



# **DELAWARE**

## **CHILD LABOR LAW**

19 Delaware Code, Chapter 5

**DELAWARE DEPARTMENT OF LABOR**  
**DIVISION OF INDUSTRIAL AFFAIRS**

**OFFICE OF LABOR LAW ENFORCEMENT**

July 16, 1991  
Amended, July 5, 1994  
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## INTRODUCTION

This publication is intended to provide general information on the provisions of Delaware's Child Labor Act (Title 19, Delaware Code, Chapter 5, as amended) which was signed into law on July 16, 1991 and amended on July 5, 1994. Certain details are omitted for space-saving purposes. A complete copy of the Act may be obtained by contacting:

Delaware Department of Labor  
Division of Industrial Affairs  
Office of Labor Law Enforcement

4425 N. Market Street, 3<sup>rd</sup> FL.  
Wilmington, DE. 19802  
(302) 761-8200

655 South Bay Road, Ste. 2H  
Dover, DE. 19901  
(302) 422-1134

For establishments covered by the federal **Fair Labor Standards Act**, standards may be higher than those contained in state law. Employers are required to comply with the higher standard, whether it be state or federal. For more information concerning federal law, employers may contact the United States Department of Labor at (215) 597- 4950 or 1-866-4US-Wage (1-866-487-9243).

## MINIMUM AGE FOR EMPLOYMENT

The minimum age for employment in Delaware is fourteen (14) years of age.

A special theatrical exception may be granted by the Department of Labor for a child under sixteen (16) years of age to be employed as a model, performer or entertainer upon the stage of any theater or concert hall or in connection with any theatrical performance or other exhibition or show.

## WORK PERMITS

Children under the age of eighteen (18) shall not engage in employment unless the employer has in his/her possession a verified and validated work permit for the minor. The employer shall keep the work permit on file at all times and make it accessible to the Department of Labor upon request. Work permits are issued by the Department of Labor and by designated issuing officers at various public middle and senior high schools throughout the state.

## COVERAGE

The Child Labor Act applies to all employers who employ children under the age of eighteen (18). It applies to any place, establishment or occupation within the State of Delaware where work is done for compensation of any kind, to whomever payable, **EXCEPT:**

- Children (of any age) receiving industrial education furnished by the United States, the State of Delaware or any city or town in the state, which is duly approved by a school board or committee or other duly constituted public authority;
- Children (of any age) performing nonhazardous work as ordered by Family Court as a condition of probation;
- Farm work performed on a farm in a nonhazardous occupation;
- Children engaged in domestic work performed in or about a private home;
- Work performed in a business owned by a parent or one legally standing in the place of a parent in a nonhazardous occupation;
- Work performed by non-paid volunteers in a charitable or non-profit organization with the written consent of a parent or one legally standing in the place of a parent;
- Caddying on a golf course;
- Delivery of newspapers to the consumer;
- Employment of a graduate of an accredited school who is employed in a hazardous occupation in which a course of study has been completed but only to the extent that said hazardous occupation would otherwise be prohibited;
- Hazardous work performed by nonpaid volunteers of a volunteer fire department or company or volunteer rescue squad who have completed or are taking a course of study relating to firefighting or rescue and who are 14 years of age or older;
- Any child over the age of 14 years employed in any nonhazardous occupation in any facility used for the purpose of canning or preserving, or preparation for canning or preserving, perishable fruits and vegetables. (The burden of proving the child's age is on the employer.)

## HOURS OF WORK

### **Fourteen (14) and fifteen (15) year old employees are NOT permitted to work:**

- Before 7:00 a.m. or after 7:00 p.m. (Except from June 1 through Labor Day, during which time the child is permitted to work until 9:00 p.m.);
- During the prescribed school day. (Unless the child has been excused from public school attendance by the public school authorities.);
- More than four (4) hours on any day when school is in session;
- More than eight (8) hours on any day when school is not in session;
- More than eighteen (18) hours in any week when school is in session for five days;
- More than forty (40) hours in any week when school is not in session;
- More than six (6) days in any week;
- More than five (5) consecutive hours without a nonworking period of at least thirty (30) minutes.

### **Sixteen (16) and seventeen (17) year old employees:**

- Shall not spend more than twelve (12) hours in a combination of school hours and work hours per day.
- Shall have at least eight (8) consecutive hours of non-work, non-school time each twenty-four (24) hour day.
- Shall not be employed or permitted to work more than five hours continuously without a non-working period of at least thirty (30) minutes.

