

LEGALLY SPEAKING

By Bob Dunlevey

EMPLOYMENT OF YOUNG WORKERS

This article answers many of the common questions about restrictions imposed by state and federal wage-hour laws.

In general, the type of work that a minor may perform is related to the youth's age, the nature of the work and schooling status. State and federal laws vary somewhat. Here is a basic summary:

14 and 15 year olds:

- can work up to 3 hours on a school day, Monday through Friday and 18 hours during a school week.
- can work up to 8 hours a day on a non-school day, or 40 hours in a non-school week.
- cannot work during school hours.
- cannot work before 7:00 a.m. or after 7:00 p.m. when school is in session (except from June 1 through Labor Day when evening hours are extended to 9:00 p.m.)
- cannot work in any manufacturing, processing, mining, construction, warehouse operations, and many restrictions apply in cooking.
- cannot work in any of the 17 Hazardous Occupations listed below, for "16 and 17 year olds."
- cannot load/unload trucks.
- cannot use power driven machinery, mowers or cutters
- Under federal law the prohibited occupations for minors under 16 is broader than it appears and includes such things as outside window washing from ladders, work in boiler/engine rooms and work in connection with vehicles using lifting apparatus or tire inflation of removable rims, mowers and cutters

16 and 17 year olds:

- can work in any occupation except those declared hazardous by the Secretary of Labor. The 17 Hazardous Occupations for non-farm work deal with the following:
 1. Manufacturing or storing explosives

2. Driving a motor vehicle as primary job and being a vehicle outside helper (but incidental/occasional daytime driving is okay for vehicles not exceeding 6,000 pounds)
3. Coal mining
4. Logging and sawmilling
5. Power-driven wood working machines
6. Exposure to radioactive substances and to ionizing radiations
7. Power-driven hoisting apparatus
8. Power-driven metal forming, punching and shearing machines
9. Mining other than coal mining
10. Meat packing or processing (including power-driven meat slicing machines)
11. Power-driven bakery machines
12. Power-driven paper products machines
13. Manufacturing brick, tile, and related products
14. Power-driven circular saws, band saws, and guillotine shears
15. Wrecking, demolition, and ship-breaking operations
16. Roofing operations*
17. Excavating operations

18 year olds:

- can work in any job for unlimited hours

Parental employment:

A parent's employment of his own child under the age of 16 is permissible in any occupation other than manufacturing, mining or in any of the 17 Hazardous Occupations listed above.

***Roofing Operations**

The Department of Labor's Wage and Hour Division issued new youth employment rules on

December 16, 2004 which, among other things, expand the protections of Hazardous Occupations Order No. 16 (HO 16). HO 16, which previously prohibited the employment of workers under 18 years of age in any roofing occupation, will also prohibit these minors from performing any work on or about a roof or in close proximity to a roof.

- **Youth under 18 years of age may not work in roofing occupations.**

The term *roofing occupations* 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.

- **Youth under 18 years of age may not perform work on or about a roof.**

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.

This prohibition is not limited to circumstances where the minor employee is standing or working on the roof itself but extends to standing or working on a ladder or scaffold at or near the roof, as well as working from or being transported to or from the roof in mechanical devices such as hoists.

Youth less than 18 years of age may not use roofs to access equipment or other work places and are prohibited from performing tasks associated with the installation of roofs on metal buildings.

- The rules allow 16- and 17-year-olds who are employed pursuant to a bona fide apprenticeship or student-learner program to perform work that would otherwise be prohibited.

Minimum wage:

\$7.30 Ohio minimum wage as of January 1, 2010

\$7.25 federal minimum wage as of July 24, 2009 unless \$4.25 “youth sub-minimum wage” used for first 90 days.

Rest period:

Under Ohio law, employees under eighteen must receive thirty minute rest period (unpaid, if desired) after the first five hours of work.

Penalties:

Employers who violate the FLSA child labor law provisions are subject to a civil money penalty of up to \$11,000 for each child labor violation that causes the death or serious injury of a minor. Imprisonment can occur for repeated infractions.

Record keeping:

A list of minors employed and a written record of the hours worked and rest breaks taken must be maintained for two (2) years. Ohio requires a written agreement related to the compensation to be received. The display of a poster is also required.

This summary cannot provide all of the requirements for employing minors. If you wish to receive a complimentary, detailed, written analysis, contact Bob Dunlevey at Dunlevey, Mahan & Furry at (937) 223-6003.