

# LEGAL ISSUES

After extensive input from Kentucky school districts and other local stakeholders, in 2006 the Kentucky Board of Education (KBE) amended 704 KAR 3:305 ([www.lrc.ky.gov/kar/704/003/305.htm](http://www.lrc.ky.gov/kar/704/003/305.htm)) to establish new minimum high school graduation requirements to ensure that a system of high standards and high expectations are put in place for all students. At the heart of that action was the need to ensure every student persists to graduation—proficient and prepared to succeed at the next level of education and career. With the flexibility provided in the manner in which credits may be earned and how learning may be credentialed, performance-based credit offers an alternative to the traditional Carnegie-unit seat-time model. As school districts foster new learning environments that have greater capacity to engage the disengaged and to stretch the learning of every student, credit bearing work-based opportunities such as internships, cooperative learning experiences, and other school district supervised experiences in the school and community deserve serious consideration. As that process is launched, school districts are well-advised to first address key legal issues.

When looking at the relationship that exists between employers and employees, it is important to know and understand state and federal statutes and regulations that protect various aspects of the employment relationship, including wage and hour laws, child labor laws, safety and health laws, and workers' compensation. These are the primary areas highlighted in this chapter. State and federal documents are included as a reference at the end of this chapter.

Prior to placing any student in a work-based learning environment, it is important to become familiar with both state and federal requirements. This chapter provides information about both the state and federal laws that could impact work-based learning experiences. **It is also important to keep in mind that when both state and federal laws apply, in general the more stringent of the two must be followed.** This will ensure that all work-based learning efforts are operated within the guidelines of the law.

It is the responsibility of each administrator, principal, or director to be aware of and in compliance with all legal aspects related to student employment. It is the direct responsibility of the teacher/coordinators to promote compliance with all state and federal laws and regulations in the placement of students in work-based programs. This chapter provides guidelines for program operation and addresses a variety of requirements from equal access to labor laws. Guidelines will briefly outline key areas that need to be explored prior to implementing a work-based learning experience. This chapter is intended to facilitate discussions that need to take place before putting a student in an actual work-

based learning setting. The information is provided to inform **all responsible school personnel** of various legal issues. For the safety of all involved, when exploring work-based learning sites, only those sites that are in compliance with all existing laws should be considered.

### **Employer-Employee Relationship**

Activities occurring in the workplace that do not involve the performance of work are not “employment” subject to the state and federal wage and hour and child labor laws. Some examples of these activities include career awareness and exploration, a field trip to a worksite, an employer and or employee classroom presentation and job shadowing whereby a student performs no work but follows and observes an employee in his or her daily activities. Students under age 14 may participate in the education and training activities specified above; **however, employment subject to state and federal laws cannot be a part of their work-based learning experience.**

Any work-based learning experience that creates an employment relationship must be in compliance with both state and federal child labor laws and wage and hour laws. An employee is defined by Kentucky law as “any person employed by or suffered or permitted to work for an employer.” Kentucky law defines an employer as “any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee.” ([www.lrc.ky.gov/KRS/337-00/010.htm](http://www.lrc.ky.gov/KRS/337-00/010.htm)) Deciding whether an employer-employee relationship exists depends upon all the circumstances surrounding the relationship and must be looked at very closely to make an accurate determination.

803 KAR 1:005 ( [www.lrc.ky.gov/kar/803/001/005.htm](http://www.lrc.ky.gov/kar/803/001/005.htm)) goes into detail outlining an employer-employee relationship and specifically addresses whether trainees and student-trainees are subject to the wage and hour laws. In order to determine whether an employment relationship exists, all factors surrounding the work-based learning experience have to be reviewed and evaluated according to the following set of criteria. When all six components of the criteria apply to a work-based learning experience, an employment relationship **does not exist**; therefore, the wage and hour and child labor laws would not apply to that particular experience. If all six components of the criteria do not apply to a work-based learning experience, an employment relationship **does exist**; therefore, the wage and hour and child labor laws would apply to that experience. The six criteria relating to trainees and student-trainees are as follows:

1. The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;
2. The training is for the benefit of the trainees or students;
3. The trainees or students do not displace regular employees, but work under their close observation;

4. The employer who provides the training derives no immediate advantage from the activities of the students or trainees, and on occasion, his operation may actually be impeded;
5. The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and
6. The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

Even in the absence of an employment relationship, it is very important to closely monitor the activities of the student to assure that a safe working environment is maintained. It is important to remember that the safety of the student and individuals working in close proximity to the student is the most important factor in effective work-based learning.

### **Hours Restrictions**

Once it has been determined that an employment relationship exists, there are certain restrictions on the employment of minors. The state's restrictions on hours are divided into two categories. There are specific hours restrictions for 14 and 15 year olds and there are other restrictions for 16 and 17 year olds. The state's hours restrictions are detailed in 803 KAR 1:100 ([www.lrc.state.ky.us/kar/803/001/100.htm](http://www.lrc.state.ky.us/kar/803/001/100.htm)) and are as follows:

#### 14 and 15 year olds may work...

- Outside school hours (a minor who is enrolled in a school supervised and administered work experience or career exploration program may work during school hours if the employment does not interfere with the minor's schooling, health or well-being)
- No more than 3 hours a day Monday through Friday when school is in session
- No more than 8 hours a day on Saturday and Sunday when school is in session
- No more than 18 hours total in any week in which school is in session
- No more than 8 hours a day and up to 40 hours total in any week in which school is not in session
- Between the hours of 7 a.m. and 7 p.m. (between June 1 and Labor Day they may work as late as 9 p.m.)

#### 16 and 17 year olds may work...

- No more than 6 hours a day Monday through Friday when school is in session
- No more than 8 hours a day on Saturday and Sunday when school is in session
- No more than 30 hours total in any week in which school is in session (except that a minor may work up to forty (40) hours in any one (1) work week if a parent or legal guardian gives permission in writing, and the principal or head of the school the minor attends certifies in writing that the minor has maintained at least a 2.0 grade point average in the most recent grading period. School certification shall be valid for one (1) year unless revoked sooner by the school authority. The parental permission and school certification shall remain at the employer's place of business.)
- No earlier than 6 a.m. when school is in session
- No later than 10:30 p.m. on school nights (Sunday through Thursday evening) when school is in session
- No later than 1 a.m. on Friday and Saturday nights when school is in session

## CHAPTER 1: LEGAL ISSUES

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- Unlimited hours when school is out of session

The definition of school in session is that time as established by local school district authorities pursuant to KRS 160.290 ( [www.lrc.state.ky.us/KRS/160-00/290.PDF](http://www.lrc.state.ky.us/KRS/160-00/290.PDF)). If a minor is required to be in school for any day or portion of a day, school is in session for the day and the entire week for purposes of child labor compliance.

The U.S. Department of Labor has the same hours restrictions for 14 and 15 year olds; however, they do not have any hours restrictions for 16 and 17 year olds.

### **Hazardous Duties**

In addition to the hours restrictions for minors, there are some occupations and specific job duties that have been declared too hazardous for minors to perform at a place of employment. The Hazardous Occupations (HOs) are as follows:

HO 1	Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components
HO 2	Motor vehicle driver and outside helper
HO 3	Coal mine occupations
HO 4	Logging or sawmill operations
HO 5 *	Operation of power-driven woodworking machines, including those of saws on construction sites
HO 6	Exposure to radioactive substances
HO 7	Operation of power-driven hoisting apparatus, including the use of fork lifts, cranes and nonautomatic elevators
HO 8 *	Operation of power-driven metal forming, punching and shearing machines (HO 8 does permit the use of a large group of machine tools used on metal, including lathes, turning machines, milling machines, grinding, boring machines and planing machines)
HO 9	Mining, other than coal
HO 10 *	Slaughtering, meat packing, processing, or rendering, including the operation of power-driven meat slicers in retail stores
HO 11	Operation of bakery machines
HO 12 *	Operation of paper products machines, including the operation and loading of scrap paper balers in grocery stores
HO 13	Manufacture of brick, tile and kindred products
HO 14 *	Operation of circular saws, band saws, and guillotine shears
HO 15	Wrecking, demolition, and shipbreaking operations
HO 16 *	Roofing operations
HO 17 *	Excavating operations
HO 18	In, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption or dispensed
HO 19	Pool or billiard room

The U.S. Department of Labor has declared that the occupations from HO 1 through HO 17 are hazardous for employees under the age of 18 to perform. Hazardous Orders with a \*

notation contain exemptions for 16 and 17 year old apprentices and student learners provided they are employed under the conditions outlined in Child Labor Bulletin 101 which can reviewed at [www.dol.gov/esa/regs/compliance/whd/childlabor101.pdf](http://www.dol.gov/esa/regs/compliance/whd/childlabor101.pdf).

In addition to the 19 Hazardous Occupations listed above, 14 and 15 year olds **are not allowed to work in the following occupations or specific duties:**

- Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or workplaces where goods are manufactured, mined or otherwise processed
- Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines
- Operation of motor vehicles or service as helpers on such vehicles
- Public messenger service
- Occupations in connection with the transportation of persons or property by rail, highway, air, water, pipeline, or other means
- Occupations in connection with warehousing and storage
- Occupations in connection with communications and utilities
- Construction (including demolition and repair)
- Work performed in or about boiler or engine rooms
- Work in connection with the maintenance or repair of the establishment, machine or equipment
- Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes
- Cooking and baking
- Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery type mixers
- Work in freezers and meat coolers and all work in preparation of meats for sale
- Loading and unloading goods to and from trucks, railroad cars or conveyers
- All occupations in warehouses except office and clerical work

### **Proof of Age**

In the state of Kentucky, work permits are not required for the employment of individuals under the age of 18 (minors). Employers are however required to keep on file proof of age for each minor as outlined in KRS 339.450 ([www.lrc.ky.gov/KRS/339-00/450.PDF](http://www.lrc.ky.gov/KRS/339-00/450.PDF)). The employer should obtain a copy of a birth certificate, a driver's license or another official government document stating the date of birth for the minor to satisfy the state's proof of age requirement.

### **Recordkeeping**

KRS 339.400 ([www.lrc.ky.gov/KRS/339-00/400.PDF](http://www.lrc.ky.gov/KRS/339-00/400.PDF)) requires that employers employing minors keep a record of the names, ages, and addresses of each minor, along with the time of the commencing and stopping of work for each day, and the time of the beginning and ending of the daily meal period. The employer is also responsible for posting the child labor laws in a conspicuous place for all minors to view. KRS 337.320 (<http://www.lrc.state.ky.us/KRS/337-00/320.PDF>) requires employers to maintain time and payroll records for all employees for one year from the date of entry.

### **Lunch Breaks**

KRS 339.270 ([www.lrc.ky.gov/KRS/339-00/270.PDF](http://www.lrc.ky.gov/KRS/339-00/270.PDF)) states that employees under the age of 18 are not permitted to work more than five hours continuously without at least a thirty minute uninterrupted lunch break. A lunch break of anything less than thirty minutes does not satisfy the requirement. Minors do not have the opportunity to waive the required lunch break. It is important to reemphasize that it is the employer's responsibility to document the beginning and ending time of the minor's lunch break.

### **Miscellaneous**

Minors who are participating in a work-based learning experience which is determined to be an employment relationship are entitled to minimum wage for the hours worked for the employer pursuant to KRS 337.275 ([www.lrc.ky.gov/KRS/337-00/275.PDF](http://www.lrc.ky.gov/KRS/337-00/275.PDF)). Kentucky's minimum wage was increased to \$5.85 an hour on June 26, 2007 with a built-in incremental change to \$6.55 an hour beginning July 1, 2008 and \$7.25 an hour beginning July 1, 2009. Minors are also entitled to the other wage and hour protections afforded to adult employees such as overtime, rest breaks, timely payment of wages, a statement of deductions, etc.

This chapter is for informational purposes only. Due to statutory and regulatory changes, administrative proceedings, court decisions, and legal opinions, the information contained herein is subject to change. For current information on the child labor and wage and hour laws, please contact the following agencies:

Kentucky Labor Cabinet  
Division of Employment Standards, Apprenticeship and Mediation  
1047 U.S. 127 South, Suite 4  
Frankfort, Kentucky 40601  
502-564-3534

United States Department of Labor  
ESA Wage and Hour Division  
Gene Snyder US Courthouse and Customhouse, Room 31  
601 West Broadway  
Louisville, Kentucky 40202-9570  
502-582-5226

### **Safety and Health Laws**

While implementing work-based learning experiences it is important to remember that the safety and health of the student is of paramount importance. Each party involved must take every step necessary to ensure that students are participating in safe learning environments.

A Kentucky Occupational Safety and Health Program is established by Chapter 338 (<http://www.lrc.state.ky.us/KRS/338-00/CHAPTER.HTM>) of the Kentucky Revised Statutes.

In 1973, the U.S. Department of Labor approved Kentucky's plan for providing job safety and health protection for workers across the state; therefore, in the state of Kentucky, the enforcement authority for all occupational safety and health laws is housed within the Kentucky Labor Cabinet.

Employers are required to provide each employee a place of employment free from recognized hazards that are causing or are likely to cause death, illness, or serious physical harm to any employee. Occupational safety and health standards are in effect to achieve this end result.

Parties interested in finding out specifics about the safety and health standards that are applicable can call:

Division of Education and Training  
Kentucky Occupational Safety and Health Program  
Kentucky Labor Cabinet  
1047 U.S. 127 South, Suite 4  
Frankfort, Kentucky 40601  
(502) 564-3536

### **Workers' Compensation Laws**

Prior to placing a student in a work-based learning experience, it is imperative that the issues related to workers' compensation be reviewed. Chapter 342 of the Kentucky Revised Statutes (<http://www.lrc.state.ky.us/KRS/342-00/CHAPTER.HTM>) requires employers with one or more employees to purchase workers' compensation insurance to cover an employee's income loss that occurs because of a work related injury. It is worth noting that it is the employer's responsibility to acquire and pay for the insurance coverage for each and every employee.

Work-based learning experiences will take a variety of forms. Depending upon the specifics of each instance, a determination can be made as to whether an employer is required to obtain the insurance coverage for a particular student. For example, it is clear that if a student is in a paid employment situation, the insurance requirement is applicable, whereas, if a student is strictly an observer and is not an employee of the establishment, the law does not require workers' compensation coverage for that student.

Because of the complexity of the issues related to workers' compensation, specific questions need to be directed to:

Office of Workers' Claims  
Kentucky Labor Cabinet  
657 Chamberlin Avenue  
Frankfort, Kentucky 40601  
502-564-5550

### **Work-Based Learning and Insurance**

Liability issues include such areas as insurance, workers' compensation, and safety. It is critical that students, employers, school districts, and staff involved in work-based programs have accidental and liability coverage prior to students' placement at the work sites.

Three general categories of liability issues include the student's transportation to and from the work site, the time spent at the work site, and safety at the work site. Transportation insurance must be provided to cover transportation to and from the worksite. If the school is transporting the student by school bus, then school bus coverage applies. The same is true if the employer provides transportation. If a student drives to and from a work site, the student's personal or family insurance is to provide the necessary coverage.

Students may have coverage for accidental death and dismemberment as well as accidental medical expense benefits that will pay when other insurance is not available or does not respond for whatever reason. Students involved in impaid work experience with an employer-employee relationship are to be covered under the employer's Workers' Compensation Coverage. The student's coverage would respond in those instances involving non-paid work experience.

