

FEDERAL VS STATE LAWS: WHICH APPLY TO MY BUSINESS?

Wyoming employers who hire youth ages 14-17 must comply with either federal or state child labor laws. In almost all cases, Wyoming employers are subject to all federal child labor laws. The federal requirements are discussed in Section A of this brochure.

STATE LAW

Wyoming employers who are not required to comply with federal child labor laws are required to observe the State of Wyoming's child labor laws. Very few Wyoming employers fall under this category. Information regarding employers who fall under state child labor requirements can be found in Section B.

YOUTH EMPLOYED BY PARENTS

It is important to note that minors of any age may be employed by their parents at any time in any occupation on a farm owned or operated by their parents. Minors under 16 may be employed by their parents in occupations *other than* manufacturing or mining, or occupations declared hazardous by the U.S. Secretary of Labor.

Occupations that have been declared hazardous by the Secretary of Labor include:

- working in or around an establishment which manufactures, processes or stores explosives;
- working in or around an establishment which mines or processes coal, radioactive substances;
- those that involve driving a motor vehicle or work as an outside helper;
- forestry, lumber or firefighting fields;
- those that involve the operation of power driven equipment including hoisting apparatuses, meat processing equipment, sanding, drilling, baling, paper processing;
- mining work other than coal; and
- roofing, excavation, wrecking or other demolition operations.

SECTION A: FEDERAL REQUIREMENTS

PURPOSE AND AUTHORITY

To ensure that when young people work, the work does not jeopardize their health, well-being or educational opportunities pursuant to the Fair Labor Standards Act of 1938, as amended.

When employing youth ages 14-17, Wyoming employers are subject to the following child labor requirements:

PROOF OF AGE

Federal law requires employers to have on file the birth dates of all employees under 19 years of age. The acceptable forms of proof of age include:

- 1) A duly attested birth certificate;
- 2) A properly prepared Immigration and Naturalization Form I-9 showing the age of the child;
- 3) Any other document showing the age of the child as approved by the Wyoming Department of Workforce Services.

ALLOWABLE WORK HOURS

Minors ages 14 and 15 are subject to the following requirements regarding work hours:

- 1) May not work more than 3 hours on a school day, and not during school hours.
- 2) May not work more than 18 hours in a school week.
- 3) May not work more than 8 hours on a non-school day.
- 4) May not work more than 40 hours in a non-school week.
- 5) May not work before 7:00 AM or after 7:00 PM (except from June 1 to Labor Day when evening hours are extended to 9:00 PM).

Note: Restrictions on work hours are relaxed for work study programs tailored to 14 and 15 year olds enrolled in Advanced Placement (AP) courses.

PROHIBITED WORK

The following occupations are specifically prohibited for minors ages 14-15:

- 1) Operation of lawn mowers, golf carts, all-terrain vehicles, trimmers, cutters, weed-eaters, edgers.
- 2) "Catching and cooping" all kinds of poultry in preparation for transport or for market.

The following occupations are prohibited for minors ages 14-17:

- 1) Manufacturing and storing of explosives or their components.
- 2) Motor vehicle driving & outside helper on a motor vehicle.
- 3) Logging, and sawmilling operations or power-driven machines.
- 4) Operation of all power-driven machines (ex: food slicers, food grinders, food choppers, food processors, food cutters, food mixers, hoisting apparatuses, forklifts, metal forming, punching, or shearing machines, bakery machines, paper product machines, circular saws, band saws, and guillotine shears).
- 5) Occupations in slaughtering, packing, processing & rendering.
- 6) Any type of mining.
- 7) Manufacturing brick, tile and related products.
- 8) Wrecking, demolition, or ship-breaking.
- 9) Roofing occupations.
- 10) Trenching & excavation Operations.
- 11) Youth peddling, involving the selling of goods or services to customers at locations other than the employer's place of business, such as customer's home or businesses, street corners or subway stations, is specifically banned.

PERMITTED WORK

- Individuals 14 year olds and up may work in retail, food service and gasoline service establishments, as well as other environments such as state and local government, banks,

insurance companies, advertising agencies, and information technology firms.

- Individuals aged 14 and 15 years old may perform "work of an intellectual or artistically creative nature" such as computer programming, the writing of software, teaching or performing as a tutor, serving as a peer counselor or teacher's assistant, singing, playing a musical instrument and drawing.
- Individuals 15 years old and older may work as lifeguards at traditional swimming pools and certain water amusement park attractions such as wave pools, lazy rivers and baby pools and elevated water slides
- Individuals aged 14 and 15 years old may perform work requiring them "to occasionally enter freezers only momentarily to retrieve items."

