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EMPLOYMENT OF MINORS

OHIO CHILD LABOR LAW

An addendum to the
Ohio Farm Labor Handbook

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The material in this addendum to the Ohio Farm Labor Handbook is for informational purposes only. It does not have the force or intent of law. A representative of the Department of Industrial Relations has reviewed this summary of the Ohio Child Labor Law. However, the user of this publication assumes responsibility for any actions taken on the basis of information in it. Furthermore, new legislation and court decisions regularly modify labor regulations. Consequently, the information may not be current after June, 1980.

EMPLOYMENT OF MINORS

OHIO CHILD LABOR LAW

INTRODUCTORY NOTE

For many years, the Ohio Revised Code has included sections on employment of youth. However, section 4109.01 provided an exemption for agricultural employers. HB No. 883 became law on January 12, 1979 and repealed the agricultural employer exemption. Most farm employers of youth are now covered by the Ohio Revised Code. The Federal Fair Labor Standards Act (Federal Child Labor Law) has applied to agricultural employers for several years. There are no recent changes in the Federal Child Labor Law. There are important differences between Federal and State Law. In some instances, State law has considerably more restrictive provisions than Federal law.

The purpose of this addendum to the Ohio Farm Labor Handbook is to update material in the "Employment of Minors" section, pages 15-23. The material on pages 16, 19, and 20 from the Ohio Revised Code is now obsolete and should no longer be used in addressing questions concerned with youth employment on farms in Ohio.

OBJECTIVE

The objective of the State minor employment law is to provide for the health, safety, and welfare of employed youths and to prevent their exposure to certain hazardous jobs.

COVERAGE

Employment of minors under age 18 is subject to State provisions set by HB No. 883 which are now part of section 4109 of the Ohio Revised Code. These various sections of the Revised Code are referred to as the State Child Labor Laws in this discussion.

Effective January 12, 1979, all agricultural employers, except those explicitly exempted, are covered by the State Child Labor Laws. There is no minimum number of employees or minimum payroll which influences coverage.

The specific exemptions affecting farm employment are: 1) minors employed in connection with farms operated by their parents, grandparents, or guardians where the minors are members of the guardians' household. This exemption does not include minors residing in agricultural labor camps. 2) minors engaged in lawn mowing, snow shoveling, and other similar employment, on a casual basis. 3) minors who have graduated from high school,

4) minors who are currently heads of households or who are parents contributing to the support of their children, and 5) students participating in a vocational agriculture program approved by the Ohio Department of Education.

EMPLOYMENT PROVISIONS

Minors Under 14 Years of Age

Minors under 14 years of age cannot be employed by covered agricultural employers. All employed minors must have a valid age and schooling certificate (work permit). Minors under 14 years of age cannot be issued an age and schooling certificate and therefore cannot be employed by agricultural employers.

Minors 14 and 15 Years of Age

Minors 14 and 15 years of age can be issued a part-time and vacation age and schooling certificate (work permit) which permits them to be employed in occupations not forbidden by the Ohio Child Labor Laws.

There are specific employment provisions for minors 14 and 15 years of age holding valid age and schooling certificates which apply from June 1 to September 1:

1. No employment before 7:00 a.m. or after 9:00 p.m.
2. Not more than eight hours of employment per day.
3. Not more than forty hours of employment per week.
4. Not more than five consecutive hours of employment without a rest period of at least 30 minutes.

The following provisions apply to any school day or any week in which school is in session with one exception. The exception is a week which is part of a school holiday (e.g., Christmas vacation) of five school days or more duration:

1. No employment during school hours.
2. No employment after 7:00 p.m.
3. Not more than three hours of employment per school day.
4. Not more than 18 hours of employment in any week school is in session.
5. Not more than eight hours of employment per non-school day during a week school is in session.

Minors 16 and 17 Years of Age

There are no prohibited occupations in agriculture or restrictions on starting and stopping times, breaks, and hours worked per day or week except that the rest period requirement of not more than five consecutive hours of employment without a rest period of at least 30 minutes also applies to 16 and 17 year olds. Additionally, minors 16 and 17 years of age, not otherwise exempted from the Ohio Child Labor Laws, are required to have an age and schooling certificate (work permit). To receive the certificate, the 16 or 17 year old minor must have satisfactorily completed a vocational education or special education program adequate to prepare students for an occupation. They are not required to have graduated from high school.

EMPLOYER PROVISIONS

Covered agricultural employers are required to have on file a valid age and schooling certificate (work permit) for each minor employed. An age and schooling certificate is the conclusive evidence of age and the employer's right to employ the minor in occupations not listed as hazardous. There are two kinds of age and schooling certificates: one for minors age 16 and 17 and another for 14 and 15 year olds. From the employer standpoint, there are no significant differences between the two certificates. An employer cannot obtain an age and schooling certificate for an employee.

