

CHILD LABOR ACT



pennsylvania
DEPARTMENT OF LABOR & INDUSTRY

BUREAU OF LABOR LAW COMPLIANCE

"CHILD LABOR ACT"
Act of 2012, P.L. 1209, No. 151

AN ACT

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Child Labor Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Labor and Industry of the Commonwealth.

"Documentary program." A genre of motion picture program, including programming for television, that depicts or portrays a nonfiction story and may present an opinion or a specific message along with factual material.

"Employ." To hire, permit or allow a minor to work for compensation to the minor or any other person.

"Employer." A person that employs a minor.

"Enforcement officer." Any of the following:

(1) The Secretary of Labor and Industry, a designee who is an employee of the Department of Labor and Industry or an attorney of the Office of General Counsel who is assigned to the department.

(2) A chief school administrator.

(3) A home and school visitor.

(4) An attendance officer appointed under sections 1341 and 1342 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(5) An issuing officer.

(6) A law enforcement officer.

"Establishment." A place within this Commonwealth where work is done for compensation of any kind.

"Fair Labor Standards Act." The Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.).

"Hours of employment." Hours outside school hours established by the appropriate school district, except that the provisions of section 5 shall apply to a minor engaged in a performance.

"Issuing officer." One of the following:

(1) A district superintendent or supervising principal of a public school district or, if a public school district does not have a district superintendent or supervising principal, the secretary of the board of school directors of the district.

(2) An individual authorized in writing by the appropriate individual under paragraph (1) to issue a certificate or permit.

"Minor." An individual under 18 years of age.

"Perform" or "performance." The providing of artistic or creative services to a live audience or recorded for exhibition or broadcast to an audience. This term shall include modeling.

"Person." The Commonwealth, any political subdivision, instrumentality or authority of a political subdivision, an individual, a partnership, a corporation, a nonprofit corporation or an unincorporated association.

"Reality program." A genre of program that principally presents actual events and generally features ordinary people and not professional actors.

"Regular school week." The five days beginning with Monday through Friday when school is in session.

"School vacation." The period of time a minor is not required to be in school as established by the school district where the minor resides. The term does not include Saturdays and Sundays, except where one or more vacation days precede or follow Saturday or Sunday.

"Secretary." The Secretary of Labor and Industry of the Commonwealth or the secretary's designee.

"Volunteer emergency service organization." A volunteer fire company, volunteer ambulance organization, volunteer rescue organization, a volunteer forest firefighting organization or a volunteer organization of emergency service personnel who are expected to respond to medical emergencies or large-scale disasters.

"Work permit." A transferable work permit allowing employment of a minor.

Section 3. Time limitations on employment of minors.

(a) Rest break.--No minor may be employed for more than five hours continuously without an interval of at least 30 minutes for a rest break. No period of less than 30 minutes shall be deemed to interrupt a continuous period of work.

(b) Time restriction.--Except for newspaper delivery under section 14, a minor may not be employed for more than six consecutive days.

(c) Age restriction.--Except as set forth under sections 4(d) and 5, no individual under 14 years of age may be employed.

(d) Hours of employment for minors 14 and 15 years of age.--Except as set forth under subsection (e) and performances under section 5, the hours of employment for individuals 14 and 15 years of age shall be limited as follows:

(1) The minor may not be employed before 7 a.m. or after 7 p.m., except that during a school vacation period a minor shall be permitted to be employed until 9 p.m. The department may promulgate regulations under this paragraph which establish a procedure for an employer that is not subject to the Fair Labor Standards Act to receive an extension until 10 p.m.

(2) The minor may not be employed for more than three hours on a school day or more than eight hours on a day when there is no school.

(3) The minor may not be employed for more than 18 hours during a regular school week.

(4) The minor may not be employed for more than 40 hours during a week when school is not in session.

(5) A minor enrolled in summer school is subject to the limitation set forth in paragraph (3).

(e) Exceptions.--The following exceptions apply to the prohibitions of subsection (d):

(1) Individuals who are at least 14 years of age or older may be employed until 10 p.m. on a farm by a person other than the farmer in the hatching, raising or harvesting of poultry as long as the minor is not working in an agricultural occupation declared hazardous by the United States Secretary of Labor.

(2) Newspaper and periodical delivery under section 14.

(3) Students 14 years of age or older whose employment is part of a recognized school-work program supervised by a recognized school authority may be employed for hours which, combined with the hours spent in school, do not exceed eight hours in a day.

(f) Hours of employment for minors 16 years of age or older.--The hours of employment for minors who are 16 years of age or older are as follows:

(1) When school is in session, an individual who is 16 years of age or older shall be limited as follows:

(i) The minor may not be employed for more than 28 hours per week during a regular school week.

(ii) The minor may not be employed for more than eight hours in a single day.

