



Employing Minors? Be Sure You Know the Rules!

Insights

5.12.10

Summer is approaching quickly, so employers should be up-to-speed on the federal Fair Labor Standards Act's child-labor limitations. These rules apply to any employee who is under 18 years old. The regulations are strictly applied; there is little or no room for error; and the U.S. Labor Department takes the requirements seriously.

What the restrictions are depends largely upon how old the person is, *and employers bear the risk of misjudging a minor's age*. If a person is illegally employed because he or she turns out to be younger than the employer thought, it is usually not a defense that:

- The minor "looked" old enough to do the work,
- The circumstances led someone to think the person was old enough, or
- The minor misled the employer about whether he or she was old enough.

The only reliable protection is to have on file a DOL-sanctioned, valid, unexpired age certificate.

The FLSA allows the employment of minors who are at least 16 in any work not falling within one of DOL's 17 "Hazardous Occupations" orders. There is no FLSA limitation upon their times or hours of work.

By contrast, 14- and 15-year-olds may work only in limited occupations. Even then, they may work only within specific total-hours and times-of-day restrictions (including on weekends). They may not work before 7 a.m. or after 7 p.m. (except that they may work until 9 p.m. from June 1 through Labor Day). They may not work more than 3 hours on a school day; 18 hours in a school week; 8 hours on a non-school day; or 40 hours in non-school week.

For the most part, FLSA restrictions do not permit the employment of anyone under 14. There are a few, tightly controlled exceptions, such as delivering newspapers to the consumer.

Some special rules apply to agricultural employment. For example, in particular situations, there are age-12 and age-13 minimums for work outside school hours, provided that a parent gives consent or is employed on the same farm.

Child-labor restrictions must be followed even if the minor is employed as a "favor" to his or her parent, and even if the parent is a supervisor or manager and will oversee what the minor does. An

parent, and even if the parent is a supervisor or manager and will oversee what the minor does. An exception for minors employed outside of manufacturing, mining, or a "hazardous" occupation by a parent or someone standing in the parent's place is extremely narrow and rarely applies.

Furthermore, as an [earlier post](#) underscores, even "interns" can turn out to be employees for these purposes.

The FLSA authorizes civil penalties of up to \$11,000 per illegally-employed minor. For a violation resulting in such an employee's death or serious injury, the penalty can be up to \$50,000 and can double to \$100,000 in the case of a "repeated" or "willful" violation.

Many states and other jurisdictions have stricter limitations. Employers must also take these provisions into account when deciding whether to employ a minor.