

MINUTES OF MEETING

Wage and Hour Commission

Thursday, May 20, 2004, 11:00 AM
10th Floor, Portland State Office Building
Room 1004
800 NE Oregon Street
Portland, Oregon

1. CALL TO ORDER

Commission Chair Jeff Anderson called the meeting to order at 11:00 AM.

2. ROLL CALL

Members Present:

Jeff Anderson, Chair
Gary Lockwood
Kathy Nishimoto

Staff Present:

Dan Gardner, Commissioner, Bureau of Labor and Industries
Christie Hammond, Administrator, Wage and Hour Division (WHD)
Marge Phelps, Operations Support Manager, WHD
Karen Gernhart, Administrative Specialist, Child Labor Unit, WHD

Guests Present:

Joan Rothlein, Ph.D., Senior Research Associate, CROET, Oregon Health & Science University

3. FOR THE GOOD OF THE ORDER:

a. Commission Terms/Appointments

Staff reported that pending confirmation by a Senate legislative committee, John Fyre has been appointed to replace Gary Lockwood on the commission. It was noted that Mr. Lockwood had served two full terms on the commission, and his current term ended April 4, 2004.

It was also noted that Kathy Nishimoto, also subject to Senate confirmation, is being reappointed to the commission. Ms. Nishimoto was appointed to complete the term of Shelley Olson, a previous commission member, who passed away. Ms. Nishimoto's current term ends June 30, 2004.

b. Consent Agenda

The minutes of the previous meeting of March 25, 2004 were unanimously approved as presented.

Staff summarized the temporary actions taken by staff since the commission's last meeting, which were unanimously approved.

c. Correspondence

Memorandum dated April 7, 2004 to agricultural employers from Karen Gernhart regarding required training certificates for minors employed to operate power-driven farm machinery.

Electronic communications dated March 25 and May 3, 2004 and related attachments between Roy C. Kroker and Christie Hammond pertaining to a possible rule revision relating to the use of explosives by minors.

4. REPORTS

a. Child Labor Statistics

Staff reported that the Child Labor Unit issued a total of 493 annual Employment Certificates ("EC's") in March, 2004 (compared to 399 issued in March, 2003) and 838 EC's in April, 2004 (compared to 479 issued in April, 2003). The total number of EC's issued year-to-date (3,870) is 94% the number issued during this same period of time last year (4,097).

b. Workers' Compensation Injury Report

Staff reported that the February and March, 2004 Workers' Compensation Division injury reports of "Claimants Under 18 Years of Age" had been reviewed since the last meeting. One apparent occupational violation (involving the use of a nail gun by a 15 year-old minor) appeared to have occurred and was referred for investigation. Several minors were employed without the employer first obtaining an employment certificate as required. Staff has followed up on these.

c. Significant Cases

Labor Commissioner Dan Gardner indicated that he would be proposing to the commission a rule amendment relating to the use of explosives by minors in response to

the fatal cannon explosion last summer at Camp Meriwether, a Boy Scout camp, in which a 16 year old minor was fatally injured.

Christie Hammond reported that she has been working with Roy Kroker, the father of the deceased minor, on a draft rule which was presented and discussed at meeting.

The commission members suggested that staff circulate the draft rule for comment to interested parties prior to initiating the rulemaking process. Staff agreed to do so and said it would report back to the commission at its next meeting regarding further developments.

Christie Hammond also reported on the status of the division's investigation of Wal-Mart, specifically relating to minors employed. Ms. Hammond said that in response to a request for a list of all minors employed in Oregon, Wal-Mart had provided a list of only ten minors employed in five stores in the state. Ms. Hammond said that BOLI staff contacted each of the ten minors employed and that all of the minors (who were 16 and 17 years of age) that were interviewed were aware of the provisions for rest/meal periods and stated that they were required to take them. The minors additionally provided information about how their break and meal periods were tracked and said that they were always relieved of all duties during their breaks and meal periods. When asked what happened if they missed or were late for a break or meal period, the minors reported that they would first receive a "coaching," (a meeting with their supervisor), and that after three such "coachings," (for failing to take rest/meal periods as required), they would be terminated.

5. NEW BUSINESS

a. Special Work Hours Permit Applications

Staff presented special work hours permit applications for two minors employed by their parents; Julian D. Keller, age 13, and Kameron T. Keller, age 10, which requested authorization for the children to work as late as 8:30 pm with their parents in the Kellers' janitorial business during the summer when not in school.

Action: The commission members unanimously approved the special work hours permit applications on the condition that the requested extended hours be confined to when school is not in session, and requested staff to issue the appropriate permits.

6. OTHER

Dr. Joan Rothlein from OHSU's Center for Research on Occupational and Environmental Toxicology ("CROET") attended the meeting, and discussed the possibility of working with the commission in the future, specifically in the areas of explosives handling and use of hazardous substances, i.e., pesticides, by minors. Dr. Rothlein expressed her concern that current state/federal regulations in these areas may not be adequate, and agreed to review the draft rule pertaining to use of explosives by minors.

Dr. Rothlein described Oregon's FACE program, which reviews the circumstances of fatal occupational injuries, and said that one of the program's focuses is on youth workers in the agriculture, retail, and restaurant industries, and the provision of educational materials relating to occupational hazards in these industries for employers and minors.

Commissioner Nishimoto emphasized the need for educational materials for employers.

8. NEXT MEETING DATE

The commission's next meeting was scheduled for Thursday, July 15, 2004 at 11:00 AM.

9. ADJOURNMENT

Chair Jeff Anderson adjourned the meeting at approximately 12:00.