**NOTE:** The hours worked by a minor enrolled in a bona fide work-study or student-learner program when school is normally in session shall not be counted towards the permissible hours of work.

# **PROHIBITED OCCUPATIONS**

## **EMPLOYEES UNDER 18 YEARS OF AGE**

A minor under eighteen (18) years of age shall not be employed or permitted to work in, about, or in connection with:

- Any occupation prohibited by the United States Secretary of Labor pursuant to the provisions of the Fair Labor Standards Act;
- Blast furnaces;
- Docks or wharves, other than marinas where pleasure boats are sold or serviced;
- Railroads;
- The erection and/or repair of electrical wires;
- Distilleries where alcoholic beverages are manufactured, bottled, labeled, wrapped, or packaged;
- The manufacturing of dangerous or toxic chemicals or compounds;
- Any other occupation which the Secretary deems injurious to the health, safety, welfare or morals of the minor;
- Any occupation as a pilot, fireman, or engineer on any vessel or boat engaged in commerce; or
- Any occupation as a messenger for a telegraph, telephone or messenger company in the distribution, delivery, collection, or transmission of goods or messages before 6:00 a.m. or after 10:00 p.m. of any day in any town or city having a population of over 20,000 persons,

**NOTE:** The above-listed prohibited occupations shall not apply to a minor under eighteen (18) years of age who is enrolled in a work-study, student-learner, apprenticeship, or similar program where the employment is an integral part of the course of study, and the employment is procured and supervised by the school system or by a federal or state-monitored apprenticeship program.

## **PENALTIES**

- Any employer who employs or permits a minor to work in violation of this chapter shall be subject to a civil penalty up to \$10,000 for each violation.
- Interfering with or hindering the Department of Labor in the performance of its duties under this chapter, or knowingly giving false information to the Department of Labor, is punishable by a civil penalty of not less than \$1,000 or more than \$5,000 for each such violation.
- Any employer who discharges or discriminates against an employee for making a complaint or giving information to the Department of Labor pursuant to this chapter shall be assessed a civil penalty of not less than \$1,000 or not more than \$5,000 for each such violation.
- A civil penalty claim may be filed in any court of competent jurisdiction.

# PROHIBITED OCCUPATIONS

## 14 AND 15 YEAR OLD EMPLOYEES

Minors under sixteen (16) years of age shall not be employed or permitted to work in, about, or in connection with:

- Any occupation prohibited by the United States Secretary of Labor pursuant to the provisions of the Fair Labor Standards Act;
- The operation, cleaning, or adjusting of any power-driven machinery, appliances, or tools, other than office machinery and food or beverage dispensing machines where the moving parts are not exposed to the operator;
- Meat slicers;
- Deep fat fryers;
- Steamers and pressure cookers used in the preparation of food;
- Boilers;
- Stripping and sorting tobacco;
- Construction or demolition projects;
- Tunnels or excavations;
- Mines, quarries, or borrow pits;
- Coal breakers or coke ovens; or
- Any other occupation which, following a public hearing by the Department of Labor, the Secretary deems to be injurious to the health, safety, welfare, or morals of the minor.

**NOTE:** The above-listed prohibited occupations do not apply to a minor who: (1) is enrolled in a work-study, student-learner, or similar program where the employment is an integral part of the course of study, and the employment is procured and supervised by the school district; or (2) is engaged in the practice of farm labor with adult supervision.

Under federal law (referenced above), fourteen (14) and fifteen (15) year old minors may not be employed in:

**Occupation Standards for 14- and 15-Year-Olds**

**The following list, which is not exhaustive, are jobs that 14- and 15-Year-Olds MAY NOT Be Employed in:**

1. Any MANUFACTURING occupation.<sup>1</sup>
2. Any MINING occupation.
3. Most PROCESSING occupations such as filleting of fish, dressing poultry, cracking nuts, developing of photographs, laundering, bulk or mass mailings (*except* certain occupations expressly permitted as discussed below).
4. Occupations requiring the performance of any duties in WORKROOMS or WORKPLACES WHERE GOODS ARE MANUFACTURED, MINED OR OTHERWISE PROCESSED (except to the extent expressly permitted as discussed below; and as discussed in footnote 1 below).
5. ANY OCCUPATION FOUND AND DECLARED TO BE HAZARDOUS BY THE SECRETARY OF LABOR.
6. Occupations involved with the operating, tending, setting up, adjusting, cleaning, oiling or repairing of HOISTING APPARATUS.
7. Work performed in or about BOILER OR ENGINE ROOMS or in connection with the MAINTENANCE OR REPAIR OF THE ESTABLISHMENT, MACHINES, OR EQUIPMENT.
8. Occupations involved with the operating, tending, setting up, adjusting, cleaning, oiling or repairing or of ANY POWER-DRIVEN MACHINERY, including, but not limited to, lawnmowers, golf carts, all-terrain vehicles, trimmers, cutters, weed-eaters, edgers, food slicers, food grinders, food choppers, food processors, food cutters, and food mixers. Fourteen- and 15-year-olds may operate most office machinery and those machines that are expressly permitted and discussed below.
9. THE OPERATION OF MOTOR VEHICLES OR SERVICE AS HELPERS ON SUCH VEHICLES.
10. THE RIDING ON A MOTOR VEHICLE inside or outside of an enclosed passenger compartment except as permitted below.
11. OUTSIDE WINDOW WASHING that involves working from window sills.
12. ALL WORK REQUIRING THE USE OF LADDERS, SCAFFOLDS, OR THEIR SUBSTITUTES.
13. ALL BAKING AND MOST COOKING ACTIVITIES except as discussed below.
14. WORK IN FREEZERS AND MEAT COOLERS AND ALL WORK IN THE PROCESSING OF MEAT FOR SALE; however, youth are permitted to occasionally enter freezers only momentarily to retrieve items.
15. YOUTH PEDDLING, including not only the attempt to make a sale or the actual consummation of a sale, but also the preparatory and concluding tasks normally performed by a youth peddler, such as the loading and unloading of motor vehicles, the stocking and restocking of sales kits and trays, the exchanging of cash and checks with the employer, and the transportation of the minors to where the sales will be made.
16. LOADING AND UNLOADING of goods or property onto or from MOTOR VEHICLES, RAILROAD CARS, AND CONVEYORS, except as discussed below.
17. CATCHING AND COOPING OF POULTRY in preparation for transport or for market.
18. PUBLIC MESSENGER SERVICE.
19. OCCUPATIONS IN CONNECTION WITH:
  - a. TRANSPORTATION of persons or property by rail, highway, air, on water, pipeline, or other means.
  - b. WAREHOUSING and STORAGE.
  - c. COMMUNICATIONS and PUBLIC UTILITIES.
  - d. CONSTRUCTION (including repair).  
Except 14- and 15-year-olds may perform office or sales work in connection with a., b., c., and d. above when not performed on transportation media, on an actual means of transportation, or at the actual construction site.

**The following is the list of jobs the Secretary of Labor has determined will not interfere with the schooling, health, and well-being of 14- and 15-year-olds and therefore MAY BE performed by such youth. Any job not specifically permitted, is prohibited.**

1. OFFICE and CLERICAL WORK, including operation of office machines.
2. WORK OF AN INTELLECTUAL OR ARTISTICALLY CREATIVE NATURE such as but not limited to computer programming, the writing of software, teaching or performing as a tutor, serving as a peer



counselor or teacher's assistant, singing, the playing of a musical instrument, and drawing, as long as such employment complies with all the other provisions contained in §§ 570.33, .34, and .35.