(iii) The minor may not be employed before 6 a.m. or after 12 midnight, except that during a school vacation period a minor shall be permitted to be employed until 1 a.m.

(2) During a school vacation, an individual who is 16 years of age or older shall be limited as follows:

(i) The minor may not be employed for more than ten hours in a single day.

(ii) The minor may not be employed for more than 48 hours in a single week provided that any hours worked more than 44 in a single week shall be voluntarily agreed to by the minor and further provided that the minor may reject any request for employment in excess of 44 hours in a single week without retaliation.

(3) A minor enrolled in summer school is subject to the limitations set forth under paragraph (1).

(4) An individual who is 16 years of age or older who is employed as a counselor, counselor-in-training or junior counselor during the school vacation period by a summer resident camp or a conference or retreat operated by a religious or scout organization shall receive 24 consecutive hours of rest during every seven-day period. This paragraph does not apply to a minor employed primarily for general maintenance work or food service activities.

(5) This subsection does not apply to a minor who:

(i) is a high school graduate; or

(ii) is exempt from compulsory school attendance requirements under section 1330(1) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(g) Applicability.--This section shall not apply to minors engaging in a performance under section 5.

Section 4. Occupations and establishments.

(a) Prohibition.--Minors may not be employed in the following:

(1) Establishments where alcoholic beverages are produced, sold or dispensed except as follows:

(i) Notwithstanding any other provisions of law, a hotel, restaurant or club liquor licensee or any retail dispenser may allow students receiving instruction in a performing art to perform an exhibition if the students are not compensated and are under proper supervision in accordance with the act of April 12, 1951 (P.L.90, No.21) known as the Liquor Code.

(ii) An individual under 16 years of age may be employed at a continuing-care retirement community, ski resort, bowling alley, golf course, amusement park or other similar recreational establishment where alcoholic beverages are served as long as the individual is not permitted to handle or serve the beverages and is not employed in an area where the beverages are stored or served.

(iii) A minor 16 years of age or older may be employed in that part of the establishment in which alcoholic beverages are not served.

(iv) A minor 16 years of age or older may be employed in a hotel, club or restaurant where alcoholic beverages are served if the employment consists of serving food, clearing tables and related duties, provided that the establishment has a valid permit for Sunday sales issued by the Pennsylvania Liquor Control Board and the minor's duties do not include dispensing or serving alcoholic beverages. Before employing a minor under this subsection, an establishment licensed by the Pennsylvania Liquor Control Board for Sunday sales must submit to the issuing officer a copy of the current valid permit for Sunday sales.

(2) In any occupation or establishment designated as hazardous and otherwise prohibited under the Fair Labor Standards Act and regulations under that act.

(3) As a pilot, fireman or engineer upon a boat or vessel; on a railroad or railway as a track repairman, gate-tender, switch-tender, brakeman, fireman, engineer, motorman or conductor; or in the manufacture of paint, color or white-lead, poisonous dyes or compositions using dangerous lead or acids; and minors under 16 years of age shall not be permitted to strip or sort tobacco, work on scaffolding or work in a tunnel.

(4) An individual under 16 years of age may not be employed or permitted to conduct youth peddling, which entails the selling of goods or services to customers at locations other than the minor-employer's establishment, such as the customers' residences or places of business or public places such as street corners and public transportation stations. Prohibited activities associated with youth peddling not only include the attempt to make a sale or the actual consummation of a sale, but also the preparatory and concluding tasks normally performed by a youth peddler in conjunction with his or her sales, such as the loading and unloading of vans or other motor vehicles, the stocking and restocking of sales kits and trays, the exchanging of cash and checks with the employer and the transportation of minors to and from the various sales areas by the employer. Prohibited youth peddling also includes such promotion activities as the holding, wearing or waving of signs, merchandise, costumes, sandwich boards or placards in order to attract potential customers, except when performed inside or directly in front of the employer's establishment providing the product, service or event being advertised. This paragraph does not prohibit a minor salesperson from conducting sales for his or her employer on property controlled by the employer that is out of doors but may properly be considered part of the employer's establishment. Minors may conduct sales in such employer exterior facilities, whether temporary or permanent, as garden centers, sidewalk sales and parking lot sales, when employed by that establishment. Youth peddling does not include the activities of persons who, as volunteers and without compensation, sell goods or services on behalf of eleemosynary organizations or public agencies.

(b) List.--The department shall publish a list in the Pennsylvania Bulletin which shall constitute hazardous or otherwise prohibited establishments or occupations under this act. The list shall consist of those occupations and establishments prohibited under subsection (a)(2) and those establishments and occupations specifically enumerated as hazardous or prohibited in this act.

(c) Additional occupations.--The department may establish additional prohibited or hazardous occupations or establishments which are not included in subsection (b), through regulation.