Student's participation in a non-paid work-based learning program at work sites away from the school campus will need to be covered under a specific insurance policy that is provided by the school district.

In addition to insurance and workers' compensation, the workplace needs to provide adequate, safe equipment and a safe, healthful workplace in conformity with health and safety standards congruent with federal/state laws. The workplace environment is to provide all other safeguards identified by the Kentucky Labor Cabinet.

Please refer to the Work-Based Learning Liability Checklist in this chapter, pages 1-17 and 1-18.

## **Other Legislation Impacting Work-Based Learning**

Carl D. Perkins Career & Technical Education Act of 2006 (PL 109.270)

### **Sec. 2. PURPOSE.**

The purpose of this Act is to develop more fully the academic and career and technical skills of secondary education students and postsecondary education students who elect to enroll in career and technical education programs by---

- (1) building on the efforts of States and localities to develop challenging academic and technical standards and to assist students in meeting such standards, including preparation for high wage, or high demand occupations in current or emerging professions;
- (2) promoting the development of services and activities that integrate rigorous and challenging academic and career and technical instruction, and that link secondary education and postsecondary education for participating career and technical education students;
- (3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve career and technical education, including tech prep education;
- (4) conducting and disseminating national research and disseminating information on best practices that improve career and technical education programs, services, and activities;
- (5) providing technical assistance that---
  - a. promotes leadership, initial preparation, and professional development at the state and local levels; and
  - b. improves the quality of career and technical education teachers, faculty, administrators, and counselors;
- (6) supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries; and
- (7) providing individuals with opportunities throughout their lifetimes to develop, in conjunction with other education and training programs, the knowledge and skills needed to keep the United States competitive.

### **Sec. 3. DEFINITIONS**

**Career and Technical Education.**---The term 'career and technical education' means organized education activities that---

- (A) offer a sequence of courses that---
  - (i) provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;
  - (ii) provides technical skill proficiency, an industry-recognized credential, certificate, or an associate degree; and
  - (iii) may include prerequisite courses (other than a remedial course) that meet the requirements of this subparagraph; and
- (B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability

## CHAPTER 1: LEGAL ISSUES

---

skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

### Section 121

Each eligible agency desiring assistance from this legislation is required to develop a State Plan and submit to the U.S. Department of Education, Office of Vocational and adult Education

Section 134 stipulates that an eligible recipient desiring financial assistance under this part shall in accordance with requirements established by the eligible agency submit a local plan. Each local plan shall:

- (1) describe how the career and technical education programs required under section 135(b) will be carried out with funds received under this title;
- (2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 113;
- (3) describe how the eligible recipient will---
  - a. offer the appropriate courses of not less than 1 of the career and technical programs of study described in section 122(c)(1)(A);
  - b. improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education programs to ensure learning in career and technical education subject
  - c. provide students with strong experience in, and understanding of, all aspects of an industry;
  - d. ensure that students who participate in such career and technical education programs are taught to the same coherent and rigorous content aligned with challenging academic standards as are taught to all other students; and
  - e. encourage career and technical education students at the secondary level to enroll in rigorous and challenging courses in core academic subjects (as defined in section 9101 of the Elementary and Secondary Education Act of 1965);
- (4) describe how comprehensive professional development (including initial teacher preparation) for career and technical education, academic, guidance, and administrative personnel will be provided that promotes the integration of coherent and rigorous content aligned with challenging academic standards and relevant career and technical education (including curriculum development);
- (5) describe how parents, students, academic and career and technical education teachers, faculty, administrators, career guidance and academic counselors, representatives of tech prep consortia (if applicable), representatives of the entities participating in activities described in section 117 of the Public Law 105-220 (if applicable), representatives of business (including small business) and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of career and technical education programs assisted under this title, and how such individuals and entities are effectively informed about, and assisted in understanding, the requirements of this title, including career and technical programs of study;

- (6) provide assurances that the eligible recipient will provide a career and technical education program that is of such size, scope, and quality to bring about improvement in the quality of career and technical education programs;
- (7) describe the process that will be used to evaluate and continuously improve the performance of the eligible recipient;
- (8) describe how the eligible recipient will---
  - a. review career and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations;
  - b. provide programs that are designed to enable the special populations to meet the local adjusted levels of performance; and
  - c. provide activities to prepare special populations, including single parents and displaced homemakers, for high skill, high wage, or high demand occupations that will lead to self-sufficiency;
- (9) describe how individuals who are members of special populations will not be discriminated against on the basis of their status as members of the special populations;
- (10) describe how funds will be used to promote preparation for non-traditional fields;
- (11) describe how career guidance and academic counseling will be provided to career and technical education students, including linkages to future education and training opportunities; and
- (12) describe efforts to improve---
  - a. the recruitment and retention of career and technical education teachers, faculty, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and
  - b. the transition to teaching from business and industry.

### **Section 135. Local Uses of Funds**

Eligible recipients are to develop a local plan for the use of funds provided through this legislation. The Act identifies required and permissive use of funds.

Required uses of Funds are:

1. Strengthen the academic and career and technical skills of students participating in CTE programs through the integration of academics with CTE programs.
2. Link CTE at the secondary level and the postsecondary level, including by offering the relevant elements of not less than one program of study described in Section 122 (c)(1)A
3. Provide students with strong experience in and understanding of all aspects of an industry, which may include work-based learning experiences.
4. Develop, improve or expand the use of technology in career and technical education, which may include
  - a. Training to use technology
  - b. Providing students with the skills needed to enter technology fields
  - c. Encouraging schools to collaborate with technology industries to offer internships and mentoring programs.
5. Provide in-service and pre-service professional development programs to teachers, faculty, administrators and career guidance and academic counselors who are involved in integrated CTE programs on topics including:
  - a. Effective integration of academic and CTE
  - b. Effective practices to improve parental and community involvement

## CHAPTER 1: LEGAL ISSUES

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- c. Effective teaching skills based on research
- d. Effective use of scientifically based research and data to improve instruction  
Professional development should also ensure that teachers and personnel stay current with all aspects of an industry; involve internship programs that provide relevant business experience; and train teachers in the effective use and application of technology.
6. Develop and implement evaluations of the CTE programs carried out with Perkins funds, including an assessment of how the needs of special populations are being met.
7. Initiate, improve, expand and modernize quality CTE programs, including relevant technology.
8. Provide services and activities that are of sufficient size, scope, and quality to be effective.
9. Provide activities to prepare special populations, including single parents and displaced homemakers who are enrolled in CTE programs, for high-skill, high-wage or high-demand occupations that will lead to self-sufficiency.

Having met the nine requirements, local educational agencies have options of using funds for programs and services identified in a permissive category. (Section 153 (c))

Components of the local plan including Work-Based Learning are to:

- Be based on current and/or emerging occupation.
- Show continuous improvement in students academic and technical skills
- Show and provide equitable access for students to participate in career and technical education work-based learning according to section 427 of the General Education Provisions Act (gender, race, color, national origin, disability or age)
- Not discriminated on the basis of race, gender, color, national origin, disability or age.
- Provide opportunities for students attending private, religious or home schools to participate in career and technical programs and activities.
- Identify that funds made available under the Act may be used to pay for the costs of career and technical education services required in an Individualized Education Program developed pursuant to Section 614(d) of the Individuals with Disabilities Education Act or to Section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to career and technical education. [Section 324(c)]

### Equal Access Legislation

Discrimination on the basis of race, color, national origin, sex, and disability is prohibited in CTE programs, activities, and employment. The civil rights statutes and regulations apply in career and education programs. Discrimination is prohibited in admission, recruitment, academic requirements, financial and employment practices; nonacademic services or activities; and health, welfare, and social services. Such legislation includes:

1. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in any program or activity receiving federal financial assistance. The Department of Education issued directions for implementing Title VI. For additional information, contact local school district regarding plans for implementing Title VI per KRS 344.015. <http://www.ed.gov/policy/rights/reg/ocr/index.html>
2. Title VII of the Civil Rights Act of 1964 prohibits the use of an individual's race, color, religion, national origin, or sex as a basis for compensation, terms, condition, or privileges of employment where there are 15 or more employees ---344.040 of the Kentucky Civil Rights <http://www.eeoc.gov/policy/vii.html>

3. The Kentucky Civil Rights Act, KRS Chapter 344 prohibits the use of an individual's race, color, religion, national origin, sex, familial status, age forty (40) and over, or because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as a basis for compensation, terms, conditions, or privileges of employment where there are eight or more employees -344.040. Therefore, the Kentucky law is more stringent than the federal law. (amended 1994) <http://kchr.ky.gov/about/kycivilrightsact.htm>
4. Age Discrimination in Employment Act of 1967 protects employees 40 years of age or older. The law prohibits age discrimination in hiring, discharge, pay, promotions and other terms and conditions of employment. <http://www.eeoc.gov/policy/adea.html>
5. Equal Pay act of 1963 protects men and women who perform substantially equal work in the same establishment (sex-biased wage discrimination). <http://www.eeoc.gov/policy/epa.html>
6. Wage Discrimination Because of Sex, KRS 337.420 to 337.433 and KRS 337.990 (14) The employer is prohibited from discriminating between employees of opposite sexes in the same establishment by different wage rates for comparable work on jobs which have comparable requirements. <http://www.lrc.state.ky.us/KRS/337-00/423.PDF>
7. Title IX is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. (1972). <http://www.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html>

The Office for Civil Rights issued guidelines for elimination, discrimination, and denial of service in vocational education programs and activities on the basis of race, color, national origin, sex, and disability in eligibility and admission requirements to all programs and activities. Compliance reviews and surveys of enrollments are required for all education. <http://www.ed.gov/about/offices/list/ocr/docs/vocre.html>

### **Americans with Disabilities Act of 1990**

1. Title I, Employment covers all aspects of employment, including the application process and hiring, on-the-job training, advancement wages, benefits and employer-sponsored social activities.
2. Title II, Public Service and Transportation prohibits state and local governments from discriminating against disabled people in their programs and activities. It requires bus and rail transportation to be accessible to disabled passengers. Airline transportation and public school transportation are not covered under Title II. In addition, the Individuals with Disabilities Education Act (IDEA) presents specific requirements for public school transportation of children with disabilities.
3. Title III, Public Accommodations prohibits privately operated accommodations (i.e., inns, hotels, motels, restaurants, bars, motion picture houses, theaters, stadiums, auditoriums, convention centers, lecture halls, bakeries, grocery stores, clothing stores, hardware stores, shopping malls, laundromats, dry cleaners, banks, barber shops, beauty shops, travel services, shoe repair shops, funeral parlors, gas stations, lawyer offices, pharmacies, insurance offices, health care providers, hospitals, terminals, depot or other stations, museums, libraries, galleries, parks, zoos, amusement parks, nurseries, and PRIVATE elementary, secondary, undergraduate or post graduate schools) from denying goods, programs, and services to people based on their disabilities. Among these are private bus lines and hotel vans. Airline transportation is not covered under Title III.
4. Title IV, Telecommunications requires telephone companies to provide continuous voice transmission relay services that allow hearing and speech impaired people to communicate over the telephone. Federal funded television public service messages must be close-captioned for hearing impaired viewers.

## CHAPTER 1: LEGAL ISSUES

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5. Title V, Other Provisions include miscellaneous provisions such as accessibility standards for architects and transportation boards, attorneys' fees, technical assistance and it is specific that currently illegal drug users are not protected under the act.

[http://www.workworld.org/wwwwebhelp/americans\\_with\\_disabilities\\_act\\_ada\\_.htm](http://www.workworld.org/wwwwebhelp/americans_with_disabilities_act_ada_.htm)

### **Rehabilitation Act of 1973 (revised 1998) PL 105-569**

Section 503 of the Rehabilitation Act of 1973 prohibits discrimination and requires employers with federal contracts or subcontracts that exceed \$10,000 to take affirmative action to hire, retain, and promote qualified individuals with disabilities. All covered contractors and subcontractors must also include a specific equal opportunity clause in each of their nonexempt contracts and subcontracts.

Section 504 of the Rehabilitation Act of 1973 states that "no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under "any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service." Each Federal agency has Section 504 regulations that apply to its own programs as well as any entities that receive Federal Aid.

<http://www.ed.gov/policy/speced/leg/rehabact.doc>

### **Technical Assistance**

The offices of Work Force Development Cabinet and the Department of Education have designees to provide technical assistance regarding the various federal and state laws for civil rights.

### **Equal Educational Opportunity Coordinators (Updated ) -( -%&)**

#### **Education Cabinet**

(502) 564-3548  
Division of Human Resources  
2<sup>nd</sup> Floor Capital Plaza Tower  
Frankfort, KY 40601

#### **Department of Education (KDE)**

(502) 564-3716  
Room 1623, Capital Plaza Tower  
Frankfort, KY 40601

#### **Office of Career and Technical Education**

(502) 564-4286  
Room 2007, Capital Plaza Tower  
Frankfort, KY 40601

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(502) 564-5360  
2nd Floor CHR Building  
275 East Main Street  
Frankfort, KY 40621

**Kentucky Adult Education**

(502) 573-5114  
1024 Capital Center Drive  
Frankfort, KY 40601

**Office of Vocational Rehabilitation**

(502) 564-4440  
2nd Floor CHR Building  
275 E. Main Street (Mail Stop 2EK)  
Frankfort, KY 40621

**Office for the Blind**

(502) 564-4754  
2nd Floor CHR Building  
275 E. Main Street (Mail Stop 2EJ)  
Frankfort, KY 40621

**Commission of Deaf and Hard of Hearing**

(502) 573-2604  
632 Versailles Road  
Frankfort, KY 40601

**Americans with Disability Act**

(502) 564-3850  
State ADA Coordinator  
Room 215 Capital Plaza Tower  
Frankfort, KY 40601

**Section 504 Rehabilitation Act**

(502) 564-4286  
Room 2015, Capital Plaza Tower  
Frankfort, KY 40601

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(502) 564-4970  
Room 1910 or 1815, Capital Plaza Tower  
Frankfort, KY 40601

### **Individuals with Disabilities Education Act (IDEA) PL 108-446**

IDEA is a federal law that outlines rights for students with disabilities who require special education and related services as part of their educational program. IDEA first went into effect in 1975 as the Education of All Handicapped Children Act (PL 94-142). Prior to 1975, millions of students with disabilities were excluded from public school. The purpose of the 1975 law was to guarantee students with disabilities access to a Free Appropriate Public Education (FAPE) by ensuring that they were properly evaluated and placed in special education, in a setting appropriate to their needs.

Education for students with disabilities has dramatically changed over the past 30 years. The emphasis of the law has also changed, from one of ensuring school access to an emphasis on improving educational outcomes. The 2004 IDEA Reauthorization requires that States improve student outcomes in a variety of areas, such as proficiency on statewide assessments, graduation and dropout rates, and parent satisfaction. However, no outcome is ultimately more important than whether students with disabilities are achieving post-secondary success after graduation from high school.

Schools and parents begin considering post-secondary issues through a process called secondary transition. In Kentucky, secondary transition begins for students with disabilities in the eighth grade and no later than at age fourteen (and younger if appropriate). The student's educational plan, known as the Individualized Education Program (IEP), contains a statement of the student's transition service needs that is similar to a course of study. By looking at the student's needs in middle school, the process of putting educational services in place begins early enough to assist the student in making a successful transition to adult life.