AGRICULTURE

All questions concerning agricultural employment should be directed to a U.S. Department of Labor (DOL) Office at (866) 487-9243. In farm work, permissible jobs and hours of work, by age, are as follows:

- 1) Youth 16 years and older may perform any job whether hazardous or not, for unlimited hours;
- 2) Youth 14 and up may perform any nonhazardous farm job outside of school hours;
- 3) Youth 12 and 13 years of age may work outside of school hours in nonhazardous jobs, either with a parent's written consent or on the same farm as the parent(s);
- 4) Youth under 12 years of age may be employed outside of school hours, with written parental consent, in nonhazardous jobs on farms where employees are exempt from the minimum wage requirements under the Fair Labor Standards Act.
- 5) Minors of any age may be employed by their parents at any time in any occupation on a farm owned or operated by their parents.

PENALTIES

U.S. DOL has the authority to issue a fine of \$11,000 to an employer for each child labor violation. The fine for an incident that has resulted in a death or serious injury (burn, dismemberment, permanent serious impairment) is \$50,000. The fine is \$100,000 if the incident is a repeat offense or is determined to be willful. The fine for incorrectly paying a minor repeatedly or willfully is \$1,100. Additionally, U.S. DOL can add on a criminal fine of \$10,000 and imprisonment for repeat offenders. In all cases, the upper limit of the fine has been listed; the U.S. DOL has discretion to lower fines in light of mitigating measure or good faith compliance efforts.

MINIMUM WAGE AND OVERTIME PAY

Minors must be paid the full minimum wage and time and one-half for all hours worked over 40 in a workweek, when over 40 hours is allowed.

EXEMPTIONS

Minors under 14 years of age may work as newspaper deliverers, radio performers and on television, motion picture or theatrical productions. Minors 16 years of age may work at any time in any farm job.

SECTION B: STATE REQUIREMENTS

PURPOSE AND AUTHORITY

To protect the health and well-being of minors and their opportunity for education pursuant to W.S.27-6-106 through 27-6-116.

Wyoming employers employing youth ages 14-17, who operate their businesses under very distinct circumstances are exempt from federal child labor laws, but are required to abide by the State of Wyoming's child labor laws. In order to be exempt from federal child labor requirements, a business must operate under all of the following circumstances:

- does not ship or receive goods across the Wyoming border;
- has two or less employees;
- grosses less than \$500,000 in sales; and
- operates on a cash-only basis;

Employers who operate under these circumstances are subject to the following Wyoming labor requirements:

ALLOWABLE WORK HOURS

- 1) No more than 8 hours in any 12-hour period.
- 2) No work before 5:00 am or after 10:00 PM on nights followed by a school day, or after midnight on days which are not followed by a school day.
- 3) Children not enrolled in school may work for an 8-hour period between 5:00 AM and midnight.

HAZARDOUS OCCUPATIONS

The following occupations are prohibited for minors ages 14 and 15:

- 1) The operation of or working on heavy construction equipment.
- 2) Employment requiring contact with or exposure to explosives or dangerous chemicals.
- 3) As an actor or performer in any concert hall or room where alcoholic liquors and malt beverages are sold or given away.
- 4) For any illegal or immoral purposes.
- 5) For any business or in any place, situation, exhibition, or vocation injurious to morals, health, or safety of the child.

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AGRICULTURE

Farm service is exempt from the state child labor laws.

WORK PERMITS

No work permits are required.

EXEMPTIONS

Farm and domestic service are not subject to State law.

A child under 14 years of age may be employed in a non-hazardous occupation outside of school hours by his parents, grandparents or legal guardian, or by a business owned by his parents, grandparents or legal guardian.

PENALTIES

A fine of not more than \$750.00 or imprisonment in the county jail for not more than 100 days, or both.

FEDERAL CONTACT INFORMATION

U.S. DEPARTMENT OF LABOR
Eagle Gate Plaza and Tower
60 East South Temple Street, Suite 575
Salt Lake City, UT 84111-1016

TOLL-FREE HELP LINE

(866) 487-9243
TTY: (877) 899-5627
youthrules.dol.gov

STATE CONTACT INFORMATION

LABOR STANDARDS (CHEYENNE)
5221 Yellowstone Road
Cheyenne, WY 82002
(307) 777-7261
(307) 777-5633 FAX

LABOR STANDARDS (CASPER)
444 West Collins Drive, #1500
Casper, WY 82601
(307) 235-3679
(307) 235-3688 FAX
wyomingworkforce.org

A GUIDE TO CHILD LABOR REQUIREMENTS OF THE FAIR LABOR STANDARDS ACT AND WYOMING LABOR LAWS

