must be aware of any local restrictions as well. In situations where the federal law and state law differ, you must follow the law that provides the most protection for the minor.

## 2. Older Teens Have More Flexibility

As you may know, workers who are at least 18 years old have no restrictions on the type of work they may perform or their work hours. Minors, however, are generally restricted under federal and state laws from working excessive hours or in certain occupations. Those restrictions depend on the age of the employee.

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## Hours Worked

Under the FLSA, minors aged 16 and 17 can be employed for unlimited hours in any occupation other than those deemed hazardous by the Secretary of Labor. This is an area where some state laws differ. For example, Indiana, California, Kentucky, and Ohio have restrictions on the number of hours and times of days this age group may work.

Notably, while Florida imposes more limits than federal law for this age group, state lawmakers recently eased some restrictions. [You can read more here about the new Florida law, which takes effect on July 1.](#)

## Hazardous Occupations

The FLSA prohibits minors aged 16 and 17 from working in certain hazardous occupations, including those involving manufacturing or storing explosives, driving a motor vehicle (except in limited circumstances for 17-year-olds), mining, forestry service, roofing, and more. A full list of the current occupations declared hazardous by the Secretary of Labor can be found [here](#).

There are limited exemptions for a few of the hazardous occupations for 16- and 17-year-olds who are apprentices or student-learners enrolled in approved programs.

### **3. Younger Minors Have More Restrictions**

You should recognize that minors under age 16 have even more work restrictions. Here are some of the key areas you'll need to pay close attention to.

## Hours Worked

Children aged 14 and 15 are limited in the days and hours they can work as follows:

- The work must be outside school hours.
- They can work no more than three hours on a school day, including Fridays, and no more than eight hours on a non-school day.
- They can work no more than 18 hours in a week when school is in session and no more than 40 hours in a week when school is not in session.

## **Service Focus**

Counseling and Advice

Wage and Hour

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Hospitality

- They cannot work before 7 a.m. or after 7 p.m., except from June 1 through Labor Day when they may work until 9 p.m.

### Hazardous Occupations

In addition to Hazardous Occupations restrictions for older teens, minors aged 14 and 15 are prohibited from working in a number of tasks that are relevant to the hospitality industry. Here are just a few examples of off-limits work:

- Cooking, except limited circumstances. For example, 14- and 15-year-olds may cook using electric or gas grilles that do not involve cooking over an open flame, and they may use deep fat fryers that are equipped with and utilize devices that automatically lower and raise the baskets into and out of the oil or grease. Notably, this age group may not cook with NEICO broilers, high speed ovens, rapid broilers, fryolators, rotisseries, pressure cookers, or over open flames.
- Baking. This age group may not perform any part of the baking process, such as weighing and mixing ingredients; placing or assembling products in pans or on trays; operating ovens, including convection ovens, toaster ovens, pizza ovens, automatic feeding ovens, and microwave ovens (except certain microwave ovens used for warming food); removing items from ovens; placing items on cooling trays; and finishing baked products.
- Work in freezers and meat coolers.
- Using power-driven meat processing machines.
- Working in boiler or engine rooms, including for repair and maintenance.
- Operating – or even setting up, cleaning, or repairing – machinery like lawn mowers, golf carts, all-terrain vehicles, trimmers, or food processors.
- Using ladders or scaffolds.
- Loading and unloading goods onto motor vehicles, railroad cars, or conveyors.
- Lifeguarding at a natural environment such as a lake, river, ocean beach, quarry, pond (swimming pools and waterparks are also off-limits for 14-year-olds).

Limited exceptions to these prohibitions may be available for children enrolled in an approved Work Experience and Career Exploration Program or Work-Study Program. A complete list of off-limits jobs is available [here](#).

### List of Approved Jobs

Under federal child labor regulations, youth ages 14 -15 may generally perform only the following duties:

- Bagging and carrying out customer's orders.
- Cashiering, selling, advertising, window trimming, or comparative shopping.
- Clean-up work and grounds maintenance — the young worker may use vacuums and floor waxers, but may not use power-driven mowers, cutters, and trimmers.
- Work as a lifeguard at a traditional swimming pool or water amusement park if at least 15 years of age and properly certified.
- Kitchen and other work in preparing and serving food and drinks, but only limited cooking duties and no baking.
- Cooking with gas or electric grills that do not involve cooking over an open flame and with deep fat fryers that are equipped with and utilize devices that automatically lower and raise the baskets in and out of the hot grease or oil.
- Cleaning fruits and vegetables.
- Cleaning cooking equipment, including filtering, transporting, and dispensing oil and grease, but only when the surfaces of the equipment and liquids do not exceed 100° F.
- Pumping gas, cleaning and hand washing and polishing cars and trucks (but the young worker may not repair cars, use a garage lifting rack, or work in pits).
- Delivery work by foot, bicycle, or public transportation.
- Riding in the passenger compartment of a motor vehicle, with some exceptions.
- Wrapping, weighing, pricing, stocking any goods as long as they don't work where meat is being prepared or in

freezers or meat coolers.