By age sixteen, the student must have transition assessments resulting in transition goals on the IEP. The IEP transition goals must be measurable and related to employment, training, education and, if appropriate, independent living skills. The IEP must also contain transition services including specialized instruction or related services in order for the student to reach the IEP goals. Outside agencies have a critical role in assisting schools in providing appropriate transition services when the student reaches the age of sixteen.

IDEA also requires that students be invited to meetings in which the statement of transition services is developed. In Kentucky, students must also be invited to meetings in which the statement of transition service needs is addressed on the IEP when the student is in the eighth grade or turns fourteen. The gradual inclusion of students in the IEP decision-making process leads the student to be prepared to make his or her own decisions when reaching the age of eighteen.

More information on Individuals with Disabilities Education Act (IDEA) can be found at the federal statute (<http://idea.ed.gov/download/statute.html>) (20 USC §1400 *et al*). The federal regulations are located at 34 CFR 300 *et al* (<http://idea.ed.gov/download/finalregulations.pdf>) with the corresponding state regulations at 707 KAR Chapter 1 (<http://www.lrc.ky.gov/kar/TITLE707.HTM>).

## WORK-BASED LEARNING LIABILITY CHECKLIST

This information has been prepared to provide guidance to individuals responsible for implementing work-based learning. Accident and liability insurance coverage are essential for the protection of students, staff, and employers. However, there are various options available to provide such coverage. It is the responsibility of school district staff and participating employers to ensure that adequate insurance is provided.

### I. Students participating in work-based learning

Participation of a student in work-based learning activities is contingent upon coverage of accident insurance. This coverage may be provided through school insurance purchased by the student or personal family insurance. Students being covered by personal family insurance must provide a certificate of insurance to school staff to certify in writing they have personal/family insurance and that the insurance will be active for the entire period of the student participation in the work-based learning activity.

Administrative Regulation 780 KAR 2: 110 authorizes “the Commissioner for the Department of Technical Education to provide medical and accident insurance for students enrolled in the state secondary area technology centers.” This policy is to be a full access policy and is to serve as a secondary provider of insurance. Kentucky TECH means the system of state-operated secondary technical education programs <http://www.lrc.state.ky.us/kar/780/002/110.htm>

### II. Checklist

- \_\_\_\_\_ 1. Students participating in work-based learning activities such as cooperative education and internship must be covered by accident insurance. This coverage may be provided through school insurance purchased by student or personal family insurance. Students being covered by personal family insurance must provide a certificate of insurance to school staff to certify that they have personal/family coverage.
- \_\_\_\_\_ 2. All students participating in paid work-based learning are to be covered by Workers’ Compensation Insurance (KRS 342.620) while on the job.
- \_\_\_\_\_ 3. Students participating in non-paid work-based learning are not covered by Workers’ Compensation. These students must be covered by parental health insurance, student accident insurance, or group coverage by the school per paragraph 1.
- \_\_\_\_\_ 4. Work sites must provide liability insurance and certify to the schools that they have such coverage.

## CHAPTER 1: LEGAL ISSUES

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- \_\_\_\_\_ 5. Students driving to a work-based learning site must provide proof of valid driver's license and auto liability insurance.
- \_\_\_\_\_ 6. Students being transported to the work site by a vehicle owned by the school board are to be covered by the provisions of the insurance coverage of the local school board.
- \_\_\_\_\_ 7. In addition to insurance and Workers' Compensation, the workplace needs to provide adequate and safe equipment and a safe, healthy workplace in conformity with health and safety standards congruent with federal/state laws.
- \_\_\_\_\_ 8. Training Plans/Agreements are to be reviewed for completeness, signed by all parties, and a copy kept on file at the school.
- \_\_\_\_\_ 9. It is recommended that school/district policies determine the need for a criminal background check for the individual who will serve as a work site supervisor/mentor for students participating in work-based learning.

# KENTUCKY CHILD LABOR LAWS



## HOURS OF WORK PERMITTED FOR MINORS 14 BUT NOT YET 18 YEARS OF AGE

AGE	MAY NOT WORK BEFORE	MAY NOT WORK AFTER	MAXIMUM HOURS WHEN SCHOOL IS IN SESSION	MAXIMUM HOURS WHEN SCHOOL IS NOT IN SESSION
14 & 15 Yrs.	7:00 A.M.	7:00 P.M. (9:00 P.M. June 1 through Labor Day)	3 Hours per day on a school day 8 Hours per day on a nonschool day 18 Hours per week	8 Hours per day 40 Hours per Week
16 & 17 Yrs.	6:00 A.M.	10:30 P.M. preceding a school day/1:00 A.M. preceding a nonschool day	6 Hours per day on a school day 8 Hours per day on a nonschool day *30 Hours per week (see asterisk below)	NO RESTRICTIONS

\* A minor 16 or 17 years of age cannot work more than thirty (30) hours in any one (1) workweek when school is in session, except that a minor may work up to forty (40) hours in any one (1) workweek if a parent or legal guardian gives permission in writing and the principal or head of the school the minor attends certifies in writing that the minor has maintained at least a 2.0 grade point average in the most recent grading period. School certification shall be valid for one (1) year unless revoked sooner by the school authority. The parental permission and school certification shall remain at the employer's place of business.

Minors under 18 years of age shall not be permitted to work more than five (5) hours continuously without an interval of at least thirty (30) minutes for a lunch period. The beginning and ending of the lunch period shall be documented by the employer.

Definitions: Section 1. (1) "School in session" means that time as established by local school district authorities, pursuant to KRS 160.290.

Minors 14 but not yet 16 years of age may NOT be employed in: Any manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in workrooms or workplaces where goods are manufactured, mined, or otherwise processed; occupations which involve the operation or tending of hoisting apparatus or any power-driven machinery other than office machines; operation of motor vehicles or service as helpers on such vehicles; public messenger service; occupations in connection with: Transportation of persons or property by rail, highway, air, water, pipeline, or other means, warehousing and storage, communications and public utilities, construction (including demolition and repair).

### OCCUPATIONS PROHIBITED FOR ALL MINORS UNDER 18 YEARS OF AGE

- Occupations in or about Plants or Establishments Manufacturing or Storing Explosives or Articles Containing Explosive Components.
- Motor-vehicle Driver and outside helper on a motor vehicle.
- Coal Mine Occupations.
- Logging or Sawmill Operations.
- Operation of Power-Driven Woodworking machines.
- Exposure to Radioactive Substances.
- Power-driven hoisting apparatus, including forklifts.
- Operation of Power-Driven Metal Forming, punching, and shearing machines.
- Mining, other than coal mining.
- Operating power-driven meat processing equipment, including meat slicers and other food slicers, in retail establishments (such as grocery stores, restaurants, kitchens and Delis), wholesale establishments, and most occupations in meat slaughtering, packing, processing, or rendering.
- Operation of Power-driven bakery machines including vertical dough or batter mixers.
- Power-driven paper products machines including scrap paper baler and cardboard box compactors.
- Manufacturing bricks, tile, and kindred products.
- Power-driven circular saws, band saws, and Guillotine shears.
- Wrecking, demolition, and shipbreaking operations.
- Roofing operations and all work on or about a roof.
- Excavating Operations.
- In, about or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption or dispensed unless permitted by the rules and regulations of the Alcoholic Beverage Control Board (except they may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted).
- Pool or Billiard Room.

### PROOF OF AGE REQUIRED FOR MINORS 14 BUT NOT YET 18 YEARS OF AGE Drivers License, Birth Certificate, Government Document with Date of Birth

#### FOR FURTHER INFORMATION CALL:

Kentucky Department of Labor  
Division of Employment Standards,  
Apprenticeship and Training  
1047 U.S. HWY 127 South, Suite 4  
Frankfort, Kentucky 40601-4381  
Phone (502) 564-3070 Fax (502) 564-2248  
Website: [www.labor.ky.gov](http://www.labor.ky.gov)

"No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Department of Labor."



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## Ley de Labor para Menores en Kentucky

### Horas de trabajo permitidas para menores de 14 años y que no han cumplido los 18 años de edad

EDAD	NO DEBE TRABAJAR ANTES DE	NO DEBE TRABAJAR DESPUES DE	HORAS MAXIMAS CUANDO LA ESCUELA ESTA EN SESION	HORAS MAXIMAS CUANDO LA ESCUELA NO ESTA EN SESION
14 Y 15 AÑOS	7:00AM	7:00PM (9:00PM del 1 de Junio hasta el día de la labor)	3 horas por día en un día de escuela 8 horas por día en un día de no escuela 18 horas por semana	8 horas por día 40 horas por semana
16 Y 17 AÑOS	6:00AM	10:30PM noche anterior a día de escuela 1:00AM noche anterior a un día de no escuela	6 horas por día en un día de escuela 8 horas por día en un día de no escuela *30 horas por semana (mirar asterisco debajo)	NO RESTRICCIONES

\*Un menor de 16 o 17 años de edad no debe trabajar mas de 30 horas a la semana cuando la escuela esta en sesión, a excepción de un menor que puede trabajar 40 horas en una semana y que los padres o guardianes le hayan dado permiso por escrito para trabajar las 40 horas; además, el director o cabeza principal de la escuela a la cual el menor asiste debe hacer una certificación escrita de que el menor mantiene por lo menos un promedio académico de 2.0 en el reporte de calificaciones mas reciente. Esta certificación escolar debe ser valida por un año a menos que las autoridades escolares la suspendan antes. El permiso de los padres o guardianes y la certificación escolar debe permanecer en el lugar de negocios del empleador.

A menores de 18 años de edad no se les debe permitir trabajar más de 5 horas continuas sin un intervalo de por lo menos 30 minutos de almuerzo.

Definiciones: Sección 1. (1) "Escuela en Sesión" significa que el tiempo establecido por las autoridades distritales de la escuela local sigue a la KRS 160.290.

Menores de 14 años que no llegan a los 16 años de edad no deben ser empleados en: ninguna fabrica, mina, u ocupación de procesos, incluyendo ocupaciones que requieren la realización de funciones en cuartos de trabajo o lugar de trabajo donde los productos son fabricados, explotados, o procesados; ocupaciones que envuelvan la operación o atención de aparatos o de levantamientos o ninguna maquina de poder que no sea maquinas de oficina; operación de vehículos de motor o como ayudante con esos vehículos; servicio de mensajero publico; ocupaciones conectadas con: transportación de personas o propiedades por tren, autopista, aire, aguas, tuberías, u otros almacenes y almacenamientos, comunicaciones y utilidades publicas, y construcciones (incluyendo demoliciones y reparaciones).

#### Ocupaciones Prohibidas para todos los menores de 18 años de edad

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1) Ocupaciones cerca de plantas o establecimientos de fábricas o almacenes de explosivos, o artículos que contengan componentes explosivos.</li> <li>2) Conductor de vehículos de motor y ayudante de conductor.</li> <li>3) Ocupaciones en minas de carbón.</li> <li>4) Operaciones de troncos/maderas o aserraderos.</li> <li>5) Operaciones de maquinarias de poder que trabajen con madera.</li> <li>6) Exposición a sustancias radioactivas.</li> <li>7) Operación de aparatos de poder.</li> <li>8) Operación de maquinas de poder de formación de metales, perforadoras, y cortadoras.</li> <li>9) Minas, otras que no sean de carbón.</li> <li>10) Matanza, procesamiento, o empacamiento de carnes.</li> <li>11) Operación de maquinarias de horno.</li> <li>12) Operación de maquinarias de productos de papel.</li> </ol> | <ol style="list-style-type: none"> <li>13) Fabricación de ladrillos, techos, pisos, paredes, y productos parecidos.</li> <li>14) Operación de serruchos circulares, serruchos de bandas, y tijeras de guillotina.</li> <li>15) Operaciones de destrucción, demolición, y rompimiento de barcos.</li> <li>16) Operaciones de techos.</li> <li>17) Operaciones de excavaciones.</li> <li>18) Dentro, cerca, o en conexión con cualquier establecimiento donde bebidas alcohólicas están siendo destiladas, rectificadas, mezcladas, manufacturadas, embotelladas, y vendidas para consumo o distribución, a menos que sea permitido por las reglas y regulaciones del panel de control de bebidas alcohólicas (excepto que los menores deben ser empleados en lugares donde la venta de bebidas alcohólicas por paquetes es irrelevante al negocio principal del empleador).</li> <li>19) Cuarto de mesa de billar.</li> </ol> |
|---|--|

**Prueba de edad es requerida a menores de 14 años y los que aun no cumplen 18 años de edad**

Para mas información contacte al:

KENTUCKY DEPARTMENT OF LABOR  
DIVISION OF EMPLOYMENT STANDARDS, APPRENTICESHIP AND TRAINING  
1047 US HWY 127 S STE 4  
FRANKFORT, KY 40601-4381  
PHONE (502)564-3070 FAX (502)564-2248  
[www.labor.ky.gov](http://www.labor.ky.gov)

PONGA ESTA ORDEN DONDE TODOS LOS EMPLEADOS PUEDAN LEERLA  
Pagada con recursos del estado

"Ningún individuo en los Estados Unidos debe, por motivos de raza, color, religión, sexo, nacionalidad, origen, edad, incapacidad, partido político, o creencia, ser excluido de participar en, o ser negado de los beneficios de, o ser sujeto a discriminación en, ningún programa o actividad en la jurisdicción del Departamento de Trabajo de Kentucky"



# WAGE DISCRIMINATION BECAUSE OF SEX



(KRS 207.140 to 207.240 - KRS 337.420 to 337.433 and KRS 337.990 (14))

## DEFINITIONS

### EMPLOYEE-

Any individual employed by any employer, including but not limited to individuals employed by the State or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.

### EMPLOYER-

A person who has two or more employees within the State in each of twenty or more calendar weeks in the current or preceding calendar year and an agent of such a person.

### WAGE RATE-

All compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the Executive Director in regulations issued under this Act.

## PROHIBITION OF THE PAYMENT OF WAGES BASED ON SEX:

The employer is prohibited from discriminating between employees of opposite sexes in the same establishment by paying different wage rates for comparable work on jobs which have comparable requirements. This prohibition covers any employee in any occupation in Kentucky. Any employer violating this Act shall not reduce the wages of any employee in order to comply with the Act.

No employer can discharge or discriminate against any employee for the reason that the employee sought to invoke or assist in the enforcement of the Act.

## EXEMPTIONS FROM COVERAGE:

A differential paid through an established seniority system or merit increase system is permitted by the Act if it does not discriminate on the basis of sex.

Employers subject to the Fair Labor Standards Act of 1938, as amended, are excluded "when that act imposes comparable or greater requirements than contained" in this Act. However, to be excluded, the employer must file with the Executive Director of the Kentucky Office of Workplace Standards a statement that he is covered by the Fair Labor Standards Act of 1938, as amended.

## ENFORCEMENT OF LAW AND POWER TO INSPECT:

The Executive Director or his authorized agent has the power to enter the employer's premises to inspect records, compare character of work and operations of employees, question employees, and to obtain any information necessary to administer and enforce this Act. The Executive Director or his authorized representative may examine witnesses under oath, and require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to this Act. If a person fails to obey a subpoena, the Circuit Court of the Judicial District wherein the hearing is being held may issue an order requiring the subpoena to be obeyed. Failure to obey the court order may be punished as contempt of that court.