The employer is required to keep an age and schooling certificate on file for each minor employed. The certificate should be in the hands of the employer prior to the minor's starting to work. Within five working days after a minor quits, is dismissed, or is laid off, the employer must return the age and schooling certificate to the local school superintendent or notify the superintendent of the non-use of the certificate.

Any enforcement official* making a child labor inspection must be allowed to examine the agricultural employer's file of age and schooling certificates.

Each employer is required to maintain a list of all minors employed. This list is to be posted in plain view in a conspicuous place to which all minor employees have access.

An employer is required to post a printed abstract which summarizes the Ohio Child Labor Laws. The abstract is available from the Department of Industrial Relations. This abstract is to be posted in a conspicuous place to which all minor employees have access.

*For purposes of the Ohio Child Labor Law, an enforcement official is the Director of Industrial Relations or his authorized representative, the Superintendent of Public Instruction or his representative, any school attendance officer, any probation officer, the Director of Health or his authorized representative, and any representative of a local Department of Health.

An employer is required to furnish each employed minor with written evidence of the employment agreement reached between the employer and the employee. This employment agreement must include, as a minimum, the wages or compensation to be received by the minor per hour, day, week, month, year, or piece. This written evidence can be simply a statement showing the wage rate. An employer handbook or list of rules and regulations provided all employees can satisfy this requirement if it includes the wage rates paid.

Each employer is required to provide each minor employee a statement of earnings and the amount to be paid to him on the pay day. This statement of earnings must be received on or before each pay day.

An employer cannot reduce wages or compensation of any minor without giving him at least 24 hour notice of the reduction. If there is a reduction, a new written employment agreement must be provided the employee.

The employer cannot withhold or retain from a minor's wages or compensation any payments for presumed negligence, incompetency, failure to comply with rules, or breakage of machinery. An employer cannot require or receive deposits from minors to serve as security or an insurance of faithful performance of labor, observance of rules, or to cover losses which may be charged to the minor's incompetence, negligence, or inability.

EMPLOYEE PROVISIONS

Prior to start of work, minors are required to get an age and schooling certificate (work permit) from their local school superintendent. A resident of Ohio obtains an age and schooling certificate from the school superintendent of the district where he resides rather than the school district where the farm employer is located. If the minor is a resident of a state other than Ohio, he should obtain the age and schooling certificate from the Ohio school district where his agricultural employer is located. The minor must personally apply for and receive the certificate. A child acquiring a certificate must sign it in the presence of the issuing school officer.

A minor employee who has terminated employment with a particular employer may make a written request to that employer to return his age and schooling certificate to the local superintendent. If the employer fails to mail the certificate to the superintendent within three days of receipt of the request, the minor is entitled to receive some payment from the employer. The payment is equal to the wages which would have been earned working for the employer during the period between the receipt of the request by the employer and the actual mailing of the certificate.

A minor employee can have his employment terminated if he fails to appear for work without explanation for three days.

Each minor employee is to receive a written employment agreement from the employer. As a minimum, this agreement must state the wage rate for the minor's employment.

Any employee who appears to an enforcement official to be under 18 years of age must, if requested to do so, provide the official with his name, age, and place of residence. An employee refusing to do this may be taken into custody and charged with being an unruly child.

A minor employee or anyone acting in his behalf may file a written complaint with the Department of Industrial Relations. This complaint may be relative to any part of the Ohio Child Labor Law.

HAZARDOUS OCCUPATIONS

The Director of Industrial Relations has adopted rules prohibiting the employment of 14 and 15 year olds in certain occupations which are hazardous or detrimental to the health and well-being of minors. These hazardous occupations for agricultural employers are the same as those listed on page 18 of the Ohio Farm Labor Handbook. These State hazardous occupations conform to the Federal hazardous occupations in agriculture issued by the U.S. Secretary of Labor.

RECORD KEEPING

There are specific record keeping requirements for agricultural employers of minors. An employer shall have written records for each employee which state:

1. Name, address, and occupation of each minor employed.
2. The number of hours worked by each minor on each day of the week.
3. The beginning and ending hours of work.
4. The beginning and ending hours for meal periods.
5. The amount of wages paid each pay period to each minor.

These records shall be kept for a period of two years.

RESPONSIBLE AGENCY

The State Agency responsible for enforcement of the Ohio Code as it relates to prohibited jobs for minors is:

Division of Women, Minors, Minimum Wage and
Prevailing Wage
Department of Industrial Relations
2323 W. Fifth Avenue, P.O. Box 825
Columbus, OH 43216
Phone: (614) 466-4340

The Department of Industrial Relations conducts inspections of agricultural employers on the basis of written complaints from any minor employee or anyone acting on his behalf. A first inspection following a complaint is normally to determine what, if any, deviations there are from the requirements of the Ohio Child Labor Laws. An inspected employer will be given the inspection results prior to initiation of any court of action. Enforcement officials have the right to inspect files of age and schooling certificates, talk with minor employees, and examine employer payroll records.

Whoever violates the Ohio Child Labor Laws is guilty of a minor misdemeanor or a misdemeanor of the third degree.