- Loading and unloading certain hand tools and personal equipment from motor vehicles.
- Office and clerical work.
- Work of an intellectual or artistically creative nature.
- Pricing and tagging goods, assembling orders, packing, or shelving.

Importantly, any job that is not specifically permitted for this age group is prohibited.

#### Very Limited Authorization for Age 13 and Younger

Workers who are age 13 or younger may generally:

- Deliver newspapers to homes of subscribers or consumers.
- Baby-sit on a casual basis.
- Work as an actor or performer in motion pictures, television, theater, or radio.
- Work in a business solely owned or operated by the youth's parents (but not in manufacturing, mining, or any occupation deemed hazardous by the Secretary of Labor).

Because of these strict limitations, it is generally not advisable to hire youths under 14-years-old.

#### **4. Rules on Driving Can Be Confusing**

As noted above, the FLSA prohibits employees under 17 years of age from driving a motor vehicle on public roads as part of their job. Minors who have reached the age of 17 may drive on public roadways as part of their employment, but only during daylight hours on an "occasional and incidental" basis, and subject to several other stringent restrictions. Importantly, 17-year-olds are not permitted to make urgent, time-sensitive deliveries, such as pizza or other food deliveries.

#### **5. State Law May Mandate Work Permits and Age Certificates**

Work permits and age certificates are not required under the FLSA, but many states require them for workers of certain ages. Work permits are usually issued by the local school authority or the state labor department. States that have work permit requirements generally require employers to review the work permit documentation before hiring a minor.

Some states require that you obtain an age certificate before hiring a minor. These are typically issued by the state in which the minor works, but the U.S. Department of Labor (DOL) will issue age certificates if the minor employee's state does not. A valid, unexpired federal certificate of age or a certificate issued by a state designated by DOL provides proof that a minor is at least the minimum age to work in a particular occupation — and it may provide a defense to a claim for child labor violations.

## **6. Rules on Meal and Rest Breaks Vary**

Are you providing appropriate breaks for minor employees? You'll need to comply with applicable state law obligations related to meal and rest breaks. These generally include provisions on the number of meal and/or rest breaks that must be provided, when they should be provided, and how long they should last. While the FLSA does not require meal or rest breaks, the regulations require that rest breaks lasting from 5 to 20 minutes must be paid. Meal periods of 30 minutes or more, which are continuous and uninterrupted, may be unpaid.

## **7. Your Postings May Need to Be Updated**

Employers who hire minors may be required to display additional postings. Federal law requires FLSA-covered employers to conspicuously post the "Employee Rights Under the Fair Labor Standards Act" poster, which includes information related to child labor. Some states have their own separate child labor posters and may also require you to post age-related permits or certificates, a list of the minors employed, or their meal and rest breaks.

## **8. The Labor Department Is Cracking Down on Violations**

If the DOL is investigating your hospitality business, even if unrelated to child labor law, they will review your youth employment practices as part of the department's strategic enforcement priorities. So, you'll want to have a list of all the

employees under the age of 18 who were on payroll during the last three years. It's important to keep records of youth employees' names, ages, addresses, start and end time for each workday, and the start and end time for each daily meal period.

It's also a good idea to review all of the job duties that will be assigned to minor workers and compare those with DOL's prohibited occupations. Keep in mind how occupations may cross into unexpected areas. In addition to violations involving restrictions on baking, cooking, or using power-driven meat processing machines, some common violations found in WHD child labor investigations are based on other tasks. For example, the violation may stem from the simple task of trash removal when the trash is loaded in a trash compactor, which violates the restriction on working with balers, compactors, and paper-products machines.

Another common violation stems from children working outside of the restricted hours. Youth workers must be strictly supervised to make sure they are not clocking in early or out late. Even inadvertent violations such as these can result in significant penalties.

Finally, don't forget to check state law, which may have additional restrictions on the types of occupations that employees under 18 can work.

## **Conclusion**

Fisher Phillips will continue to monitor developments in this area and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Hospitality Industry Team](#).