## COLLECTION OF UNPAID WAGES:

Any employer who violates this Act is liable to the employee or employees affected in the amount of the unpaid wages. If the employer violates this Act willfully, he is liable for an additional equal amount as liquidated damages. The court may order other appropriate action, including reinstatement of employees discharged in violation of this Act.

The employee or employees affected may maintain an action to collect the amount due. At the written request of any employee, the Executive Director may bring any legal action necessary to collect the claim for unpaid wages in behalf of the employee.

An agreement between an employer and employee to work for less than the wage to which such employee is entitled will not bar any legal action or voluntary wage restitution.

## STATUTE OF LIMITATIONS:

Court action under this Act may be commenced no later than six months after the cause of action occurs.

## POSTING OF LAW:

All employers subject to the Act shall post this abstract in a conspicuous place in or about the premises wherein any employee is employed.

## PENALTIES:

Any person who discharges or in any other manner discriminates against an employee because such employee has:

- made any complaint to his employer, the Executive Director or any other person, or
- instituted or caused to be instituted any proceeding under or related to this Act, or
- testified or is about to testify in any such proceedings, shall be assessed a civil penalty of not less than \$100 nor more than \$1,000.

## FOR FURTHER INFORMATION CONTACT:

Kentucky Department of Labor  
Division of Employment Standards,  
Apprenticeship and Training  
1047 U.S. HWY 127 South, Suite 4  
Frankfort, Kentucky 40601-4381

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# DISCRIMINACIÓN DE SALARIO DEBIDO A SEXO

[KRS 337.420 y KRS 337.990(14)]

## **DEFINICIONES:**

### **EMPLEADO**

Cualquier individuo empleado por cualquier empleador, incluyendo pero no limitado a individuos empleados por el Estado o cualquiera de sus subdivisiones políticas, funcionalidades, o funcionalidades de subdivisiones políticas.

### **EMPLEADOR**

Una persona que tiene dos o más empleados dentro del Estado por veinte o más semanas del año en curso o del año precedente o un agente de tal persona.

### **TASA DE SALARIO**

Todas las compensaciones del empleo, incluyendo pagos de salario y sumas pagadas por los empleadores en beneficio del empleado, como ha sido definido por el Comisionado en regulaciones emitidas por esta Acta.

## **PROHIBICIÓN DE PAGOS Y SALARIOS QUE ESTEN BASADOS EN SEXO:**

Se prohíbe que el empleador discrimine entre empleados de sexo opuesto en el mismo establecimiento pagando diferentes tasas de salario por trabajo comparable o por trabajo que tienen requerimientos comparables. Esta prohibición cubre cualquier ocupación en Kentucky. Cualquier empleador que viole esta Acta no deber reducir salarios con el objeto de cumplir con esta Acta. Ningún empleador podrá despedir o discriminar en contra de ningún empleado por razones que el empleado haya tratado de convocar o ayudar en la aplicación de esta Acta.

## **EXCEPCIONES DE CUBRIMIENTO:**

Un pago diferencial establecido por el sistema de antigüedad o de mérito es permitido por esta Acta siempre que no sea discriminatorio sobre la base de sexo. Empleadores que están regidos por las Normas de Trabajo Equitativo (Fair Labor Standards) Acta de 1938, con modificaciones, están excluidos "Cuando aquella acta impone requerimientos comparables o mayores que los especificados" en esta Acta. Sin embargo, para ser excluido, el empleador deber registrar con el Comisionador de Normas del Trabajo del Departamento de Kentucky (Commissioner of the Kentucky Department of Workplace Standards) una declaración indicando que él está protegido por las Normas de Trabajo Equitativas de 1938 (Fair Labor Standards Act of 1938) con sus modificaciones.

## **EJECUCIÓN DE LA LEY Y DEL DERECHO DE INSPECCIÓN:**

El Comisionado o su agente autorizado tiene el poder de entrar a las premisas del empleador para inspeccionar los registros, comparar la clase de trabajo y operaciones de los empleados, y de obtener cualquier información necesaria para la administración y aplicación de esta Acta. El Comisionado o su representante autorizado puede interrogar testigos bajo juramento, y demandar legalmente (subpoena) la concurrencia y testimonio de testigos y la producción de cualquiera documentación de evidencia relacionada con la materia de cualquiera investigación en cumplimiento de esta Acta. Si una persona no obedeciera a la demanda legal (subpoena), la Corte del Circuito (Circuit Court) del distrito judicial en el cual el proceso se está llevando a cabo puede emitir una orden demandando que la citación legal (subpoena) sea obedecida. La falta de obediencia a la orden de la Corte podrá a ser castigada como un desafío (contempt) a esa Corte.

## **COBRANZA DE SALARIOS QUE NO SE HAYAN PAGADO:**

Cualquier empleador que haya violado esta Acta tiene la responsabilidad del empleado o de los empleados afectados por la suma de salarios no pagados. En el caso que empleador haya violado intencionalmente esta Acta, él es entonces responsable por una suma adicional igual a la suma a los daños incurridos. La Corte puede ordenar otra acción apropiada, incluyendo la reincorporación de empleados despedidos en violación de esta Acta.

El empleado o los empleados afectados pueden instituir una acción para cobrar la suma adeudada. Sobre la base de una solicitud por escrito de cualquier empleado, el Comisionado puede, en representación del empleado, ejecutar cualquiera acción legal necesaria para cobrar la demanda por salarios no pagados.

Un acuerdo entre un empleador y empleado para trabajar por menos que el salario al cual el empleado tiene derecho no impide una acción legal o voluntaria de restitución de salarios.

## **LIMITACIONES LEGALES:**

La acción legal sobre la base de esta Acta debe ser iniciada en no más de seis meses después que la razón por esta acción haya ocurrido.

## **EXHIBICIÓN DE LA LEY:**

Todos los empleadores sujetos a esta Acta deberán exhibir este abstracto en un lugar visible, cercano, o en la premisa donde el empleado ha sido contratado.

## **PENALIDADES:**

Cualquiera persona que actúa, o en cualquier forma discrimina, en contra de un empleado debido a que el empleado haya:

- a) Hecho cualquiera queja a su empleador, al Comisionado, o a cualquiera otra persona, o
- b) Instituido o haya causando ser instituido de cualquier procedimiento contemplado o relacionado con esta Acta, o
- c) Haya testificado o que esté por testificar en cualquiera de tales procedimientos,

se le asignará una multa civil de no menos de \$100, pero no mayor de \$1000.



Para mayor información dirigirse a:

**Kentucky Department of Labor**  
**Division of Employment Standards, Apprenticeship and Training**  
**1047 U. S. HWY 127 S., STE 4**  
**Frankfort, KY 40601-4381**  
**Teléfono: (502)564-3070**  
**FAX: (502) 564-2248**  
[www.labor.ky.gov](http://www.labor.ky.gov)

**EXHIBA ESTA ORDEN DONDE TODOS LOS EMPLEADOS PUEDAN LEERLA**

Pagado con fondos del Estado

*\*Ningún individuo en los Estados Unidos, sobre la base de raza, color, religión, sexo, nacionalidad de origen, edad, incapacidad física, afiliación política o creencia, podrá ser excluido de gozar o de negarle beneficios, o ser sometido a discriminación en cualquier programa o actividad bajo la jurisdicción del Departamento del Trabajo (Labor Department).*

# KENTUCKY WAGE AND HOUR LAWS



## POST THIS ORDER WHERE ALL EMPLOYEES MAY READ

### MINIMUM WAGE:

Minimum wage rates and effective dates are as follows: \$5.85 per hour effective June 26, 2007, \$6.55 per hour effective July 1, 2008, and \$7.25 per hour effective July 1, 2009. Should the federal minimum wage rate as prescribed by 29 U.S.C. Section 206(a)(1) be higher, Kentucky's minimum wage rate will adjust to match the federal rate.

### OVERTIME:

No employer shall employ any employee for a workweek longer than forty hours unless such employee receives compensation for employment in excess of forty hours in a workweek at a rate of not less than one and one-half times the hourly rate employed. This section does not apply to employees of retail stores engaged in work connected with selling, purchasing and distributing merchandise, wares, goods, articles or commodities, or to employees of restaurant, hotel and motel operations, to employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in section 213(b)(1), 213(b)(10) and 213(b)(17) of Title 29, U.S.C. (KRS 337.285 Sec. (2)(d), (2)(e) and (4) County Employees).

### EXEMPTIONS:

Minimum Wage (KRS 337.275) and Overtime (KRS 337.285) do not apply to: the following list of employees: (1) Any individual employed in agriculture; (2) Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the Executive Director; (3) Any individual employed by the United States; (4) Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one domestic servant regularly employed; (5) Any individual classified and given a certificate by the Executive Director of Workplace Standards showing a status of handicapped worker or sheltered workshop employee under administrative regulations promulgated by the Executive Director of Workplace Standards; (6) Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars for the five preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of the employer's immediate family; (7) Any individual employed as a babysitter in the employer's home or as a companion by a sick, convalescing or elderly person or by the person's immediate family, to care for that sick, convalescing or elderly person and whose principal duties do not include housekeeping; (8) Any individual engaged in the delivery of newspapers to the consumer; (9) Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees; (10) Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven months in any calendar year; (11) Any employee whose function is to provide 24 hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected and abused and who are in the care of private nonprofit childrearing facilities licensed by the Cabinet for Health and Family Services under KRS Chapter 199; or (12) Any individual whose function is to provide 24 hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health and Family Services to provide adult foster care. (KRS 337.101(2))

### TIPPED EMPLOYEES:

Any employee engaged in an occupation in which more than \$30 dollars per month is customarily and regularly received in tips, the employer may pay a minimum of \$2.13 per hour if the employer's records can establish for each week where credit is taken, when adding the tips received to wages paid, not less than the minimum wage is received by the employee. Subsequently, the tipped rate will adjust in accordance with the federal minimum tipped rate as prescribed by 29 U.S.C. Sec. 206(a)(1). No employer shall use all or part of any tips or gratuities received by employees toward the payment of the minimum wage. (KRS 337.275(2)) No employer shall require an employee to remit to the employer any gratuity, or any portion thereof, except for the purpose of withholding amounts required by federal or state law. No employer shall require an employee to participate in a tip pool whereby the employee is required to remit to the pool any gratuity, or any portion thereof, for distribution among employees of the employer. Employees may voluntarily enter into an agreement to divide gratuities among themselves. The employer may inform the employees of the existence of a voluntary pool and the customary tipping arrangements of the employees at the establishment. Upon petition by the participants in the voluntary pool, and at the employer's own option and expense, an employer may provide custodial services for the safekeeping of funds placed in the pool if the account is properly identified and segregated from the other business records and open to examination by pool participants. (KRS 337.065)

### RECORDS:

Every employer subject to the provisions of the Kentucky Minimum Wage Law shall make and preserve records containing the following information: (a) Name, address, and Social Security Number of each employee; (b) Hours worked each day and each week by each employee; (c) Regular hourly rate of pay; (d) Overtime hourly rate of pay for hours in excess of forty hours in a workweek; (e) Additions to cash wages at cost, or deductions (meals, board, lodging, etc.) from stipulated wages in the amount deducted, or at cost of the item for which deductions are made; (f) Total wages paid for each workweek and date of payment. Such records shall be kept on file for at least one year after entry. No particular form or order is prescribed for these records provided that the information required is easily obtainable for inspection purposes. (KRS 337.320)

### REST PERIODS:

No employer shall require any employee to work without a rest period of at least ten (10) minutes during each four (4) hours worked except those employees who are under the Federal Railway Labor Act. This shall be in addition to the regularly scheduled lunch period. No reduction in compensation shall be made for hourly or salaried employees. (KRS 337.365)

### LUNCH PERIODS:

Employers, except those subject to the Federal Railway Labor Act, shall grant their employees a reasonable period for lunch, and such time shall be as close to the middle of the employee's scheduled work shift as possible. In no case shall an employee be required to take a lunch period sooner than three (3) hours after the work shift commences, nor more than five (5) hours from the time the work shift commences. This section shall not be construed to negate any provision of a collective bargaining agreement or mutual agreement between the employee and employer. (KRS 337.355)

### PAYMENT OF WAGES:

Any employee who leaves or is discharged from employment shall be paid in full all wages or salary earned not later than the next normal pay period following the date of dismissal or voluntary leaving or fourteen (14) days following such date of dismissal or voluntary leaving whichever last occurs. (KRS 337.055)

### UNLAWFUL FOR EMPLOYER TO WITHHOLD WAGES:

No employer shall withhold from any employee's wages any part of the agreed wage rate; unless (a) the employer is required to do so by local, state, or federal law; or (b) when a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital, or medical dues; or (c) other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute; or (d) deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employees or their representatives. No employer shall deduct the following from the wages of employees: (a) Fines; (b) Cash shortages in a common money till, cash box or register used by two (2) or more persons; (c) Breakage; (d) Losses due to acceptance by an employee of checks which are subsequently dishonored if such employee is given discretion to accept or reject any check; or (e) Losses due to defective or faulty workmanship, lost or stolen property, damage to property, default of customer credit or nonpayment for goods or services received by the customer if such losses are not attributable to employee's willful or intentional disregard of employer's interest. (KRS 337.060)

### TIME AND A HALF FOR WORK DONE ON SEVENTH DAY OF WEEK:

Any employer who permits any employee to work seven days in any one workweek shall pay the rate of time and a half for the time worked on the seventh day. The above shall not apply in any case in which the employee is not permitted to work more than forty hours during the workweek; or to telephone exchanges having less than five hundred subscribers; stenographers, bookkeepers or technical assistants of professions such as doctors, accountants, lawyers and other professions licensed under the laws of this state; employees subject to the Federal Railway Labor Act and seamen or persons engaged in operating boats or other water transportation facilities upon navigable streams; persons engaged in icing railroad cars; common carriers under the supervision of the Department of Vehicle Regulation; and any officer, superintendent, foreman or supervisor whose duties are principally limited to directing or supervising other employees. (KRS 337.050)

### PERFORMANCE BONDS:

Except for employers who have been doing business in the state for five (5) consecutive years, every employer engaged in construction work, or the severance, preparation, or transportation of minerals, shall furnish on a form prescribed by the Executive Director a performance bond to assure the payment of all wages due from the employer. Surety for the bond shall be an amount of money equal to the employer's gross payroll operating at full capacity for four (4) weeks. (KRS 337.200)

### ADDITIONAL INFORMATION:

Kentucky Department of Labor  
Division of Employment Standards,  
Apprenticeship and Training  
1047 U.S. HWY 127 South, Suite 4  
Frankfort, Kentucky 40601-4381  
Phone (502) 564-3070 Fax (502) 564-2248  
Website: [www.labor.ky.gov](http://www.labor.ky.gov)

**"No individual in the United States shall, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any program or activity under the jurisdiction of the Kentucky Department of Labor."**