3. COOKING with electric or gas grills that do not involve cooking over an open flame and with deep fat fryers that are equipped with and utilize devices that automatically lower and raise the baskets into and out of the oil or grease. NOTE: this section does not permit cooking with equipment such as rotisseries, broilers, pressurized equipment including fryolators, and cooking devices that operate at extremely high temperatures such as "Neico broilers."
4. CASHIERING, SELLING, MODELING, ART WORK, WORK IN ADVERTISING DEPARTMENTS, WINDOW TRIMMING and COMPARATIVE SHOPPING.
5. PRICE MARKING and TAGGING by hand or by machine. ASSEMBLING ORDERS, PACKING and SHELVING.
6. BAGGING and CARRYING OUT CUSTOMER ORDERS.
7. ERRAND and DELIVERY WORK by foot, bicycle, and public transportation. Except such youth may not be employed by a public messenger service.
8. CLEANUP WORK, including the use of vacuum cleaners and floor waxers, and the maintenance of grounds, but not including the use of power-driven mowers, cutters, trimmers, edgers, or similar equipment.
9. KITCHEN WORK and other work involved in preparing and serving food and beverages, including operating machines and devices used in performing such work. Examples of permitted machines and devices include, but are not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, coffee grinders, automatic coffee machines, devices used to maintain the temperature of prepared foods (such as warmers, steam tables, and heat lamps), and microwave ovens that are used only to warm prepared food and do not have the capacity to warm above 140 °F.
10. CLEANING KITCHEN EQUIPMENT. Minors are permitted to clean kitchen equipment (not otherwise prohibited), remove oil or grease filters, pour oil or grease through filters, and move receptacles containing hot grease or hot oil, but only when the equipment, surfaces, containers and liquids do not exceed a temperature of 100°F.
11. CLEANING VEGETABLES AND FRUITS, AND THE WRAPPING, SEALING, LABELING, WEIGHING, PRICING, AND STOCKING OF ITEMS, INCLUDING VEGETABLES, FRUITS, AND MEATS, when performed in areas physically separate from a freezer or meat cooler.
12. LOADING ONTO MOTOR VEHICLES AND THE UNLOADING FROM MOTOR VEHICLES of the light, non-power-driven, hand tools and personal protective equipment that the minor will use as part of his or her employment at the work site; and the loading onto motor vehicles and the unloading from motor vehicles of personal items such as a back pack, a lunch box, or a coat that the minor is permitted to take to the work site. Such light tools would include, but not be limited to, rakes, hand-held clippers, shovels, and brooms. Such light tools would not include items like trash, sales kits, promotion items or items for sale, lawn mowers, or other power-driven lawn maintenance equipment. Such minors would not be permitted to load or unload safety equipment such as barriers, cones, or signage.
13. THE OCCUPATION OF LIFEGUARD (15-year-olds but not 14-year-olds) at traditional swimming pools and water amusement parks (including such water park facilities as wave pools, lazy rivers, specialized activity areas, and baby pools, but not including the elevated areas of water slides) when properly trained and certified in aquatics and water safety by the American Red Cross or a similar certifying organization. No youth under 16 years of age may be employed as a lifeguard at a natural environment such as an ocean side beach, lake, pond, river, quarry, or pier.
14. Employment of certain youth under specified conditions inside and outside of establishments WHERE MACHINERY IS USED TO PROCESS WOOD PRODUCTS. See page 27 of this guide for information on this exemption.
  
15. WORK IN CONNECTION WITH CARS AND TRUCKS if confined to the following:
  - Dispensing gasoline and oil.
  - Courtesy service on premises of gasoline service station.
  - Car cleaning, washing, and polishing by hand.

- Other occupations permitted by Child Labor Regulation No. 3, BUT NOT INCLUDING WORK involving the use of pits, racks or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.
16. WORK IN CONNECTION WITH RIDING INSIDE PASSENGER COMPARTMENTS OF MOTOR VEHICLES except as prohibited on page 5 of this guide or when a significant reason for the minor being a passenger in the vehicle is for the purpose of performing work in connection with the transporting—or assisting in the transporting of—other persons or property. Each minor riding as a passenger in a motor vehicle must have his or her own seat in the passenger compartment; each seat must be equipped with a seat belt or similar restraining device; and the employer must instruct the minors that such belts or other devices must be used. In addition, each driver transporting the young workers must hold a valid state driver's license for the type of vehicle being driven and, if the driver is under the age of 18, his or her employment must comply with the provisions of HO 2.

### **Work Experience and Career Exploration Programs (WECEP)**

Some of the provisions of Child Labor Regulation No. 3 are varied for 14- and 15-year-old participants in approved school-supervised and school-administered WECEPs. Enrollees in WECEP may be employed:

- During school hours.
- For as many as 3 hours on a school day, including Fridays.
- For as many as 23 hours in a school week.
- In occupations otherwise prohibited but only after a specific variance has been granted by the Administrator of the Wage and Hour Division.

The state educational agency must obtain approval from the Administrator of the Wage and Hour Division before operating a WECEP program.

### **Work-Study Program (WSP)**

Some of the hours standards provisions of Child Labor Regulation No. 3 are varied for certain 14- and 15-year-old students participating in a Department of Labor approved school-supervised and school administered WSP. Participating students must be enrolled in a college preparatory curriculum and identified by authoritative personnel of the school as being able to benefit from the WSP.

Employment of students in an authorized WSP shall be confined to not more than 18 hours in any one week when school is in session, a portion of which may be during school hours, in accordance with the following formula that is based upon a continuous four-week cycle. In three of the four weeks, the participant is permitted to work during school hours on only one day per week, and for no more than for eight hours on that day. During the remaining week of the four-week cycle, such minor is permitted to work during school hours on no more than two days, and for no more than for eight hours on each of those two days. The employment of such minors would still be subject to the remaining time of day and number of hours standards contained Child Labor Regulation No. 3 and discussed on page 6 of this guide .