(d) Occupations for minors less than 14 years of age.--An individual less than 14 years of age may be employed as follows:

(1) An individual who is at least 12 years of age may be employed as a caddy if the minor does not carry more than one golf bag at a time and employment is not for more than 18 holes of golf in a single day.

(2) An individual who is at least 11 years of age may engage in the delivery of newspapers as set forth under section 14.

Section 5. Employment of minors in a performance.

(a) General rule.--For purposes of this section, a minor is engaged in a performance if:

(1) The minor models or renders artistic or creative expression in a live performance, on the radio, on television, in a movie, over the Internet, in a publication or via any other broadcast medium that may be transmitted to an audience and any person receives remuneration for the performance. Rehearsal for this activity is part of the performance.

(2) The minor participates in a reality or documentary program that expressly depends upon the minor's participation, the minor's participation is substantial and any person receives remuneration for the minor's participation. For the purposes of this subsection:

(i) Remuneration shall include one or more monetary payments, but shall not include reimbursement for expenses incurred by the minor or the minor's family, any prize or goods or services received in connection with the program with a value of less than \$2,500.

(ii) "Substantial" shall mean the minor is a principal subject of the reality or documentary program or the minor participates in the filming of the reality or documentary program for ten or more days in a 30-day period.

(b) Requirements.--No minor may engage in a performance without an entertainment permit issued by the department. A minor may engage in a performance if the minor has an entertainment permit from the department for the length of the performance as provided for in subsection (c) and the following requirements are satisfied:

(1) The performance is not hazardous to the minor's safety or well-being.

(2) The minor's work hours do not exceed those permissible under subsection (d).

(3) For live productions, the minor does not appear in more than three performances in a single day or ten performances in a single calendar week. For purposes of this paragraph, a calendar week shall be Sunday to Saturday.

(4) The performance does not involve:

(i) an act that constitutes sexual abuse or sexual exploitation of minors;

(ii) boxing, sparring or wrestling, except for a bona fide school-related athletic or recognized amateur competition or activity or noncontact portrayal;

(iii) activities having a high level of inherent danger including activities involving speed, height, a high level of physical exertion and highly specialized gear or spectacular stunts;

(iv) an acrobatic act that is hazardous to the minor's safety or well-being;

(v) use of or exposure to a dangerous weapon or pyrotechnical device;

(vi) a hazardous performance, act or exhibition as defined by the department. The department shall publish a list in the Pennsylvania Bulletin which shall constitute prohibited hazardous performances, acts or exhibitions under this section, provided that the department, within three years of such publication, promulgate a regulation setting forth hazardous performances, acts or exhibitions; or

(vii) in any occupation designated as hazardous and otherwise prohibited under the Fair Labor Standards Act.

(5) A parent or guardian of a minor is permitted to be within sight or sound of the minor at all times.

(c) Entertainment permits.--The following shall apply:

(1) An entertainment permit shall be valid for up to six months and may be renewed under this subsection.

(2) The department may charge a fee for each entertainment permit which shall be set through regulation.

(3) An application for an entertainment permit shall:

(i) be made on a form issued by the department and signed by the employer of the minor, if known, and the parent or legal guardian of the minor;

(ii) contain a statement that the facts as set forth in the application are correct subject to the provisions of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities);

(iii) state the legal and professional name of the minor, the date and place of the minor's birth, the name and permanent address of a parent or guardian of the minor, the name of the minor's parent or representative of the parent who will accompany the minor to rehearsals and performances, whether the minor has performed in other states requiring a permit or certificate to perform and whether the permit or certificate was obtained;

(iv) for infants under the age of one month, include written certification from a licensed physician that the infant is physically capable of handling the requirements of the performance;

(v) set forth, for all performances during school hours, accurate information regarding:

- (A) the name and address of the school attended and of the school district where the minor resides;
 - (B) the grade the minor has completed in school;
 - (C) the hours per week the minor attends school; and
 - (D) a verification signed by the principal of the school attended by the minor or the issuing officer of the minor's school district that the performance and rehearsals will not interfere with the educational instruction or school progress of the minor or a guarantee that arrangements are made for a qualified tutor for the minor. If the minor is to be tutored, the application shall set forth the name and address of the tutor, whether the tutor is a certified teacher, the name and address of the school official approving the subjects for tutoring and the tutoring arrangements and the number of hours per week the minor is to be tutored; and
 - (vi) provide any additional requirements set by the department through regulation.
- (4) An appeal of a decision by the department under this subsection must be made to the secretary. The secretary shall hold a hearing on the appeal.
- (5) The work permit requirements of section 9 do not apply to the issuance of permits under this section.
- (6) The department may require by regulation employers employing minors in performances to obtain permits and may charge a fee for such permits.
- (7) The department may waive any or all requirements in this section, with the exception of paragraph (3)(iv) for a performance of one day or less. The department shall indicate any waiver by any written means of communication, including, but not limited to, facsimile or e-mail.
- (d) Working hours for child performers.--The amount of time minors are permitted at the place of employment within a 24-hour period is limited according to age, as follows:
- (1) Infants who have not reached six months of age may be permitted to remain at the place of employment for a maximum of two hours.
 - (2) Minors who have reached the age of six months of age but who have not attained two years of age may be permitted at the place of employment for a maximum of four hours and may work no more than two hours.
 - (3) Minors who have reached two years of age but who have not attained six years of age may be permitted at the place of employment for a maximum of six hours and may work no more than three hours.
 - (4) Minors who have reached six years of age but who have not attained nine years of age may be permitted at the place of employment for eight hours and may work no more than four hours.
 - (5) Minors who have reached nine years of age but who have not attained sixteen years of age may be permitted at the place of employment for nine hours and may not work more than five hours.
 - (6) Minors who have reached sixteen years of age but who have not attained eighteen years of age may be permitted at the place of employment for ten hours and may not work more than six hours.
 - (7) When any minor between 14 and 18 years of age obtains permission from school authorities to work during school hours for a period not to exceed two consecutive days, the working hours for such minor during either or both of such days may be extended to but shall not exceed eight hours in a 24-hour period.
 - (8) Allowable meal periods shall not be counted toward maximum hours permitted at the place of employment nor counted as work time for any purpose. A meal period shall not be less than one-half hour nor more than one hour in length.
 - (9) For minors of school age who have not fulfilled compulsory education requirements and who have a work schedule that requires education while employed as provided in subsection (g), the nonwork time at the place of employment shall include education, rest and recreation.
 - (10) The work day for a minor shall begin no earlier than 5 a.m. and shall end no later than 10 p.m. on evenings preceding school days. On evenings preceding nonschool days, the minor's work day shall end no later than 12:30 a.m. on the morning of the nonschool day.
 - (11) Twelve hours must elapse between the minor's time of dismissal and time of call on the following day. If the minor's regular school starts less than 12 hours after his or her dismissal time, the minor must be schooled the following day at the employer's place of business.
 - (12) With respect to any minor providing services at the minor's residence, this section shall not govern or limit the number of hours the minor is present at the residence, but shall instead apply solely to the hours the minor is providing such services.
- (e) Child performer trust account.--
- (1) An irrevocable child performer trust account or a qualified tuition program established and maintained in accordance with section 529 of the Internal Revenue Code of 1986 (Public Law 99-154, 26 U.S.C. § 529) by this Commonwealth, another state, an agency or instrumentality of this Commonwealth or another state, or by one or more eligible educational institutions shall be established

for a minor if the minor is entitled to receive residuals in accordance with a principal agreement or earnings are anticipated to exceed \$2,500 for the production or if the minor has already earned in excess of \$2,500 in prior employment in performance. A child performer trust account established in another state shall meet the requirements of this subsection.

(2) All of the following govern the child performer trust account or qualified tuition program established under paragraph (1):

- (i) The parent or legal guardian shall establish the account for the benefit of the minor.
- (ii) The parent or legal guardian shall provide to the employer the information necessary to enable the employer to transfer funds into a child performer trust account or qualified tuition program. The information shall be provided on or before the start of paid employment.
- (iii) The employer shall transfer to the child performer trust account not less than 15% of:
 - (A) total compensation prior to all taxes, deductions and commissions payable to the minor or the minor's parent or guardian under contract; or
 - (B) in the case of payment to a third party, total compensation paid to the third party for the minor's services.
- (iv) In the case of employment for 30 days or less, the employer shall transfer the required amount to the child performer trust account or qualified tuition program within 30 days of the final day of employment. Such transfer shall be made in accordance with 20 Pa.C.S. Ch. 53 (relating to Pennsylvania Uniform Transfers to Minors Act).
- (v) In the case of employment for longer than 30 days, the employer shall transfer the required amount to the child performer trust account or qualified tuition program every payroll period. Such transfer shall be made in accordance with 20 Pa.C.S. Ch 53.
- (vi) If the minor's employer has not been notified within 15 days of commencement of employment of the existence of a child performer trust account or a qualified tuition program or no such child performer trust account or tuition program has been established by the minor's parent or guardian, then the minor's employer shall transfer such moneys together with the minor's name and last known address to the State Treasurer for placement into a child performer trust account for the benefit of the minor.
- (vii) Once the transfers have been made to the child performer trust account, tuition program or the State Treasurer's office, the employer has no further duty under this subsection.
- (viii) The employer's obligations under this subsection shall terminate when the minor reaches 18 years of age.
- (ix) There shall be no obligations under this subsection where a minor is emancipated.
- (x) The minor's parent or legal guardian may serve as custodian. If the child performer trust account reaches at least \$150,000 or a higher amount set by the department through regulation, a trust company or independent custodian shall be appointed.
- (xi) Proceeds of the child performer trust account shall remain in trust until the minor reaches at least 18 years of age. Proceeds may be distributed to the minor before 18 years of age only for the minor's legitimate health and educational needs. Proceeds may remain in trust for distribution to the minor after 18 years of age if the parent or guardian determines that it would serve the health, education and financial interests of the minor.