# LEYES DEL SALARIO Y PAGO POR HORA EN EL ESTADO DE KENTUCKY

EXHIBA ESTA ORDEN DONDE TODOS LOS EMPLEADOS PUEDAN LEERLA

**SALARIO MINIMO** –La tarifa y fechas tomaran lugar en las siguientes fechas: \$5.85 por hora a partir del 26 de Junio del 2007, \$6.55 por hora a partir del 1 de julio del 2008, y \$7.25 por hora a partir del 1 de Julio del 2009. Si la tarifa federal de salario mínimo preescrita por el Código de los estados Unidos Sección 206 (a) (1) es mas alta, la tarifa de salario mínimo en Kentucky se ajustara a la tarifa federal

**TIEMPO EXTRA** – Ningún empleador deberá emplear trabajadores por una jornada semanal de trabajo de mas de cuarenta horas, a menos de que el trabajador reciba compensación por trabajar mas de cuarenta horas en una semana a una tarifa no menos de hora y media por cada hora extra contratada. Esta sección no se aplica a trabajadores de tiendas de menudeo involucrados con trabajo relacionado a ventas, compras y distribución de mercancías, bienes y artículos de consumo, o a trabajadores en operaciones de restaurantes, hoteles o moteeles, tampoco se aplica a los trabajadores que se encuentren clasificados y exentos de la provisión de tiempo extra como lo define el Acta de Normas Equitativas del Trabajo (Fair Labor Standards Act) en sus secciones 213 (b) (1), 213 (b) (10) y 213 (b) (7) del Titulo 29, U.S.C. (KRS 337.285)

**EXCEPCIONES** – Ninguna parte en KRS 337.275 y en KRS 337.285 se aplicara a: (1) Cualquier individuo empleado en agricultura, (2) cualquier individuo empleado legal en la capacidad ejecutiva, administrativa, supervisora o profesional, en la capacidad de vendedor de campo o como cobrador de campo, como tales términos son definidos por las regulaciones administrativas del Comisionado; (3) Cualquier individuo empleado en los Estados Unidos; (4) Cualquier individuo empleado en el servicio domestico o en una casa privada si existen menos de tres empleados domésticos regularmente empleados; (5) Cualquier individuo clasificado y que se le haya dado un certificado por el Comisionado de Normas en el Lugar de Trabajo (Workplace Standards); (6) Empleados de tiendas de menudeo, industrias de servicios, hoteles, moteeles, y operaciones de restaurantes cuyo ingreso promedio anual de ventas realizadas en sus transacciones es menos de noventa y cinco mil dólares en los últimos cinco años exclusivos de impuestos indirectos en el nivel menudeo o si el empleado es el padre, madre, cónyuge, hijo (a) u otro miembro de la familia inmediata del empleador; (7) cualquier individuo empleado como niñera o niño en la casa del empleador o como acompañante de un enfermo, convaleciente o persona de la tercera edad o por un familiar inmediato de la persona, que cuida al enfermo, convaleciente o persona de la tercera edad y cuyos deberes principales no incluyen la limpieza de la casa; (8) Cualquier individuo encargado en la entrega de periódicos al consumidor; (9) Cualquier trabajador empleado por algún establecimiento que esta organizado como no lucrativo, religioso o un centro para conferencias educacionales no lucrativo, si no opera por mas de siete meses en cualquier calendario anual; o (10) un empleado cuyas funciones es de proveer cuidado residencial las 24 horas con el permiso del empleador desempeñando el papel de los padres a los hijos que son ante todo dependientes, descuidados y abusados y quienes están en el cuidado de instalaciones privadas no lucrativas para niños aprobados por el Gabinete de Familias y niños bajo el capitulo 199 de KRS. (KRS 337.010(2))

**EMPLEADOS QUE RECIBEN PROPINAS** – Efectivo a partir del 15 de Julio, 1998, para cualquier empleado dedicado a una ocupación en donde es costumbre recibir regularmente mas de \$30 dolares al mes en propinas, el empleador puede pagar un minimo de \$2.13 dolares por hora si los registros del empleador pueden establecer por cada semana donde fue acreditado, cuando se agregan las propinas recibidas al salario, no menos del salario mínimo debe de ser recibido por el empleado. En consecuencia, la tarifa que se aplica a las propinas se ajustara de acuerdo con la tarifa que se aplica a las propinas mínimas a nivel federal, como es establecido por U.S.C. 29 Sección 206 (a) (1). Ningún empleador usara todo o parte de cualquier propina o gratificación recibida por los empleados para el pago del salario mínimo. (KRS 337.275(2)) Ningún empleador requerirá al empleado reportar al empleador cualquier gratificación, o alguna porción de esta, a excepción de que el propósito sea retener las cantidades que se requieran por la ley federal o estatal. Ningún empleador

requerirá al empleado que participe en un fondo de propinas donde el empleado sea requerido reportar al fondo cualquier gratificación o parte de ella, para la distribución entre los empleados o el empleador. Los empleados pueden voluntariamente ser parte de un acuerdo para dividir las gratificaciones entre ellos mismos. El empleador puede informar a los empleados de la existencia de un fondo voluntario y de los arreglos que se acostumbran en la distribución de las propinas de los empleados del establecimiento. Con la petición de los participantes del fondo voluntario, y a opción y responsabilidad de gastos del propio empleador, el empleador puede proveer servicios de seguridad para poner bajo custodia los recursos que se destinen para el fondo si la cuenta se identifica apropiadamente y separada de otros archivos del negocio y abierta a ser examinada por los participantes del fondo (KRS 337.065)

**ARCHIVOS** - Cada empleador que este sujeto a las provisiones establecidas por la Ley del Salario Mínimo en el Estado de Kentucky deberá registrar y conservar sus archivos que contengan la siguiente información: (a) Nombre y dirección de cada trabajador, (b) Horas trabajadas cada día de cada semana por cada trabajador; (c) La tarifa regular que se paga por hora; (d) La tarifa que se paga por hora por trabajar horas adicionales a la jornada semanal de cuarenta horas; (e) Agregados al salario que se pago de contado al costo, o deducciones (comidas, pensión, alojamiento, etc.) de los salarios que se estipulen en la cantidad que se deduzca, o al costo del producto por el cual las deducciones se aplicaron; (f) Salarios totales pagados por cada semana de trabajo y fecha del pago. Dichos archivos deberán ser conservados en un expediente por lo menos un año después de su ingreso. Ninguna forma en particular u orden es necesaria asumiendo que la información requerida se obtenga fácilmente para propósitos de inspección. (KRS 337.320)

**PERIODOS DE DESCANSO** - Ningún empleador requerirá a ningún empleado trabajar sin tomar su periodo de descanso por lo menos diez (10) minutos por cada cuatro (4) horas de trabajo, a excepción de aquellos trabajadores que se encuentran bajo el Acta Federal de Trabajo Ferroviaria (Federal Railway Labor Act.) Esto se establecerá adicionalmente al periodo programado para su almuerzo. Ninguna deducción en compensación deberá hacerse a los empleados salariales o que son pagados por hora. (KRS 337.365)

**PERIODOS DE ALMUERZO** - Los empleadores, a excepción de aquellos sujetos al Acta Federal de Trabajo Ferroviario, darán a sus empleados un periodo de almuerzo razonable, y tal periodo debe de darse lo mas cercano posible a la mitad de la jornada de trabajo programada del trabajador. En ningún caso se le requerirá al trabajador tomar su periodo de almuerzo antes de tres (3) horas después de haber iniciado su jornada de trabajo, tampoco se le requerirá tomar su almuerzo cinco (5) horas después de haber comenzado su jornada de trabajo. Esta sección no debe ser interpretada para negar cualquier provisión de un acuerdo colectivo o acuerdo mutuo entre el empleado y el empleador. (KRS 337.355)

**PAGO DE SALARIOS** - Cualquier empleado que deja o es despedido de su trabajo se le deberá pagar enteramente todas las compensaciones o salario que se haya ganado a más tardar antes de la fecha del siguiente pago normal a partir de la fecha del despido o abandono voluntario del trabajo o a los catorce (14) días siguientes a tal fecha de despido o abandono voluntario del trabajo lo que ocurra primero. (KRS 337.055)

**ES ILEGAL PARA EL EMPLEADOR RETENER SALARIOS** - Ningún empleador deberá retener ninguna parte de los salarios acordados del empleado, al menos (a) que al empleador le requieran hacerlo por parte de la ley local, estatal o federal; o (b) Cuando una deducción es explícitamente autorizada por escrito por el empleado para cubrir primas de seguro, deudas medicas o de hospital; u (c) otras deducciones que no corresponden a una rebaja o descuento del salario normal acordadas en las negociaciones colectivas o según al acuerdo salarial o estatuto; o (d) deducciones por cuotas del sindicato donde dichas deducciones son autorizadas por un conjunto de acuerdos o contratos colectivos de salarios negociados entre empleador y empleados o sus representantes. Ningún empleador deberá deducir de los salarios de los empleados lo siguiente: (a)

Fianzas; (b) carestía de dinero de contado en una caja colectiva, caja de ahorro o caja registradora que es utilizada por dos (2) o mas personas; (c) Quiebra; (d) perdidas debidas a la aceptación de cheques sin fondos por parte del empleado, los cuales son posteriormente inválidos si a tal empleado se le da a discreción aceptar o rechazar cualquier cheque; o (e) Perdidas que se atribuyan a defectos o mal funcionamiento del equipo de trabajo, perdida o propiedad robada, daño a propiedad, falta de crédito del cliente o de pago por bienes o servicios recibidos por el cliente si dichas perdidas no se atribuyen a la voluntad del empleado, o indiferencia intencional en contra de los intereses del empleador. (KRS 337.060)

**TIEMPO Y MEDIO POR TRABAJAR EL SEPTIMO DIA** - Cualquier empleador que permita a sus empleados trabajar siete días a la semana debe de pagar la tarifa de tiempo y medio por cada hora que se trabaje en el séptimo día. Lo anterior, no se aplica a algún caso donde al empleado no se le permita trabajar mas de cuarenta horas a la semana; o a centrales telefónicas que tenga menos de quinientos suscriptores; taquígrafos, contadores o asistentes técnicos de profesionistas como doctores, contadores, abogados y otros profesiones autorizados bajo las leyes de este Estado; empleados sujetos al Acta Federal de Trabajo de Empleados Ferroviarios (Federal Railway Labor Act) y marineros o personas involucradas en operaciones de embarcaciones u otras instalaciones de transportación naval y ríos navegables.; personas que manejen carros ferroviarios que cuentan con sistema de congelación; transportistas comunes bajo la supervisión del Departamento de Regulación Vehicular (Department of Vehicle Regulation); cualquier oficial, conserje, capataz o supervisor cuyas responsabilidades son principalmente limitadas a dirigir o supervisar a otros empleados. (KRS 337.200)

**DEPOSITO POR REALIZACION DE TRABAJO** - Excepto para los empleadores que han estado haciendo negocios en el Estado por cinco (5) años consecutivos, cada empleador involucrado en el trabajo de construcción, o en el corte, preparación, o transportación de minerales, deberá proveer una forma preescrita por el Comisionado un deposito por realización de trabajo para garantizar el pago de todos los salarios que el empleador tenga que pagar. Este deposito debe de ser una cantidad de dinero equivalente a la nomina total operando en toda su capacidad por cuatro (4) semanas. (KRS 337.200)

**GABINETE DEL MEDIO AMBIENTE Y PROTECCION PÚBLICA DEPARTAMENTO DEL TRABAJO OFICINA DE REGULACIONES EN EL LUGAR DE TRABAJO**  
1047 US HWY 127 S STE 4  
FRANKFORT KY 40601-4381

<http://www.kylabor.net/>

TELEFONO (502) 564 3070 FAX (502) 564 2248

*Pagado con fondos del Estado*

**“Ningún individuo en los Estados Unidos por motivos de raza, color, religión, sexo, origen nacional, edad, incapacidad, afiliación política o creencia, será excluido de participar o le serán negados beneficios o ser sujeto a discriminación bajo cualquier programa o actividad que se encuentre bajo la jurisdicción del Gabinete del Medio ambiente y Protección Publica.”**



**LEYES DEL SALARIO Y PAGO POR HORA EN EL ESTADO DE KENTUCKY**  
*EXHIBA ESTA ORDEN DONDE TODOS LOS EMPLEADOS PUEDAN LEERLA*



**Youth Employment Provisions for  
Nonagricultural Occupations  
Under the Fair Labor Standards Act**

**CHILD LABOR BULLETIN 101**

U. S. Department of Labor  
Employment Standards Administration  
Wage and Hour Division

WH-1330  
Revised February 2005



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## Contents

Federal Youth Employment Provisions	1
Coverage of the Youth Employment Provisions	2
Exemptions from the Youth Employment Provisions	2
Minimum Age Standards for Nonagricultural Employment	3
Employment Standards for 14- and 15-Year-Olds	3
Employment Standards for 16- and 17-Year-Olds	6
Hazardous Occupations Orders for Nonagricultural Employment	6
Special Provisions Permitting the Employment of Certain Minors in Places of Business that use Machinery to Process Wood Products	18
Exemptions from Certain HOs for Apprentices and Student-Learners	18
Age Certificates	20
Enforcement of the Federal Youth Employment Provisions	20
Penalties for Violation	20
Additional Information	20

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### **FEDERAL YOUTH EMPLOYMENT PROVISIONS**

The Federal youth employment provisions, also known as the child labor laws, are authorized by the Fair Labor Standards Act (FLSA) of 1938. These provisions were enacted to ensure that when young people work, the work is safe and does not jeopardize their health, well-being or educational opportunities. By knowing, understanding and complying with these provisions, employers, parents, and teachers can help working teens enjoy those safe, positive, early work experiences that can be so important to their development.

### **CHILD LABOR BULLETIN No. 101**

This booklet is a guide to the provisions of the FLSA (also known as the “Wage-Hour Law”) which applies to minors employed in *nonagricultural* occupations. In addition to youth employment provisions, the FLSA contains provisions on minimum wage, overtime, and recordkeeping.

See *Child Labor Bulletin No. 102* for information regarding the employment of minors in agriculture.

### **OTHER LAWS THAT IMPACT YOUTH EMPLOYMENT**

Other Federal and State laws may have higher standards. When these apply, the more stringent standard must be observed. All States have youth employment provisions, compulsory school attendance laws, and establish the minimum ages and conditions under which youths may operate motor vehicles.

Unless otherwise exempt, a covered minor employee is entitled to receive the same minimum wage, overtime, safety and health, and nondiscrimination protections as adult workers.

## Coverage of the Youth Employment Provisions

### Who is Covered?

#### *Enterprise Coverage:*

All employees of certain enterprises having workers engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person are covered by the FLSA. A covered enterprise is the related activities performed through unified operation or common control by any person or persons for a common business purpose and:

1. whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated); or
2. is engaged in the operation of a hospital, an institution primarily engaged in the care of those who are physically or mentally ill or disabled or aged, and who reside on the premises, a school for children who are mentally or physically disabled or gifted, a preschool, an elementary or secondary school, or an institution of higher education (whether operated for profit or not for profit); or
3. is an activity of a public agency.

Construction and laundry/dry cleaning enterprises, which were previously covered regardless of their annual dollar volume of business, are now subject to the \$500,000 test.

Any enterprise that was covered by the FLSA on March 31, 1990, and that ceased to be covered because of the increase in the enterprise coverage dollar volume test must continue to pay its employees not less than \$3.35 an hour, and continues to be subject to the overtime pay, youth employment, and recordkeeping provisions of the FLSA.