## **Employment Standards for 16- and 17-Year-Olds in Nonagricultural Employment**

### **The Hazardous Occupations Orders (HOs) for Nonagricultural Employment**

These Orders are published in Subpart E of Part 570 of Title 29 of the Code of Federal Regulations.

The FLSA provides a minimum age of 18 years for any nonagricultural occupations which the Secretary of Labor "shall find and by order declare" to be particularly hazardous for 16- and 17-year-old persons, or detrimental to their health and well-being. This minimum age applies even when the minor is employed by the parent or person standing in place of the parent.

The seventeen HOs apply either on an industry basis, specifying the occupations in the industry that are not permitted, or an occupational basis irrespective of the industry in which found. Some of the HOs contain limited exemptions.

HO 1	Manufacturing and storing of explosives.
HO 2	Motor-vehicle driving and outside helper on a motor vehicle.
HO 3	Coal mining.
HO 4	Occupations in forest fire fighting, forest fire prevention, timber tract operations, forestry service, logging, and sawmilling.
HO 5*	Power-driven woodworking machines.
HO 6	Exposure to radioactive substances.
HO 7	Power-driven hoisting apparatus, including forklifts.
HO 8*	Power-driven metal-forming, punching, and shearing machines.
HO 9	Mining, other than coal mining.
HO 10*	Operating power-driven meat processing equipment, including <b>meat slicers and other food slicers</b> , in retail establishments (such as grocery stores, restaurants kitchens and delis) and wholesale establishments, and most occupations in meat and poultry slaughtering, packing, processing, or rendering.
HO 11	Power-driven bakery machines including vertical dough or batter mixers.
HO 12*	Power-driven balers, compactors, and paper processing machines.
HO 13	Manufacturing bricks, tile, and kindred products.
HO 14*	Power-driven circular saws, bandsaws, chain saws, guillotine shears, wood chippers, and abrasive cutting discs.
HO 15	Wrecking, demolition, and shipbreaking operations.
HO 16*	Roofing operations and all work on or about a roof.
HO 17*	Excavation operations.

*\* These HOs provide limited exemptions for 16- and 17-year-olds who are bona-fide student-learners and apprentices.*

### **HO 1 - Manufacturing or Storage Occupations Involving Explosives**

The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are prohibited:

1. All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in subparagraph 2. below) manufacturing or storing explosives or articles containing explosive components *except* where the occupation is performed in a "non-explosives area" as defined in subparagraph 3. below.
2. The following occupations in or about any plant or establishment manufacturing or storing small arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small arms ammunition:
  - a. All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.
  - b. All occupations involving the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

- c. All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rimfire cartridges are primed.
- d. All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.
- e. All occupations involved in the loading, inspecting, packing, shipping, and storage of blasting caps.

### Definitions

1. The term *plant or establishment manufacturing or storing explosives or articles containing explosive components* means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.
2. The terms *explosives* and *articles containing explosive components* mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all explosives and explosive materials as defined in 18 U.S.C.841(c)-(f) and the implementing regulations at 27 CFR Part 555. The terms included any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, as well as all goods identified in the most recent list of explosive materials published by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice. This list may be found through the ATF website at [www.atf.gov](http://www.atf.gov).
3. An area meeting the following criteria shall be deemed a non-explosives area:
  - a. None of the work performed in the area involves the handling or use of explosives;
  - b. The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;
  - c. The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and
  - d. Satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet criteria a through c.

## HO 2 – Motor-Vehicle Occupations

The occupation of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in HO 17 are prohibited for minors between 16 and 18 years of age *except* that 17-year-olds may drive automobiles and trucks on an incidental and occasional basis if all of the criteria listed in the following exemption are met.

### Limited exemption from HO 2 for 17 year old employees:

Seventeen-year-olds, but no one under 17 years of age, may drive automobiles and trucks on public roads as part of their employment on an occasional and incidental basis if all the following requirements are met:

- the automobile or truck does not exceed 6,000 pounds gross vehicle weight;
- the driving is limited to daylight hours;
- the 17-year-old holds a state license valid for the type of driving involved;
- the 17-year-old has successfully completed a state-approved driver education course and has no record of any moving violations at the time of hire;
- the driving takes place within a thirty (30) mile radius of the minor's place of employment;
- the automobile or truck is equipped with a seat belt for the driver and any passengers and the employer has instructed the youth that the seat belts must be used when driving the vehicle;
- the driving may not involve:
  - towing vehicles;
  - route deliveries or route sales;
  - transportation for hire of property, goods, or passengers;
  - urgent, time-sensitive deliveries;
  - transporting more than three passengers, including employees of the employer;

- more than two trips away from the primary place of employment in any single day to deliver the employer's goods to a customer (other than urgent, time-sensitive deliveries which are prohibited);
- more than two trips away from the primary place of employment in any single day to transport passengers, other than employees of the employer.

