

EXEMPTIONS TO CHILD LABOR LAW

Young workers who are deemed employees may still qualify for one of several specific exemptions to the requirements of child labor laws (including the provisions on recordkeeping, hours of work, and prohibited occupations). Keep in mind, however, that an exemption from child labor law does not relieve an employer from meeting the requirements of other employment laws, like minimum wage, overtime, working conditions and wage collection laws.

SPECIFIC OCCUPATIONAL EXEMPTIONS

State and federal laws specifically exempt employers of minors from child labor laws with regard to employment in the following work or occupations:

- **DOMESTIC WORK** or chores undertaken in or about a private residence. OAR 839-021-0500. Federal coverage does not extend to young entrepreneurs who use the family lawnmower to cut their neighbor's grass or perform babysitting *on a casual basis only*. Questions on federal coverage should be directed to the U.S. Department of Labor directly at 503-326-3057.
- **NEWSPAPER CARRIERS OR VENDORS**, including stuffing and folding of newspapers which is done in service of the minor's own newspaper sales or delivery to individual customers. Folding and stuffing of newspapers which is done only at the employer's place of business, or the folding and stuffing of newspapers for other carriers or vendors is **NOT** exempt from child labor laws. OAR 839-021-0500; 29 C.F.R. § 570.124.
- **SOCCER REFEREES**. Under Oregon law, persons under 18 years of age serving as a referee or assistant referee in a youth or adult recreational soccer match are exempt under both the child labor and minimum wage laws because they are considered independent contractors. ORS 670.610; OAR 839-021-0500. **NOTE:** Federal law does not provide a similar exemption. Any employer subject to the FLSA will need to ensure the employment of minors as soccer referees conforms with the requirements of federal law.

PARENTAL AND FAMILY EXEMPTIONS

Federal law allows parents to employ their own children in any occupation except those that have been declared hazardous by the Secretary of Labor. Federal law places additional restrictions on parents of minors who are under 16 by prohibiting employment not only in occupations declared hazardous but also in manufacturing, construction, and mining occupations. 29 U.S.C. § 203(1).

Under Oregon law, parents who employ their own children must comply with the same requirements that apply to all other employers of minors, including:

- **Obtaining Employment Certificates (for minors 14–17) and employment permits (for minors under the age of 14) for non-agricultural employment,**
- **Complying with the maximum hours provisions of the Child Labor law, and**
- **Paying no less than the minimum wage as well as overtime for all hours work in excess of 40 in a workweek.**

Parents may apply to the Wage and Hour Commission for special permits to employ their children to work at late times than are otherwise permitted by law but may not employ their children to work more hours than the law permits.

A minor may be employed by a parent or person standing in place of the parent in agriculture to operate power-driven farm machinery without an employment certificate.¹ OAR 839-021-0276(1)(d). Minors who are employed by an agricultural employer who is an immediate family member are exempt from the payment of minimum wage. ORS 653.020(1)(b). See the “*Employment of Minors in Agriculture*” section below.

Under ORS 653.365, parents are exempt from the imposition of civil penalties for any violation of child labor laws. Oregon law does not, however, provide

¹ Non-parental agricultural employers only need an Employment Certificate if the minor will be operating power-driven farm machinery. See the section on *EMPLOYMENT OF MINORS IN AGRICULTURE* for details.

a parental exemption from criminal sanctions. Under ORS 653.991, any violation of child labor laws or Wage and Hour Commission rules is punishable as a misdemeanor.

PREVIEW

HIRING MINORS

The process of hiring a minor employee is very much like the process for hiring an adult employee. There are, however, three additional administrative requirements which pertain to the employment of any minor:

1. **Obtaining an annual Employment Certificate;**
2. **Verifying the applicant's age; and**
3. **Meeting special posting / recordkeeping requirements.**

NOTE: There are additional conditions placed on the employment of minors under 14 years of age and for specific industries like labor to do sales and the entertainment industry (see relevant sections below).

ANNUAL EMPLOYMENT CERTIFICATE

Employers who employ minors 14–17 years of age must first obtain an Employment Certificate from the Child Labor Unit of the Bureau's Wage and Hour Division. This employment certificate is renewable annually. Individual work permits are not required for minors ages 14 through 17, but employers are required to verify the ages of all minors hired.

Employment Certificate applications may be obtained from the Bureau's website at www.oregon.gov/wahd/boli or by calling BOLI's Child Labor Unit at 971-673-0836. Early renewal applications are sent to employers who have been issued an Employment Certificate. Each employer who applies for an employment certificate receives a summary of state and federal child labor laws. ORS 651.307.

The Employment Certificate application requires: the name and address(es) of the employer and the company representative who completes the application, an estimate of the number of minors to be employed during the year, the ages of the minors anticipated to be employed, and a description of the duties to be performed, including any equipment or machinery to be operated by minors. If any changes in the duties or equipment to be operated are made after the Employment Certificate is issued, the employer must complete and submit a "Notice of Change in Duties" form. OAR 839-021-0220(2)(b).