#### *Individual Coverage:*

Employees of firms which are not covered enterprises under the FLSA may still be subject to its minimum wage, overtime, and youth employment provisions if they are individually engaged in interstate commerce or in the production of goods for interstate commerce. Such employees include those who: work in communications or transportation; regularly use the

mail, telephone, computer e-mail system and/or facsimile machine to communicate with persons in another State; make deposits in banks; use an electronic device which authorizes a credit card purchase; keep records of interstate transactions; handle, ship, or receive goods moving in interstate commerce; regularly cross State lines in the course of employment; or work for independent employers who contract to do clerical, custodial, maintenance, or other work for firms engaged in interstate commerce or the production of goods for interstate commerce.

Young entrepreneurs who use the family lawnmower to cut their neighbor's grass or perform babysitting on a casual basis are not covered under the FLSA.

### The Federal Youth Employment Provisions Do Not:

- require minors to obtain "working papers" or "work permits," though many States do;
- limit the number of hours or times of day that workers 16 years of age and older may legally work, though many States do;
- apply to any employee whose services during the workweek are performed in a workplace within a foreign country or within a territory named in section 13(f) of the FLSA.

Check with the applicable State Department of Labor for guidance concerning State laws.

### Exemptions from the Youth Employment Provisions of the FLSA

The federal youth employment provisions do not apply to:

- Children under 16 years of age employed by their parents in occupations other than manufacturing or mining, or occupations declared hazardous by the Secretary of Labor.
- Children employed as actors or performers in motion pictures, theatrical, radio or television productions.
- Children engaged in the delivery of newspapers to the consumer.
- Homeworkers engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens).

## Minimum Age Standards for Nonagricultural Employment

- 14 Minimum age for employment in specified occupations outside of school hours for limited periods of time each day and each week.
- 16 **BASIC MINIMUM AGE FOR EMPLOYMENT.** At 16 years of age, youth may be employed for unlimited hours in any occupation other than one declared to be hazardous by the Secretary of Labor.
- 18 Minimum age for employment in nonagricultural occupations declared hazardous by the Secretary of Labor.

## Wage Payments to Young Workers

Unless otherwise exempt or employed under conditions discussed below, covered minor employees must be paid at least the statutory minimum wage for all hours worked.

Employees under 20 years of age may be paid \$4.25 per hour during their first consecutive 90 calendar days of employment with an employer.

Certain full-time students, student learners, apprentices and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.

Employers of “tipped employees” must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligations. If an employee’s tips combined with the employer’s cash wage of at least \$2.13 do not equal the minimum hourly wage, the employer must make up the difference.

## Employment Standards for 14- and 15-Year-Olds in Nonagricultural Employment

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These requirements are published in Subpart C of Part 570 of Title 29 of the Code of Federal Regulations, Child Labor Regulation No. 3.

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Employment of youths of this age group is limited to certain occupations and under conditions that do not interfere with their schooling, health or well-being.

## Hours-Time Standards for 14- and 15-Year-Olds

14- AND 15-YEAR-OLDS MAY NOT BE EMPLOYED:

1. DURING SCHOOL HOURS, *except* as provided in Work Experience and Career Exploration Programs.<sup>1</sup>
2. BEFORE 7 a.m. or AFTER 7 p.m. *except* from June 1 through Labor Day when the evening hour is extended to 9 p.m. (time is based on local standards; i.e., whether the locality has adopted daylight savings time).
3. MORE THAN 3 HOURS A DAY ON A SCHOOL DAY, INCLUDING FRIDAYS.
4. MORE THAN 8 HOURS A DAY ON A NONSCHOOL DAY.
5. MORE THAN 18 HOURS A WEEK DURING A SCHOOL WEEK.
6. MORE THAN 40 HOURS A WEEK DURING NONSCHOOL WEEKS.

### *Limited exemption for professional sports attendants:*

Section 570.35(b) of Regulations 29 CFR Part 570 grants a partial waiver from the hours standards limitations for 14- and 15-year-olds who are employed as professional sports attendants and performing the traditional duties of that position. These minors are still precluded from working during school hours.

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<sup>1</sup> “School hours” are determined by the local public school in the area the minor is residing while employed – this is true even if the minor does not attend the public school (i.e., attends a private school or is home schooled). Special provisions apply to students participating in a State sponsored Work Experience and Career Exploration Program authorized by the Department of Labor in accordance with section 570.35(a) of Regulations 29 CFR Part 570. See Page 5 of this bulletin for more information.

## Occupation Standards For 14- and 15-Year-Olds

### Fourteen- and 15-Year-Olds May Not Be Employed in:

1. Any MANUFACTURING occupation.<sup>2</sup>
2. Any MINING occupation.
3. Most PROCESSING occupations such as filleting of fish, dressing poultry, cracking nuts, laundering as performed by commercial laundries, bulk or mass mailings (*except* certain occupations expressly permitted in retail, food service and gasoline service establishments as discussed below).
4. Occupations requiring the performance of any duties in WORKROOMS or WORKPLACES WHERE GOODS ARE MANUFACTURED, MINED OR OTHERWISE PROCESSED (*except* to the extent expressly permitted in retail, food service, or gasoline service establishments as discussed below; and as discussed in footnote 2 below).
5. PUBLIC MESSENGER SERVICE.
6. OPERATION OR TENDING OF HOISTING APPARATUS or of ANY POWER-DRIVEN MACHINERY, including lawnmowers, trimmers, and “weedwhackers,” but not including office machinery and those machines in retail, food service and gasoline service establishments that are expressly permitted and discussed below.
7. ANY OCCUPATION FOUND AND DECLARED TO BE HAZARDOUS BY THE SECRETARY OF LABOR (see Page 6).
8. OCCUPATIONS IN CONNECTION WITH:
  - a. TRANSPORTATION of persons or property by rail, highway, air, on water, pipeline, or other means.
  - b. WAREHOUSING and STORAGE.
  - c. COMMUNICATIONS and PUBLIC UTILITIES.
  - d. CONSTRUCTION (including repair).

*Except* office or sales work in connection with a., b., c., and d. above when not performed on transportation media or at the actual construction site.

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<sup>2</sup> Section 13(c)(7) of the FLSA, enacted in 2004, permits the employment of certain minors between the ages of 14 and 18, who have been excused from compulsory school attendance, inside and outside of places of business where machinery is used to process wood products. This provision, however, does not permit such minors to operate, or assist in the operation of power-driven woodworking machines. See Page 18 for more information about this provision.

## Special provisions apply to 14- and 15-year-olds employed in Retail, Food Service, and Gasoline Service Establishments.

### Fourteen- and 15-year-olds MAY be employed to perform the following in Retail, Food Service, and Gasoline Service Establishments:

1. OFFICE and CLERICAL WORK, including operation of office machines.
2. CASHIERING, SELLING, MODELING, ART WORK, WORK IN ADVERTISING DEPARTMENTS, WINDOW TRIMMING and COMPARATIVE SHOPPING.
3. PRICE MARKING and TAGGING by hand or by machine. ASSEMBLING ORDERS, PACKING and SHELVING.
4. BAGGING and CARRYING OUT CUSTOMER ORDERS.
5. ERRAND and DELIVERY WORK by foot, bicycle, and public transportation.
6. CLEANUP WORK, including the use of vacuum cleaners and floor waxers. The CLEANING OF KITCHEN EQUIPMENT, including the filtering, transporting, and disposal of oil and grease, is permitted as long as the temperatures of the surfaces and the oil and grease do not exceed 100° F.
7. MAINTENANCE of GROUNDS, but not including use of power-driven mowers or cutters.
8. KITCHEN WORK and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as, but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, coffee grinders and microwave ovens that do not have the capacity to warm above 140° F.
9. WORK IN CONNECTION WITH CARS AND TRUCKS if confined to the following:
  - Dispensing gasoline and oil.
  - Courtesy service on premises of gasoline service station.
  - Car cleaning, washing, and polishing.
  - Other occupations permitted by this section.

BUT NOT INCLUDING WORK involving the use of pits, racks or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.
10. CLEANING VEGETABLES and FRUITS, and WRAPPING, SEALING, LABELING, WEIGHING, PRICING, and STOCKING GOODS when performed in areas physically separate from areas where meat is prepared for sale and outside of freezers and meat coolers.

**Fourteen- and 15-year-old employees MAY NOT be employed to perform the following in Retail, Food Service, and Gasoline Service Establishments:**

1. Work performed IN or ABOUT BOILER or ENGINE ROOMS.
2. Work in connection with MAINTENANCE or REPAIR OF THE ESTABLISHMENT, MACHINES, or EQUIPMENT.
3. OUTSIDE WINDOW WASHING that involves working from windowsills, and all work requiring the use of LADDERS, SCAFFOLDS, or their substitutes.
4. COOKING (*except* with electric or gas grilles 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 into and out of the oil or grease).
5. BAKING.
6. Occupations which involve OPERATING, SETTING UP, ADJUSTING, CLEANING, OILING, or REPAIRING power-driven FOOD SLICERS and GRINDERS, FOOD CHOPPERS and CUTTERS, and BAKERY-TYPE MIXERS.
7. Work in FREEZERS and MEAT COOLERS and all work in PREPARATION OF MEATS FOR SALE (*except* wrapping, sealing, labeling, weighing, pricing, and stocking when performed in other areas).
8. LOADING and UNLOADING GOODS to and from trucks, railroad cars, or conveyors.
9. All occupations in WAREHOUSES *except* office and clerical work.

**Work Experience and Career Exploration Programs (WECEP)**

Some of the provisions of Child Labor Regulation No. 3 are varied for 14- and 15-year-old participants in approved school-supervised and school-administered WECEPs. Enrollees in WECEP may be employed:

- During school hours.
- For as many as 3 hours on a school day, including Fridays.
- For as many as 23 hours in a school week.
- In occupations otherwise prohibited but only after a specific variance has been granted by the Administrator of the Wage and Hour Division.

The State Educational Agency must obtain approval from the Administrator of the Wage and Hour Division before operating a WECEP program.

## Employment Standards For 16- and 17-Year-Olds in Nonagricultural Employment

### The Hazardous Occupations Orders for Nonagricultural Employment (HOs)

These Orders are published in Subpart E of Part 570 of Title 29 of the Code of Federal Regulations.

The FLSA provides a minimum age of 18 years for any nonagricultural occupations which the Secretary of Labor “shall find and by order declare” to be particularly hazardous for 16- and 17-year-old persons, or detrimental to their health and well-being. This minimum age applies even when the minor is employed by the parent or person standing in place of the parent.

The 17 HOs apply either on an industry basis, specifying the occupations in the industry that are not permitted, or an occupational basis irrespective of the industry in which found. Some of the HOs contain limited exemptions.

- |        |  |        |   |
|--------|--|--------|---|
| HO 1   | Manufacturing and storing of explosives.   | HO 11  | Power-driven bakery machines including vertical dough or batter mixers.                         |
| HO 2   | Motor-vehicle driving and outside helper on a motor vehicle.   | HO 12* | Power-driven paper-products machines including scrap paper balers and cardboard box compactors. |
| HO 3   | Coal mining.   | HO 13  | Manufacturing bricks, tile, and kindred products.   |
| HO 4   | Logging and sawmilling.  | HO 14* | Power-driven circular saws, bandsaws, and guillotine shears.                                    |
| HO 5*  | Power-driven woodworking machines.   | HO 15  | Wrecking, demolition, and shipbreaking operations.  |
| HO 6   | Exposure to radioactive substances.  | HO 16* | Roofing operations and all work on or about a roof.   |
| HO 7   | Power-driven hoisting apparatus, including forklifts.  | HO 17  | *Excavation operations.   |
| HO 8*  | Power-driven metal-forming, punching, and shearing machines.   |        |   |
| HO 9   | Mining, other than coal mining.  |        |   |
| HO 10* | Operating power-driven meat processing equipment, including <b>meat slicers and other food slicers</b> , in retail establishments (such as grocery stores, restaurants, kitchens and delis), wholesale establishments, and most occupations in meat slaughtering, packing, processing, or rendering. |        |   |

*\*These HOs provide limited exemptions for 16- and 17-year-olds who are bona-fide student-learners and apprentices. See Page 18 for more information.*

## HO 1 - Manufacturing or Storage Occupations Involving Explosives

The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are prohibited:

1. All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in subparagraph 2. below) manufacturing or storing explosives or articles containing explosive components *except* where the occupation is performed in a “nonexplosives area” as defined in subparagraph 3. below.
2. The following occupations in or about any plant or establishment manufacturing or storing small arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small arms ammunition:
  - a. All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.
  - b. All occupations involving the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.
  - c. All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rimfire cartridges are primed.
  - d. All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.
  - e. All occupations involved in the loading, inspecting, packing, shipping, and storage of blasting caps.

### Definitions

1. The term *plant or establishment manufacturing or storing explosives or articles containing explosive components* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

2. The terms *explosives* and *articles containing explosive components* mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all explosives and explosive materials as defined in 18 U.S.C.841(c)-(f) and the implementing regulations at 27 CFR Part 555. The terms included any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, as well as all goods identified in the most recent list of explosive materials published by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice. This list may be found through the ATF website at [www.aft.gov](http://www.aft.gov).
3. An area meeting the following criteria shall be deemed a *nonexplosives area*:
  - a. None of the work performed in the area involves the handling or use of explosives;
  - b. The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;
  - c. The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and
  - d. Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria a through c.

## HO 2 – Motor-Vehicle Occupations

The occupation of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in HO 17 are prohibited for minors between 16 and 18 years of age *except* that 17-year-olds may drive automobiles and trucks on an incidental and occasional basis if all of the criteria listed in the following exemption are met.

### Exemption

#### **Limited exemption from HO 2 for 17 year old employees:**

Seventeen-year-olds, but no one under 17 years of age, may drive automobiles and trucks on public roads as part of their employment on an occasional and incidental basis if all the following requirements are met:

- the automobile or truck does not exceed 6,000 pounds gross vehicle weight;
- the driving is limited to daylight hours;
- the 17-year-old holds a State license valid for the type of driving involved;
- the 17-year-old has successfully completed a State-approved driver education course and has no record of any moving violations at the time of hire;
- the driving takes place within a thirty (30) mile radius of the minor's place of employment;
- the automobile or truck is equipped with a seat belt for the driver and any passengers and the employer has instructed the youth that the seat belts must be used when driving the vehicle;
- the driving may not involve:
  - towing vehicles;
  - route deliveries or route sales;
  - transportation for hire of property, goods, or passengers;
  - urgent, time-sensitive deliveries;
  - transporting more than three passengers, including employees of the employer;
  - more than two trips away from the primary place of employment in any single day to deliver the employer's goods to a customer (other than urgent, time-sensitive deliveries which are prohibited);
  - more than two trips away from the primary place of employment in any single day to transport passengers, other than employees of the employer.

#### Definitions

1. The term *motor vehicle* shall mean any automobile, truck, truck tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.
2. The term *driver* shall mean any individual who in the course of employment, drives a motor vehicle at any time.
3. The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.
4. The term *gross vehicle weight* includes the truck chassis with lubricants, water, and full tank or tanks of fuel, plus the weight of the cab or driver's

compartment, body, and special chassis and body equipment, and payload.