(f) Education.--

(1) An employer employing, either directly or indirectly through a third person, a minor who is guaranteed three or more consecutive days of employment shall provide a teacher or properly qualified private tutor as set forth in the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, who has an instructional certificate issued by the Department of Education, or a teacher with a comparable certificate in the state in which the minor resides. This requirement shall apply beginning on the first day that the minor renders services for that employer and shall continue on each day thereafter that the school of the minor's place of residence is in session and the minor is rendering services. The requirements of this section shall only be applicable when school is in session and the minor is not receiving educational instruction at the minor's school of enrollment due to his employment.

(2) In the event the minor is not guaranteed three or more consecutive days of employment, an employer shall provide a teacher or properly qualified private tutor as set forth in the Public School Code of 1949 who has an instructional certificate issued by the Department of Education, or a teacher with a comparable certificate in the state in which the minor resides on the third day of missed educational instruction through the remainder of the minor's employment on the production.

(3) If there is a hiatus in a production that employs a minor under this section, a teacher or properly qualified private tutor shall be provided to the minor during the hiatus for periods when school is in

session, pursuant to the requirements described in this section, unless the minor is able to attend his school of enrollment.

(4) Where this section requires that an employer provide a teacher or properly qualified private tutor to a minor, the employer shall provide a ratio of at least one teacher or properly qualified private tutor for every ten minors unless the minors are within two grade levels, in which case the employer shall provide a ratio of at least one teacher or properly qualified private tutor for every 20 minors.

(5) School districts shall have the authority, in cooperation with the parent or guardian of the minor, to develop alternative methods by which minors may satisfy their educational requirements at times outside the normal school day. Alternative methods under this paragraph shall be no more restrictive than those set forth in this section.

(g) Waiver.--The department may waive one or more restrictions contained in this section, including, but not limited to, subsection (b)(4)(iii), (iv) and (v), if the department determines the waiver is necessary to preserve the artistic integrity of the performance, will not impair the educational instruction, health or safety of the minor and written permission is obtained from the minor's parent or guardian. The waiver request shall be submitted in writing at least 48 hours in advance of the time needed for the waiver and the department shall approve or reject the waiver.

(h) Foreign nationals.--In the case of a minor who is a foreign national temporarily in the United States and who will not be residing in this Commonwealth for more than 35 days in a calendar year, the requirements of subsections (e) and (f) shall not be applicable provided the employer certifies that the minor has satisfied the educational requirements of the minor's country of citizenship or is being offered access to age-appropriate educational instruction and that the minor's earnings are being paid to the minor or a third party in a manner that ensures conservation of the minor's earnings.

(i) Conflict.--Nothing in this section shall be construed to supersede or repeal:

(1) any provision of this act, unless an entertainment permit is issued in accordance with this section; or

(2) 18 Pa.C.S. § 5903 (relating to obscene and other sexual materials and performances) or 6312 (relating to sexual abuse of children).

(3) Any collective bargaining agreement or any contract that establishes more stringent requirements than those in this act.

(j) Revocation of permit.--The following shall apply:

(1) The department may revoke an entertainment permit if:

(i) there has been a violation of this act related to the employment of the minor in the performance;

(ii) the permit application contained false, misleading or substantially incorrect information or the applicant or minor is no longer performing in accordance with the information provided on the application;

(iii) a condition of issuance of the permit is not being met; or

(iv) there is danger to the minor's health, safety or welfare.

(2) The department may revoke a permit under this section without a prior hearing. Revocation may be appealed to the secretary, who shall conduct a hearing subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action). The revocation shall remain in effect until the secretary issues a decision

(k) Special entertainment permits.--The department may issue entertainment permits required by this section to minors who participate in professional acrobatic performances, irrespective of the limitation in subsection (b)(4)(iv) if the following criteria are met:

(1) The performance is part of a nationally recognized or internationally recognized circus.

(2) Appropriate trained medical personnel are onsite at all performance times.

(3) The minor has a physician's statement of health issued within the previous 12 months.

(4) The employer makes a professional teacher available to all minor performers.

(5) The performances do not involve high-wire or trapeze acts.

(l) Applicability.--This section does not apply to a minor who:

(1) is a high school graduate; or

(2) is exempt from compulsory school attendance requirements under section 1330(1) of the Public School Code of 1949.

Section 6. Sports-attendant services.

(a) General rule.--Section 3(d)(1), (2) and (3) shall not apply to an individual 14 through 15 years of age and section 3(f)(1), and (2) shall not apply to an individual 16 through 17 years of age, if the minor is

employed to perform sports-attendant services at professional sporting events under this section.

