



To: Sauder & Stoltzfus, LLC
From: Jeffrey Worley
Date: February 23, 2018
Re: Child Labor Laws

Child labor laws vary depending on the age of the child, the type of employment and other factors. This memo is intended to be a general overview of child labor laws. Because violations of child labor laws can have very serious consequences for the child and the employer, employers should consult with their legal counsel prior to hiring a minor.

Consider the case of a Burger King franchise in Massachusetts that was fined \$50,000 for child labor violations. In this case the minor employees worked past 10 p.m. on school nights and later than midnight on weekends. Massachusetts, similar to Pennsylvania, restricts the hours that minors can work. Or consider the New York case of a young man who, while 15 years old, suffered significant brain damage after an accident involving the use of equipment that was prohibited under state law. A jury in that case awarded the young man more than \$3 million. While the teenagers in the Massachusetts case were perhaps a bit sleepy for school the next morning, the New York teenager's life was altered forever. In both cases the employer paid significant penalties. Thus, employers should think carefully before hiring minors.

There are criminal and civil penalties for any person who violates the child labor laws. Under Pennsylvania laws the fines can reach up to \$5,000 per violation and up to 10 days in prison. Under federal law, willful violations of child labor laws may result in criminal prosecution including a sentence of not more than six (6) months imprisonment and/or a fine not to exceed \$10,000 for each employee who is the subject of the violation. In the event that a child is injured as the result of a violation of federal law, an employer can be fined over \$50,000. This is in addition to any private causes of action that the minor may have against the employer. Employers should also remember that minor employees are likewise protected under OSHA, federal and state anti-discrimination and harassment laws and other wage and hour laws.

Under Pennsylvania and federal law, a minor is considered to be anyone under 18. There are some exceptions to the laws as summarized below, such as a minor who has completed high school.

Minors under 14 years of age may not be employed or permitted to work in any occupation, except children employed on farms or in domestic service in private homes. No minor under 14 years of age may be employed on a farm by a person other than the farmer. Note that there are restrictions as to the jobs a minor under 14 can perform on a farm.

Minors under 16 years of age require a written statement by the minor's parent or legal guardian acknowledging understanding of the duties and hours of employment and granting permission to work. A copy of the parental written statement can be accessed at:

<http://www.dli.pa.gov/Individuals/Labor-Management-Relations/lrc/Documents/LLC-75.pdf>

All minors are required to obtain a work permit. Each school district is responsible for issuing work permits to all minors who reside in the district including those who attend non-public schools, cyber charter schools, or are participating in a home education program. It is the minor's responsibility to obtain a work permit. The employer must keep a copy of the work permit, the original verified permission statement, and a copy of the letter sent to the issuing officer announcing the employment of the minor. The employer must notify the issuing officer in writing of the employment of a minor and detail the normal duties and hours of employment within five days after the beginning of employment and include the age and permit number of the minor. On termination of employment of a minor, the employer must notify the issuing officer within five days of the final day of employment that the minor no longer is employed by the employer.

Under Pennsylvania law, during a regular school week, **minors 14 and 15 years of age** may not be employed before 7 am or after 7 pm; except that during a school vacation period a minor can be employed until 9 pm. In addition, a minor may not be employed for more than three hours on a school day or more than eight hours on a day when there is no school. The minor may not be employed for more than 18 hours during a regular school week and not more than 40 hours during a week that school is not in session.

Minors 16 years of age or older may not be employed before 6 am or after 12 midnight during a regular school week. The minor may not be employed for more than 8 hours in a single day or more than 28 hours per week during a regular school week. A regular school week is the five days beginning with Monday through Friday when school is in session.

Pennsylvania employers are required to provide **break periods** of at least 30 minutes for minors ages 14 through 17 who work five or more consecutive hours. Employers are not required to give breaks for employees 18 and over.

There are specific exceptions from both federal and state laws for children working on family and private farms.

Hiring minor employees can provide benefit to employers and expose teenagers to valuable experiences; however, employers must be sure that they fully comply with all federal and state laws. Prior to hiring a minor, it is recommended that you consult with your attorney and accountant to ensure that you meet all requirements.

This memo contains only general information and should not be relied upon as legal advice about any particular situation nor should it take the place of professional legal advice applied to your factual setting.