5. The term *urgent, time-sensitive deliveries* shall mean trips which, because of such factors as customer satisfaction, the rapid deterioration of the quality or change in temperature of the product, and/or economic incentives, are subject to timelines, schedules, and/or turnaround times which might impel the driver to hurry in the completion of the delivery. Prohibited trips would include, but are not limited to, the delivery of pizzas and prepared foods to the customer; the delivery of materials under a deadline (such as deposits to a bank at closing); and the shuttling of passengers to and from transportation depots to meet transport schedules. *Urgent, time-sensitive deliveries* do not depend on the delivery's points of origin and termination, and include the delivery of people and things *to* the employer's place of business as well as *from* that business to some other location.
6. The term *occasional and incidental* shall mean no more than one-third of the 17-year-old driver's worktime in any workday and no more than 20 percent of the 17-year-old driver's worktime in any workweek.

### HO 3 - Coal Mining Occupations

All occupations in or about any coal mine are prohibited *except* the occupations of slate or other refuse picking at a picking table or picking chute in a tippie or breaker and occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal mining plant.

#### Definitions

1. The term *coal* shall mean any rank of coal, including lignite, bituminous, and anthracite coals.
2. The term *all occupations in or about any coal mine* shall mean all types of work performed in any underground working, open pit, or surface part of any coal mining plant that contributes to the extraction, grading, cleaning, or other handling of coal.

## HO 4 - Logging and Sawmilling Occupations

All occupations in logging and all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill<sup>3</sup> are prohibited *except* the following:

1. Exceptions applying to logging:
  - a. Work in offices or in repair or maintenance shops.
  - b. Work in the construction, operation, repair, or maintenance of living and administrative quarters of logging camps.
  - c. Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads, or flumes; work in forest protection, such as clearing fire trails or roads, piling and burning slash, maintaining firefighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patrolman away from the actual logging operations – *Provided*, that the provisions of this paragraph shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.
  - d. Peeling of fenceposts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging occupations declared hazardous by this section.
  - e. Work in the feeding or care of animals.
2. Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill – *Provided*, that these exceptions do not apply to a portable sawmill the lumber yard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained; and *Further Provided*, that these exceptions do not apply to work which entails entering the sawmill building:

- a. Work in offices or in repair or maintenance shops.
- b. Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.
- c. Pulling lumber from the dry chain.
- d. Cleanup in the lumberyard.
- e. Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment.
- f. Clerical work in yards or shipping sheds, such as done by ordermen, tallymen, and shipping clerks.
- g. Cleanup work outside shake and shingle mills, *except* when the mill is in operation.
- h. Splitting shakes manually from pre-cut and split blocks with a froe and mallet, *except* inside the mill building or cover.
- i. Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, *except* inside the mill building or cover.
- j. Manual loading of bundles of shingles or shakes into trucks or railroad cars – *Provided* that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury to himself or herself.

### Definitions

1. The term *all occupations in logging* shall mean all work performed in conjunction with the felling of timber, the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fenceposts, or similar products; the collecting, skidding, yarding, loading, transporting, and unloading of such products in conjunction with logging; the constructing, repairing, and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timber stand improvement, or in emergency firefighting.
2. The term *all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill* shall mean all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage stock, or other products of such mills; and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-

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<sup>3</sup> Section 13(c)(7) of the FLSA, enacted in 2004, permits the employment of certain minors between the ages of 14 and 18, who have been excused from compulsory school attendance, inside and outside of places of business where machinery is used to process wood products. This provision, however, does not permit such minors to operate, or assist in the operation of power-driven woodworking machines. See Page 18 for more information about this provision.

stock mill. The term shall not include work performed in the planing-mill department or other remanufacturing department of any sawmill, or in any planing-mill or remanufacturing plant not a part of a sawmill.

## HO 5 - Power-Driven Woodworking Machine Occupations

The following occupations involved in the operation of power-driven woodworking machines are prohibited:

1. The occupation of operating power-driven woodworking machines including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.
2. The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.
3. The operations of off-bearing from circular saws and from guillotine-action veneer clippers.

### Exemption

The exemption for student-learners and apprentices applies to HO 5.

### Definitions

1. The term *power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire-stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.
2. The term *off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include:
  - a. the removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and
  - b. the following operations when they do not involve the removal of material or refuse directly from a saw table or from a point of operation:

- the carrying or moving or transporting of materials from one machine to another or from one part of a plant to another;
- the piling stacking or arranging of materials for feeding into a machine by another person; and,
- the sorting, tying, bundling, or loading of materials.

## HO 6 - Occupations Involving Exposure to Radioactive Substances and to Ionizing Radiation

The following occupations are prohibited:

1. Any work in any workroom in which:
  - a. radium is stored or used in the manufacture of self-luminous compound;
  - b. self-luminous compound is made, processed, or packaged;
  - c. self-luminous compound is stored, used, or worked upon;
  - d. incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged;
  - e. other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupations exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of Table One of the National Bureau of Standards Handbook No. 69 entitled *Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and In Water for Occupational Exposure* issued June 5, 1959.
2. Any other work which involves exposure to ionizing radiations in excess of 0.5 rem per year.

### Definitions

1. The term *self-luminous compound* shall mean any mixture of phosphorescent material and radium, mesothorium, or other radioactive element.
2. The term *workroom* shall include the entire area bounded by walls of solid material and extending from floor to ceiling.
3. The term *ionizing radiations* shall mean alpha and beta particles, electrons, protons, neutrons, gamma, and x-ray and all other radiations which produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and X-ray.

## HO 7 - Power-Driven Hoisting Apparatus Occupations

The following occupations involved in the operation of power-driven hoisting apparatus are prohibited:

1. Work of operating an elevator, crane, derrick, hoist, or highlift truck (including a forklift), *except* operating an unattended automatic elevator or an electric or air-operated hoist not exceeding one ton capacity.
2. Work which involves riding on a manlift or on a freight elevator, *except* a freight elevator operated by an assigned operator.
3. Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

### Exemption

This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive overtravel by the car.<sup>4</sup>

### Definitions

1. The term *elevator* shall mean any power-driven

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<sup>4</sup> For purposes of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic. The term *automatic signal operation elevator* shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors – from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines) but shall not include dumbwaiters.

2. The term *crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingotpouring, jib, locomotive, motor truck, overhead traveling, pillar jib, pintle, portal, semigantry, semiportal, storage bridge, tower, walking jib, and wall cranes.
3. The term *derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism and operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy, and stiff-leg derricks.
4. The term *hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base-mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum, and trolley suspension hoists.
5. The term *highlift truck* shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as forklifts, forklift trucks, tiering trucks, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of, but not the tiering of, material.
6. The term *manlift* shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain, or similar method of suspension; such belt, cable, or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

## HO 8 - Power-Driven Metal Forming, Punching, and Shearing Machine Occupations

The following occupations are prohibited:

1. The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:
  - a. All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.
  - b. All pressing or punching machines, such as punch presses *except* those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the areas between the dies; power presses; and plate punches.
  - c. All bending machines, such as apron brakes and press brakes.
  - d. All hammering machines, such as drop hammers and power hammers.
  - e. All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.
2. The occupations of setting-up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

### Exemption

The exemption for student-learners and apprentices applies to HO 8.

### Definitions

1. The term *operator* shall mean a person who operates a machine covered by this HO by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in the operation of the machine.
2. The term *helper* shall mean a person who assists in the operation of a machine covered by the HO by helping place materials into or removing them from the machine.
3. The term *forming, punching, and shearing* shall mean power-driven metalworking machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching and shearing machines enumerated in this section are the machines to which the designation is by

custom applied. Not included in this term are metalworking machines known as *machine tools*.

4. The term *machine tools* shall mean power-driven complete metalworking machines having one or more tool- or work-holding devices and used for progressively removing metal in the form of "chips." Since the HO does not apply to machine tools, the 18-year minimum age does not apply. The following is a list of common machine tools:

#### Milling Function Machines

Horizontal Milling Machines  
Vertical Milling Machines  
Universal Milling Machines  
Planer-type Milling Machines  
Gear Hobbing Machines  
Profilers  
Routers

#### Turning Function Machines

Engine Lathes  
Turret Lathes  
Hollow Spindle Lathes  
Automatic Lathes  
Automatic Screw Machines

#### Planing Function Machines

Planers  
Shapers  
Slotters  
Broaches  
Keycasters  
Hack Saws

#### Grinding Function Machines

Grinders  
Abrasive Wheels  
Abrasive Belts  
Abrasive Disks  
Abrasive Points  
Polishing Wheels  
Buffing Wheels  
Stroppers  
Lapping Machines

#### Boring Function Machines

Vertical Boring Mills  
Horizontal Boring Mills  
Jig Borers  
Pedestal Drills  
Radial Drills  
Gang Drills  
Upright Drills  
Drill Presses  
Centering Machines  
Reamers  
Honers

## HO 9 - Occupations in Connection with Mining, Other than Coal

All occupations in connection with mining, other than coal (see HO 3), are prohibited *except* the following:

1. Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and in repair or maintenance shops not located underground.
2. Work in the operation and maintenance of living quarters.
3. Work outside the mine in surveying, in the repair and maintenance of roads, and in general cleanup about the mine property such as clearing brush and digging drainage ditches.
4. Work of track crews in the building and maintaining of sections of railroad track located in those areas of opencut metal mines where mining and haulage activities are not being conducted at the time and place that such building and maintenance work is being done.
5. Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations.
6. The following work in metal mills other than in mercury-recovery mills or mills using the cyanide process:
  - a. Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters.
  - b. Work of handsorting at picking table or picking belt.
  - c. General cleanup work.

*Provided, however,* that nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other HO issued by the Secretary of Labor.

### Definitions

The term *all occupations in connection with mining, other than coal* shall mean all work performed:

- underground in mines and quarries;
- on the surface at underground mines and underground quarries;
- in or about opencut mines, open quarries, clay pits, and sand and gravel operations;
- at or about placer mining operations;
- at or about dredging operations for clay, sand, or gravel; at or about borehole mining operations;
- in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and

- at or about any other crushing, grinding, screening, sizing, washing, or cleaning operations performed upon the extracted minerals *except* where such operations are performed as part of a manufacturing process.

The term shall not include work performed in subsequent manufacturing or processing operations, such as work performed in smelters, electro-metallurgical plants, refineries, reduction plants, cement mills, plants where quarried stone is cut, sanded, and further processed, or plants manufacturing clay, glass, or ceramic products. Neither shall the term include work performed in connection with coal mining, in petroleum production, in natural-gas production, nor in dredging operations which are not a part of mining operations, such as dredging for construction or navigation purposes.

## HO 10 - Occupations Involving the Operation of Power-Driven Meat-Processing Machines and Occupations Involving Slaughtering, Meatpacking, Processing, or Rendering

The following occupations in retail establishments, wholesale establishments, service establishments, slaughtering and meatpacking establishments, or rendering plants are prohibited:

1. All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, oiling, or cleaning such machines, regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.): meat slicers, meat patty forming machines, meat and bone cutting saws, knives (*except* bacon-slicing machines<sup>5</sup>).
2. All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, oiling, or cleaning such machines, regardless of the product being processed by these machines: headsplitters, and guillotine cutters; snoutpullers and jawpullers; skinning machines; horizontal rotary washing machines; casing-cleaning machines; and presses (*except* belly-rolling machines).

<sup>5</sup> The term *bacon slicing machine* as used in this HO refers to those machines which are designed solely for the purpose of slicing bacon and are equipped with enclosure or barrier guards that prevent the operator from coming in contact with the blade or blades, and with devices for automatic feeding, slicing, shingling, stacking, and conveying the sliced bacon away from the point of operation.

3. All boning operations.
4. All operations on the killing floor, in curing cellars, and in hide cellars, *except* the work of messengers, runners, handtrucks, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.
5. All occupations involved in the recovery of lard and oils, *except* packaging and shipping of such products and the operations of lard-roll machines.
6. All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stockfeeds, tallow, inedible greases, fertilizer ingredients, and similar products.
7. All occupations that involve the pushing or dropping of any suspended carcass, half-carcass, or quarter-carcass of beef.
8. All occupations involving hand-lifting or hand-carrying any carcass or half-carcass of beef, pork, or horse, or any quarter-carcass of beef or horse.

#### *Exemptions*

The exemption for student-learners and apprentices applies to HO 10.

HO 10 shall not apply to the killing and processing of poultry, rabbits, or small game in areas physically separated from the killing floor.

#### *Definitions*

1. The term *slaughtering and meatpacking establishments* shall mean places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term shall also include establishments which manufacture or process meat products or sausage casings from such animals.
2. The term *rendering plants* shall mean establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.
3. The term *killing floor* shall include that workroom or workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.
4. The term *curing cellar* shall include that workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include that workroom or workplace where meats are smoked.

5. The term *hide cellar* shall include that workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.
6. The term *boning occupations* shall mean the removal of bones from meat cuts. It shall not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

## **HO 11 - Power-Driven Bakery Machine Occupations**

The following occupations involved in the operation of power-driven bakery machines, no matter where performed, are prohibited:

1. The occupations of operating, assisting to operate, or setting-up, adjusting, repairing, oiling, or cleaning any horizontal or vertical doughmixer; battermixer<sup>6</sup>; bread dividing, rounding, or molding machine; doughbrake; doughsheeter; combination breadslicing and wrapping machine; or cake-cutting bandsaw.
2. The occupation of setting-up or adjusting a cooky or cracker machine.

HO 11 does not apply to the following list of bakery machines which may be operated by 16- and 17-year-olds minors:

#### Ingredient Preparation and Mixing

Flour-sifting Machine Operator  
Flour-blending Machine Operator  
Sack-cleaning Machine Operator

#### Product Forming and Shaping

Roll-dividing Machine Operator  
Roll-making Machine Operator  
Batter-sealing Machine Operator  
Depositing Machine Operator  
Cooky or Cracker Machine Operator  
Wafer Machine Operator  
Pretzel-stick Machine Operator  
Piedough Rolling Machine Operator  
Piedough Sealing Machine Operator  
Pie-crimping Machine Operator

#### Finishing and Icing

Depositing Machine Operator  
Enrobing Machine Operator  
Spray Machine Operator  
Icing Mixing Machine Operator

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<sup>6</sup> HO 11 prohibits minors from operating any vertical or horizontal mixer (including countertop models) when used to mix dough, batter, and items such as vegetables, meat mixtures and other heavier products that require the use of the same strength or design of agitators, whips, or beaters as those used to mix dough or batter. HO 11 does not prohibit minors from using such equipment to mix lighter fare such as meringues and light icings when the agitators or whips used are designed solely for such use.

### Slicing and Wrapping

Roll Slicing and Wrapping Machine Operator  
Cake Wrapping Machine Operator  
Carton Packing and Sealing Machine Operator

### Panwashing

Spray-type Panwashing Machine Operator  
Tumbler-type Panwashing Machine Operator

## **HO 12 - Power-Driven Paper-Products Machine Operations Including Scrap Paper Balers and Paper Box Compactors**

The following occupations are prohibited in any type of establishment (manufacturing, nonmanufacturing, retail, wholesale, service, etc.):

1. The occupations of operating or assisting to operate any of the following power-driven paper-products machines:
  - a. Arm-type wire stitcher or stapler, circular or bandsaw, corner cutter or mitering machine, corrugating and single- or double-facing machine, envelope die-cutting press, guillotine papercutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, or vertical slotter.
  - b. Scrap paper balers and paper box compactors, including those machines that process other materials in addition to paper.
  - c. Platen diecutting press, platen printing press, or punch press which involves hand feeding of the machine.
2. The occupations of setting-up, adjusting, repairing, oiling or cleaning these machines including those which do not involve hand feeding.