(b) Sports-attendant duties.--A minor is employed to perform sports-attendant duties if the minor performs any of the following duties at a baseball, basketball, football, soccer, tennis or similar athletic event:

- (1) Pregame and postgame or practice setup of balls, items and equipment.
- (2) Supplying and retrieving balls, items and equipment during a sporting event.
- (3) Clearing the field or court of debris and moisture during play.
- (4) Providing ice, drinks and towels to players during play.
- (5) Running errands for trainers, managers, coaches and players before, during and after a sporting event.
- (6) Returning or storing balls, items and equipment in clubhouse or locker rooms after a sporting event.

Section 7. Minors serving in volunteer emergency service organizations.

(a) General rule.--An individual who is 14 years of age or older who is a member of a volunteer emergency service organization may participate in training and emergency service activities except as follows:

- (1) A minor may not operate a truck, ambulance or other official fire vehicle.
- (2) A minor may not operate an aerial ladder, aerial platform or hydraulic jack.
- (3) A minor may not use rubber electrical gloves, insulated wire gloves, insulated wire cutters, life nets or acetylene cutting units.
- (4) A minor may not operate the pump of a fire vehicle while at the scene of a fire.
- (5) A minor may not enter a burning structure under any circumstance including a training exercise.
- (6) A minor may not engage in firefighting activities unless all of the following apply:
 - (i) The minor is 16 years of age or older.
 - (ii) The minor has successfully completed a course of training equal to the standards for basic firefighting established by the State Fire Commissioner and the Department of Conservation and Natural Resources.
 - (iii) The minor is under the direct supervision and control of the fire chief, an experienced line officer or a designated forest fire warden.

(b) Additional limitations.--In addition to the limitations set forth under subsection (a), the activities of individuals more than 13 years of age and less than 16 years of age shall be further limited as follows:

- (1) An individual who is more than 13 years of age and less than 16 years of age shall only be permitted to perform the following activities:
 - (i) Training.
 - (ii) First aid.
 - (iii) Cleanup service at the scene of a fire, outside the structure and after the fire has been declared by the fire official in charge to be under control.
 - (iv) Serving food and beverages.
- (2) An individual who is more than 13 years of age and less than 16 years of age may not do any of the following:
 - (i) Operate high pressure hose lines except during training activities. A high pressure hose line is any water hose used for fire suppression with a pressure greater than 150 psi, any air hose with a pressure greater than 100 psi and any hydraulic hose used for rescue tools with a pressure greater than 1,000 psi.
 - (ii) Ascend ladders except during training activities.

(c) Other prohibited activities.--The department may prohibit other activities that it deems hazardous to the health of minors through regulation.

(d) Other provisions.--

- (1) Except as set forth under this subsection, this section does not supersede any other provision of this act or any regulation promulgated under this act.
- (2) A minor may continue serving in answer to a fire call until excused by the individual acting as chief of the fire company if the minor:
 - (i) is 16 years of age or older;
 - (ii) is a member of a volunteer fire company; and
 - (iii) answers a fire call while lawfully employed.
- (3) An individual who is 14 or 15 years of age may engage in training or firefighting activities permitted under this section until 10 p.m. before a school day if the minor:
 - (i) is a member of a volunteer fire company; and
 - (ii) has the written consent of the minor's parent or legal guardian.

Section 8. Duties of employer.

(a) Work permits and parental authorization.--

- (1) Unless a minor has the items listed in paragraph
- (2), a minor may not be employed or permitted to work:
 - (i) in, about or in connection with an establishment; or
 - (ii) in an occupation.
- (2) To be employed, a minor must have all of the following:
 - (i) A work permit.
 - (ii) For individuals who are under 16 years of age, a written statement by the minor's parent or legal guardian acknowledging understanding of the duties and hours of employment and granting permission to work subject to the provisions of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).
- (3) Before employing a minor, an employer shall do all of the following:
 - (i) Verify the work permit under paragraph (2)(i).
 - (ii) Receive the verified statement under paragraph (2)(ii).
- (4) An individual who is more than 16 years of age employed in the distribution, sale, exposing or offering for sale of any newspaper, or any minor who can demonstrate that he is working independently of the newspaper publisher in this work, shall not be required to procure a work permit.

(b) Notification.--The employer shall notify the issuing officer in writing of the employment of a minor and shall detail the normal duties and hours of employment within five days after the beginning of employment and shall include the age and permit number of the minor. On termination of employment of a minor, the employer shall notify the issuing officer within five days of the final day of employment that the minor no longer is employed by the employer.

(c) Posting requirement.--An employer shall post a printed abstract of the sections of this act relating to the hours of labor in a conspicuous place in the establishment.

