



## 2003 Handbook of Employment Regulations Affecting Florida Farm Employers and Workers: Child Labor [Federal]<sup>1</sup>

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### Purpose

Provides federal standards for the employment of children (minors) in agriculture.

### Coverage

Minors age sixteen and over in agriculture are not included under the child labor provisions of the Fair Labor Standards Act (FLSA). Farm employers who are not covered under other provisions of FLSA (minimum wages, overtime) must, for the most part, comply with the law if they employ minors under sixteen years old.

Sixteen is the minimum age for working in agricultural jobs:

- Declared hazardous by the Secretary of Labor.

- During school hours.

Fourteen is the minimum age for working in agricultural jobs:

- Outside of school hours.
- In any agricultural occupations not declared hazardous by the Secretary of Labor.

### Except

- Minors ages twelve and thirteen may be employed in nonhazardous occupations with written parental consent or on a farm where the minor's parent or person standing in place of the parent is also employed.

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- Minors under age twelve may be employed with written parental consent on farms whose employees are exempt from federal minimum wage provisions under the 500 man-day provision.

*Note:* All minors may be employed by their parents at any time, in any occupation, on a farm owned or operated by their parent(s) or guardian(s).

### Minors Ages Ten and Eleven

Upon application, waivers may be issued by the Department of Labor permitting minors ages ten and eleven to work in hand harvested, short season crops provided the employer does not use certain restricted pesticides and complies with the minimum re-entry times for specified chemicals (29 C.F.R., Part 570).

### Hazardous Occupations in Agriculture

The Secretary of Labor has found and declared certain agricultural occupations are hazardous. Aside from certain exemptions, no minor under sixteen years of age may be employed at any time in these occupations. Briefly, these hazardous occupations are:

- Operating, driving, or riding on a tractor with more than 20-PTO horsepower.
- Operating or assisting to operate a corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, pea viner, feed grinder, crop dryer, forage blower, auger conveyor, self-unloading wagon or trailer, power post-hole digger, power post driver, or nonwalking-type rotary tiller.
- Operating or assisting to operate a trencher or earth moving equipment; forklift; potato combine or power-driven circular, band, or chain saw.
- Working in a pen, yard, or stall with a bull, boar, stud horse, sow with suckling pigs, or cow with newborn calf.
- Working around timber with a butt diameter of more than six inches.

- Working from a ladder or scaffold more than 20 feet high.
- Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
- Working inside a fruit, forage, or grain bin or silo under specified conditions.
- Handling or applying agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as Toxicity Category I (Danger or Danger-Poison) or Category II (Warning). These words will appear on the labels.
- Handling or using explosives.

*Note:* Post-harvest operations such as drying and curing are considered processing and have a different list of hazardous occupations, including using a knife.

### Exemptions from Hazardous Occupations in Agriculture

- As previously stated, minors under the age of sixteen who work for their parents on their parents' farm are exempt.
- *Student-Learners.* Student learners in a bona fide vocational agricultural program may work in occupations listed in the hazardous occupations order under a written agreement which provides that the student-learner's work is incidental to training, intermittent for short periods of time, and under close supervision of a qualified person; that safety instructions are given by the school and correlated with on-the-job training; and that a schedule of organized and progressive work processes has been prepared. The written agreement must contain the name of the student-learner and be signed by the employer and a school authority, each of whom must keep copies of the agreement.
- *4-H Federal Extension Serving Training Program.* Minors ages fourteen and fifteen who hold certificates of completion of either the tractor operation or machine operation program may work in the occupations for which they have

been trained. Occupations for which these certificates are valid are covered by items of the hazardous occupations order. Farmers employing minors who have completed this program must keep a copy of the certificates of completion on file with the minor's records. Enrollment in this program is open to minors who are members or non-members of 4-H. Information on this program is available from an Extension Agent of the Cooperative Extension Service.

- *Vocational Agricultural Training Programs.* Minors, ages fourteen and fifteen, who hold certificates of completion of either the tractor operation or machine operation program of the U.S. Office of Education Vocational Agriculture Training Program, may work in the occupations for which they have been trained. Occupations for which these certificates are valid are covered by items of the hazardous occupations order. Farmers employing minors who have completed this program must keep a copy of the certificate of completion on file with the minor's records. Information on the Vocational Agriculture Training Program is available from vocational agriculture teachers.

### **Employers Must**

- Every employer (except a parent employing his or her own child on his or her own farm) who employs any minor under the age of sixteen must preserve and maintain records containing the following data on each minor employee:
  - Full, legal name of minor.
  - Place where minor lives and his or her permanent address.
  - Date of birth.
  - Written evidence of any required parental consent.
- Every employer must keep a minor employee's age or employment certificate on file.
- Every employer must prohibit minors under sixteen from performing hazardous jobs.

### **Age Certificates**

Proof of age is not required. However, the U.S. Department of Labor recommends that employers obtain a Florida age certificate issued by the school board of each district where minors are employed.

### **Minimum Wage**

Unless an employer is otherwise exempt from the Minimum Wage Law, minor employees must be paid at least the current federal minimum wage rate. (See EDIS document FE407, *Minimum Wage (Fair Labor Standards Act)* [Federal].)

### **Enforcement**

Civil money penalties of up to \$10,000 per violation, per employee, or six month's imprisonment can result from employer actions contrary to federal child labor provisions.

### **Responsible Agency**

#### ***Regional Office***

U.S. Department of Labor

ESA Wage and Hour Regional Office

61 Forsyth Street, Room 6M12

Atlanta, GA 30303

(404) 562-2092

<http://www.doleta.gov/regions/reg03>

#### ***District Offices***

<http://www.dol.gov/esa/contacts/whd/america2.htm#Florida>

District Director

3728 Phillips Highway, Suite 219

Jacksonville, FL 32207

(904) 232-2489

District Director

10300 Sunset Drive, Room 255

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(305) 598-6607 [English]

(305) 598-7471 [Spanish/Creole]

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4905 West Laurel Avenue, Suite 300

Tampa, FL 33607-3838

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