### *Exemptions*

1. The exemption for student-learners and apprentices applies to HO 12.
2. Section 13(c)(5) of the FLSA permits 16- and 17-year-old employees to load, but not operate or unload, certain scrap paper balers and paper box compactors if all of the following conditions are met:
  - a. the scrap paper balers meet the American National Standard Institute's (ANSI) Standard ANSI Z245.5-1990 or ANSI Z245.5-1997; and the paper box compactors meet the American National Standard Institute's

Standard ANSI Z245.2-1992 or ANSI 245.2-1997;<sup>7</sup>

- b. the scrap paper balers and paper box compactors cannot be operated while being loaded;
- c. the scrap paper balers and paper box compactors include an on-off switch incorporating a key-lock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;
- d. the on-off switch of the scrap paper balers and paper box compactors is maintained in an off position when the equipment is not in operation; and
- e. the employer provides notice and posts notice on each scrap paper baler and each paper box compactor that 16- and 17-year-olds will be loading which states:
  - the equipment meets an appropriate ANSI Standard mentioned above, or a more recent applicable ANSI Standard that the Secretary of Labor has certified as being as protective of minors as those listed above – *Note: the specific standard must be listed on the notice in its entirety;*
  - Sixteen- and 17-year-old employees may only load the scrap paper baler and paper box compactor; and
  - any employee under the age of 18 may not operate or unload the scrap paper baler and paper box compactor.<sup>8</sup>

### *Definitions*

1. The term *operating or assisting to operate* shall mean all work that involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

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<sup>7</sup> The FLSA also allows the equipment to meet more recent ANSI standards that the Secretary of Labor has certified to be at least as protective of the safety of minors as the Standards listed above.

<sup>8</sup> There is no prescribed format for the notice but it must contain all the information as stated in subparagraph 2e. Posting a notice will satisfy the requirement that employers also provide notice.

2. The term *paper products machine* shall mean all power-driven machines used in:
  - the remanufacture or conversion of paper or pulp into a finished product, including the preparation of such materials for recycling; or
  - the preparation of such material for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment.
3. Note: There are many machines not covered by HO 12. The most important of these machines are the following:

Bag Machine, Bagmaking Machine  
 Bottoming Machine (Bags)  
 Boxmaking Machine (Collapsible Boxes)  
 Bundling Machine  
 Calendar Roll and Plating Machines  
 Cigarette Carton Opener and  
     Tax Stamping Machine  
 Clasp Machine  
 Counting, Stacking and Ejecting Machine  
 Corner Stayer  
 Covering, Lining, or Wrapping  
     Machines (Setup Boxes)  
 Creping Machine  
 Dornbusch Machine (Wallpaper)  
 Ending Machine (Setup Boxes)  
 Envelope Machine  
 Folding Machine  
 Gluing, Scaling, or Gumming Machine  
 Interfolding Machine  
 Jogging Machine  
 Lacer Machine  
 Parchmentizing, Waxing, or  
     Coating Machines  
 Partition Assembling Machine  
 Paper Cut Machine  
 Quadruple Stayer  
 Rewinder  
 Rotary Printing Press  
 Ruling Machine  
 Slitting Machine  
 Straw Winder  
 Stripping Machine  
 Taping Machine  
 Tubecutting Machine  
 Tubewinder  
 Tube Machine (Paper Bags)  
 Window Patch Machine  
 Wire- or Tag- Stringing Machine

## HO 13 - Occupations Involved in the Manufacture of Brick, Tile, and Kindred Products

The following occupations involved in the manufacture of clay construction products and of silica refractory products are prohibited:

1. All work in or about establishments in which clay construction products are manufactured, *except*
  - a. work in storage and shipping;
  - b. work in offices, laboratories, and storerooms; and
  - c. work in the drying departments of plants manufacturing sewer pipe.
2. All work in or about establishments in which silica brick or other silica refractories are manufactured *except* work in offices.
3. Nothing in this section shall be construed as permitting employment of minors in any occupations prohibited by any other HO issued by the Secretary of Labor.

### Definitions

1. The term *clay construction products* shall mean the following clay products: brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and draintile. The term shall not include the following non-structural-bearing clay products: ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor shall the term include non-clay construction products such as sand-lime brick, glass brick, or non-clay refractories.
2. The term *silica brick or other silica refractories* shall mean refractory products produced from raw materials containing free silica as their main constituent.

## **HO 14 - Occupations Involved in the Operation of Power-Driven Circular Saws, Bandsaws, and Guillotine Shears**

The following occupations are prohibited in any type of establishment (manufacturing, non-manufacturing, retail, wholesale, service, etc.):

1. The occupations of operator of or helper on the following power-driven fixed or portable machines *except* for machines equipped with full automatic feed and ejection: circular saws, band saws, and guillotine shears.
2. The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, bandsaws, and guillotine shears.

### *Exemption*

The exemption for student-learners and apprentices applies to HO 14.

### *Definitions*

1. The term *operator* shall mean a person who operates a machine covered by this HO by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.
2. The term *helper* shall mean a person who assists in the operation of a machine covered by this HO by helping place materials onto or removing them from the machine.
3. The term *machine equipped with full automatic feed and ejection* shall mean machines covered by this HO which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his or her body in the point-of-operation area.
4. The term *circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.
5. The term *bandsaw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.
6. The term *guillotine shears* shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

## **HO 15 - Occupations Involved in Wrecking, Demolition, and Shipbreaking Operations**

All occupations in wrecking, demolition, and shipbreaking operations are prohibited.

### *Definitions*

The term *wrecking, demolition, and shipbreaking operations* shall mean all work, including cleanup and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, or other structure, ship or other vessel.

## **HO 16 - Occupations in Roofing Operations and All Work On or About a Roof**

All occupations in roofing operations and all work on or about a roof are prohibited.

### *Exemption*

The exemption for student-learners and apprentices applies to HO 16.

### *Definitions*

1. The term *roofing operations* means all work performed in connection with the installation of roofs, including related metal work such as flashing, and applying weatherproofing materials and substances (such as waterproof membranes, tar, slag or pitch, asphalt prepared paper, tile, composite roofing materials, slate, metal, translucent materials, and shingles of asbestos, asphalt, wood or other materials) to roofs of buildings or other structures. The term also includes all jobs on the ground related to roofing operations such as roofing laborer, roofing helper, materials handler and tending a tar heater.
2. The term *on or about a roof* includes all work performed upon or in close proximity to a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and coating of existing roofs; the construction of the sheathing or base of roofs (wood or metal), including roof trusses or joists; gutter and downspout work; the installation and servicing of television and communication equipment such as cable and satellite dishes; the installation and servicing of heating, ventilation

and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed on or about roofs.

## **HO 17 - Occupations in Excavation Operations**

The following occupations in excavation operations are prohibited:

1. Excavating, working in, or backfilling (refilling) trenches, *except*
  - manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or
  - working in trenches that do not exceed four feet in depth at any point.
2. Excavating for buildings or other structures or working in such excavations, *except*
  - manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or
  - working in an excavation not exceeding such depth, or
  - working in an excavation where the side walls are shored or sloped to the angle of repose.
3. Working within tunnels prior to the completion of all driving and shoring operations.
4. Working within shafts prior to the completion of all sinking and shoring operations.

### *Exemption*

The exemption for student-learners and apprentices applies to HO 17.

## **Special Provisions Permitting the Employment of Certain Minors in Places of Business that Use Machinery to Process Wood Products**

Section 13(c)(7) of the FLSA permits the employment of certain minors between the ages of 14 and 18, inside and outside of places of businesses where machinery is used to process wood products.

This exemption applies only to a minor who is:

1. exempt from compulsory school attendance beyond the eight grade either by statute or judicial order, and,
2. is supervised in the work place by an adult relative or adult member of the same religious sect or division as the minor.

Although a minor meeting these requirements maybe employed inside and outside of places of businesses that use machinery to process wood products – activities normally prohibited by Child Labor Regulation No. 3 and HO 4 – the minor is still prohibited from operating, or assisting to operate, any power-driven woodworking machines. This prohibition includes the starting and stopping of the machines and the feeding of materials into the machines as well as the off-bearing of materials from the machines.

Such minors are also prohibited from cleaning, oiling, setting-up, adjusting and maintaining the machines. In addition, such minors must be protected from wood particles or other flying debris within the workplace by a barrier appropriate to the potential hazard of such wood particles or flying debris or by maintaining a sufficient distance from machinery in operation. The minors are also required to use personal protective equipment to prevent exposure to excessive levels of noise and sawdust.

## **Exemptions from Certain HOs for Apprentices and Student-Learners**

Hazardous Occupations Orders Nos. 5, 8, 10, 12, 14, 16, and 17 contain exemptions for 16- and 17-year-old apprentices and student-learners provided they are employed under the following conditions:

### Apprentices:

1. the apprentice is employed in a craft recognized as an apprenticeable trade;
2. the work of the apprentice in the occupations declared particularly hazardous is incidental to his or her training;
3. such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and
4. the apprentice is registered by the Bureau of Apprenticeship and Training of the U. S. Department of Labor as employed in accordance with the standards established by that Bureau, or is registered by a State agency as employed in accordance with the standards of the State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, or is employed under a written apprenticeship agreement and conditions which are found by the Secretary of Labor to conform substantially with such Federal or State standards.

Student-Learners:

1. the student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school; and
2. such student-learner is employed under a written agreement which provides:
  - a. that the work of the student-learner in the occupations declared particularly hazardous shall be incidental to the training,
  - b. that such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person,
  - c. that safety instruction shall be given by the school and correlated by the employer with on-the-job training, and
  - d. that a schedule of organized and progressive work processes to be performed on the job shall have been prepared.

Each such written agreement shall contain the name of the student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder.

A high school graduate may be employed in an occupation in which training has been completed as provided in this paragraph as a student-learner, even though the youth is not yet 18 years of age.

Although the regulations do not provide definitions of the terms *intermittent* and *short periods of time*, the Wage and Hour Division interprets those terms to mean that an apprentice or student-learner may not be the principal operator of prohibited machinery. He or she must work under the close supervision of a fully qualified and experienced adult, such as a journeyman. Further, the duties assigned the minor may not be such that he or she is constantly operating the prohibited machinery during the work shift, but only doing so as part of the training experience. This would preclude an apprentice or student-learner from being a production worker, responsible for spending a significant portion of the workday operating prohibited machinery or performing prohibited tasks. The Wage

and Hour Division considers the continuous performance of otherwise prohibited work that exceeds one hour a day to be more than *intermittent* and more than for *short periods of time*. The Wage and Hour Division also considers the performance of otherwise prohibited work which totals more than 20% of the student-learner's work shift to be more than for *short periods of time*.

The regulations do not define the term *direct and close supervision*. The Wage and Hour Division's interpretation of *direct and close supervision* as it applies to apprentices and student-learners is based on guidance received from the Bureau of Apprenticeship and Training (BAT) which is part of the U. S. Department of Labor's Employment and Training Administration. BAT establishes ratios governing the number of journeymen and apprentices that may be employed on the job site in order to ensure worker safety and that the apprentices receive both proper training and supervision. BAT has advised the Wage and Hour Division that the most widely used ratio is one apprentice for the first journeyman on-site, and one apprentice for every three additional journeymen thereafter. The Wage and Hour Division considers the requirement of *direct and close supervision* to be met when there is one journeyman or experienced adult working with the first apprentice/student-learner on-site, and at least three journeymen or experienced adults working alongside each additional apprentice/student-learner. Of course, the requirement for *direct and close supervision* applies only during the periods when the apprentice/student-learner is actually performing work that would otherwise be prohibited by the HO.

## Age Certificates

Employers may protect themselves from unintentional violation of the youth employment provisions by keeping on file an employment or age certificate for each minor employed to show that the minor is the minimum age for the job. Certificates issued under most State laws are acceptable for purposes of the FLSA.

## Enforcement of the Federal Youth Employment Provisions

The Wage and Hour Division, which is part of the Department of Labor's Employment Standards Administration, administers and enforces the youth employment, minimum wage, overtime and recordkeeping provisions of the Fair Labor Standards Act. The Wage and Hour Division also has enforcement responsibility for programs covering such things as prevailing wages for government contracts, the payment of special minimum wages, farm labor, family and medical leave, immigration and polygraph testing. Wage and Hour Division Investigators, who are stationed across the United States, are authorized to conduct investigations and gather data on wages, hours of work, and compliance with the all the provisions of the FLSA, including the youth employment provisions.

## Penalties for Violation

### Civil Money Penalties

Employers may be subject to a civil money penalty of up to \$11,000 for each employee who is the subject of a youth employment violation. When a civil money penalty is assessed against an employer for a youth employment violation, the employer has the right, within 15 days after receipt of the notice of such penalty, to file an exception to the determination that the violation or violations occurred. When such an exception is filed with the office making the assessment, the matter is referred to the Chief Administrative Law Judge, and a formal hearing is scheduled. At such a hearing, the employer may, or an attorney retained by the employer may, present such witnesses, introduce such evidence and establish such facts as the employer believes will support the exception. The determination of the amount of any civil money penalty becomes final if no exception is taken to the administrative assessment thereof, or if an exception is filed pursuant to the decision and order of the administrative law judge.

### Hot Goods Injunction

The FLSA authorizes the Department of Labor to seek injunctions to halt interstate commerce of goods tainted by "oppressive child labor." Section 12(a)(29 U.S.C. 212(a)) prohibits interstate commerce in such "hot" goods, stating that "[n]o producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment in the United States in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor [as defined in section 3(1), 29 U.S.C. 203(1)] has been employed." It is not necessary for the employees to be working on the goods that are removed for shipment in order for those goods to be considered "hot goods."

### Injunction to Compel Compliance

The FLSA authorizes the Department of Labor to seek injunctions against violators of the youth employment provisions to compel their compliance with the law. Further violations could result in sanctions against such persons for contempt of court.

### Criminal Sanctions

The FLSA also provides, in the case of willful violation, for a fine up to \$10,000; or, for a second offense committed after the conviction of such person for a similar offense, for a fine of not more than \$10,000 or imprisonment for not more than 6 months, or both.

## Additional Information

Inquiries about the Fair Labor Standards Act or any other law administered by the Wage and Hour Division may be addressed to any local office of the Wage and Hour Division. Additional information is available on our Home Page located at [http://www.dol.gov/dol/esa/public/whd\\_org.htm](http://www.dol.gov/dol/esa/public/whd_org.htm). To locate the Wage and Hour Division office nearest to you, telephone our toll-free information and helpline at 1-866-4US-WAGE (1-866-487-9243); a customer service representative is available to assist you with referral information from 8am to 5pm **in your own time zone**; or log onto the nationwide listing of Wage-Hour District Offices located at: <http://www.dol.gov/dol/esa/public/contacts/whd/america2.htm>.