(d) Records.--An employer shall maintain the following records at the workplace:

- (1) A list of all the minors employed in the establishment.
- (2) A schedule of the hours of labor of the minors listed in subparagraph (ii). The schedule of hours of labor shall contain:
 - (i) the maximum number of hours each minor is required or permitted to work on each day of the week;
 - (ii) the weekly total for each minor; and
 - (iii) the daily hours for commencing and stopping work and for time allowed for meals.
- (3) For each minor, the employer shall keep a copy of the work permit, the original verified permission statement required in subsection (a) and a copy of the letter sent to the issuing officer announcing the employment of the minor.
- (4) An employer shall maintain records for employed minors in compliance with the recordkeeping requirements of the act of January 17, 1968 (P.L. 11, No.5), known as The Minimum Wage Act of 1968, and shall maintain accurate records of the actual days, hours and times of day the minors worked, including breaks.
- (5) An employer shall provide an enforcement officer with access to records kept under this subsection at all reasonable times.

Section 9. Work permit.

(a) Form and content.--

- (1) A work permit shall be issued on a wallet-sized form prescribed by the department. The work permit shall contain the following information related to the minor:
 - (i) Name.
 - (ii) Sex.
 - (iii) Date and place of birth.
 - (iv) Place of residence.
 - (v) Color of hair and eyes.
 - (vi) Any physical work restrictions.
- (2) The work permit shall certify that:
 - (i) the holder has personally appeared before the issuing officer and has been examined;
 - (ii) all papers required by law have been examined, approved and filed; and
 - (iii) all conditions and requirements for issuing a permit have been fulfilled.

- (3) The work permit shall be signed in the presence of the issuing officer by the minor.
 - (4) The work permit shall bear a number, the date of issuance and the signature of the issuing officer.
- (b) Application.--
- (1) Documentation shall be as follows:
 - (i) Except as set forth under subparagraph (ii), the application for a work permit must be verified as follows:
 - (A) The applicant's parent or legal guardian must sign the application.
 - (B) In lieu of a signature under clause (A), the applicant may execute a statement before a notary public or other person authorized to administer oaths attesting to the accuracy of the facts set forth in the application on a form prescribed by the department. The statement shall be attached to the application.
 - (ii) Subparagraph (i) does not apply if the applicant can demonstrate official proof of high school graduation.
 - (iii) The issuing officer shall not issue a work permit until the issuing officer has received, examined, approved and filed the following papers which verify the applicant's age:
 - (A) If proof of age is an official document or record of the Commonwealth or government of another state or governmental subdivision of another state, it need not be filed if the issuing officer records the information necessary to enable the document or record to be located at the place where it is filed. If proof of age is other than an official document or record of the Commonwealth or government of another state or governmental subdivision of another state, the following is the order of preference for acceptable proof under this clause:
 - (I) An attested transcript of the birth certificate, filed according to law with a register of vital statistics or other officer charged with the duty of recording births.
 - (II) A certified baptismal certificate or transcript of the record of baptism showing the date of birth.
 - (III) A passport showing the age of the minor.
 - (IV) Any certified documentary record of age other than a school record or an affidavit of age, which appears to the satisfaction of the issuing officer to be sufficient evidence of age.
 - (V) The signed statement of a physician, physician's assistant or nurse practitioner, approved by the board of school directors, stating that, after examination, it is the opinion of the individual signing the statement that the applicant has attained the age required by law for the occupation in which the applicant expects to engage. The statement must be accompanied by an affidavit signed by the applicant's parent or legal guardian or, if there is no parent or legal guardian, by the applicant's next friend and certifying to the name, date and place of birth of the applicant and that the individual signing the statement is unable to produce any of the proofs of age specified in subclauses (I), (II), (III) and (IV).
 - (B) (Reserved).
 - (2) Examination shall be as follows:
 - (i) Except as set forth under subparagraph (ii), a work permit shall not be issued until the applicant has personally appeared before and has been examined by the issuing officer.
 - (ii) Subparagraph (i) does not apply if the applicant can demonstrate official proof of high school graduation.
 - (c) Issuance.--If all application requirements are met, a work permit shall be issued by an issuing officer unless it is the issuing officer's judgment that the applicant cannot maintain adequate academic achievement if permitted to work during the school year.
 - (d) Revocation.--An issuing officer may revoke a work permit if it is the issuing officer's judgment that the applicant cannot maintain adequate academic achievement if permitted to work during the school year.
 - (e) Cooperation.--The issuing officer shall cooperate with an enforcement officer with investigation and enforcement of this act.

Section 10. Administration.

- (a) Duties of department.--The department has the following powers and duties:
 - (1) Prescribe the forms necessary to implement this act.
 - (2) Promulgate regulations to administer this act.
 - (3) Provide copies of this act and blank forms for compliance with its provisions to employers and prospective employers and place these documents on its Internet website.
- (b) Subpoenas and inspections.--

(1) The secretary or a designee has investigatory subpoena power and may issue a subpoena upon application of an attorney of the Office of General Counsel assigned to the department. Application may be made to the Commonwealth Court to enforce a subpoena. Nothing in this section shall be construed to excuse a person from producing documents and records as requested by the department under any other provision of law.

(2) The department is authorized to obtain information to investigate alleged violations or to determine compliance with this act. This includes entering and inspecting an establishment, including where a performance is being held, at any reasonable time to ascertain the working conditions, interviewing workers and inspecting and obtaining copies of any records, documents or information in any medium that in any way relates to employment of minors or activities governed under this act.

(c) Duties of Department of Education.--The Department of Education shall supply and distribute to school districts all forms necessary for the enforcement of this act.

(d) Duties of school districts.--School districts shall administer applications and issuance of work permits under section 9 and shall notify the department of alleged violations of this act.

(e) Suspected violations of age requirements.--

(1) If an enforcement officer has reason to believe that an individual working without a work permit is a minor or that a minor with a work permit is working in violation of the age restrictions set forth under this act, the officer may demand that the person employing the individual within ten days:

- (i) furnish to the officer proof of age; or
- (ii) cease to employ or permit the individual to work.

(2) Proof of a demand under paragraph (1) and of failure to comply with paragraph (1)(i) constitutes prima facie evidence of the illegal employment of a minor.

(3) Compliance with this subsection does not relieve a person from liability under section 11.

Section 11. Penalties.

(a) Violations.--

(1) A person may not do any of the following:

- (i) Violate this act.
- (ii) Interfere with the functions of an enforcement officer.
- (iii) Compel or permit a minor to violate this act.
- (iv) Fail to provide records under sections 8(d) or 10(b).
- (v) Falsify records under this act.
- (vi) Violate the terms of any permit issued under section 5.

(b) Criminal penalties.--

(1) Except as set forth under paragraph (2), a person that violates subsection (a) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500 for each violation.

(2) A person that, after being sentenced under paragraph (1), violates subsection (a) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,500 for each violation or to imprisonment for not more than ten days, or both.

(c) Administrative penalties.--

(1) Except as set forth under subsection (d), the department may impose an administrative penalty of not more than \$5,000 for each violation of subsection (a).

(2) The department may order a person to take a corrective action which the department deems necessary to address a violation of this act.

(3) This subsection is subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(4) The department may not impose a penalty under this subsection if a person has been sentenced under subsection (b) for an offense arising out of the same conduct which would give rise to a penalty under this subsection.

(d) Multiple prosecution.--Imposition of a criminal, civil or administrative penalty under the Fair Labor Standards Act shall bar prosecution under subsection (a) and imposition of a criminal penalty under subsection (b) or an administrative penalty under subsection (c) if the same conduct constitutes the basis of the Federal action and the basis of the prosecution under subsection (a) or the administrative penalty under subsection (b).

Section 12. Employment of minors in student-learner and apprenticeship programs.

A minor may be employed in a work experience and career exploration program, an apprenticeship program and a school-to-work program to the extent permitted by regulations promulgated under this act and not prohibited by the Fair Labor Standards Act.

Section 13. Exclusions.

(a) Domestic service.--This act shall not apply to employment of a minor in domestic service in or about the private home of a parent or guardian, to baby-sitting and to performance of minor chores in or about a private home of the employer. Minor chores shall:

(1) Include lawn care, snow shoveling and residential chores performed by minors on a casual or infrequent basis.

(2) Exclude activities otherwise prohibited by the department in regulations promulgated under this act and activities or occupations designated as hazardous and otherwise prohibited under the Fair Labor Standards Act and regulations promulgated under that act.

(b) Agricultural employment.--Agricultural employment which is exempt from coverage of the child labor provisions of the Fair Labor Standards Act shall be exempt from coverage of this act.

Section 14. Newspaper delivery.

(a) Delivery.--A minor engaged in newspaper delivery may be employed for seven consecutive days in a week.

(b) Delivery and sale.--Individuals who are at least 11 years of age may be employed in the delivery and street sale of newspapers after 5 a.m. and before 8 p.m., except that during the school vacation period a minor shall be permitted to be employed until 9 p.m. This paragraph does not apply to the hauling of newspapers to drop centers, newsstands or distribution centers.

(c) Work permit.--An individual who is more than 16 years of age employed in the distribution, sale, offering for sale of any newspaper, or any minor who can demonstrate that he is working independently of the newspaper publisher, shall not be required to procure a work permit.

Section 29. Repeal.

This act and the rules and regulations adopted under this act shall repeal the act of May 13, 1915 (P.L.286, No.177), known as the Child Labor Law, and replace all parts of acts that are inconsistent with this act. Until modified or deleted by the department, the current regulations on the child labor law shall be the regulations of the department.

Section 30. Effective date.

This act shall take effect in 90 days.