#### *Definitions*

1. The term *motor vehicle* shall mean any automobile, truck, truck tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.
2. The term *driver* shall mean any individual who in the course of employment, drives a motor vehicle at any time.
3. The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.
4. The term *gross vehicle weight* includes the truck chassis with lubricants, water, and full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body, and special chassis and body equipment, and payload.
5. The term *urgent, time-sensitive deliveries* shall mean trips which, because of such factors as customer satisfaction, the rapid deterioration of the quality or change in temperature of the product, and/or economic incentives, are subject to timelines, schedules, and/or turnaround times which might impel the driver to hurry in the completion of the delivery. Prohibited trips would include, but are not limited to, the delivery of pizzas and prepared foods to the customer; the delivery of materials under a deadline (such as deposits to a bank at closing); and the shuttling of passengers to and from transportation depots to meet transport schedules. *Urgent, time-sensitive deliveries* do not depend on the delivery's points of origin and termination, and include the delivery of people and things *to* the employer's place of business as well as *from* that business to some other location.
6. The term *occasional and incidental* shall mean no more than one-third of the 17-year-old driver's worktime in any workday and no more than 20 percent of the 17-year-old driver's worktime in any workweek.

### **HO 3 - Coal Mining Occupations**

All occupations in or about any coal mine are prohibited *except* the occupations of slate or other refuse picking at a picking table or picking chute in a tippie or breaker and occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal mining plant.

#### *Definitions*

1. The term *coal* shall mean any rank of coal, including lignite, bituminous, and anthracite coals.
2. The term *all occupations in or about any coal mine* shall mean all types of work performed in any underground working, open pit, or surface part of any coal mining plant that contributes to the extraction, grading, cleaning, or other handling of coal.

### **HO 4 - Forest fire fighting and forest fire prevention occupations, timber tract occupations, forestry service occupations, logging occupations, and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill (Order 4).**

All occupations in forest fire fighting and forest fire prevention, in timber tracts, in forestry services, logging, and the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill are particularly hazardous for the employment of minors between 16 and 18 years of age, *except* the following when not prohibited by any other section of Subpart E of 29 CFR 570:

1. Work in offices or in repair or maintenance shops.

2. Work in the construction, operation, repair, or maintenance of living and administrative quarters, including logging camps and firefighting base camps.
3. Work in the repair or maintenance of roads, railroads or flumes and work in construction and maintenance of telephone lines, but only if the minors are not engaged in the operation of power-driven machinery, the handling or use of explosives, the felling or bucking of timber, the collecting or transporting of logs, or work on trestles.
4. The following tasks in forest fire prevention *provided* none of these tasks may be performed in conjunction with or in support of efforts to extinguish a forest fire: the clearing of fire trails or roads; the construction, maintenance, and patrolling of fire lines; the piling and burning of slash; the maintaining of firefighting equipment; and acting as a fire lookout or fire patrolman.
5. Work related to forest marketing and forest economics when performed away from the forest.
6. Work in the feeding or care of animals.
7. Peeling of fence posts, pulpwood, chemical wood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging occupations declared hazardous by this HO.
8. The following additional exceptions apply to the operation of a permanent sawmill or the operation of any lath mill, shingle mill, or cooperage stock mill, but not to a portable sawmill. In addition, the following exceptions do not apply to work which entails entering the sawmill building, except for those minors whose employment meets the requirements of the limited exemptions discussed in Regulations 29 CFR Part 570, sections 570.34(m) and 570.54(c) (*see Exception* section below):
  - a. Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.
  - b. Pulling lumber from the dry chain, *except* minors under 16 years of age may not pull lumber from the dry chain as such youth are prohibited from operating or tending power-driven machinery by the occupations standards contained in Child Labor Regulation No. 3.
  - c. Clean-up in the lumberyard.
  - d. Piling, handling, or shipping of cooperage stock in yards or storage sheds other than operating or assisting in the operation of power-driven equipment; *except* minors under 16 years of age may not perform shipping duties as they are prohibited from employment in occupations in connection with the transportation of property by rail, highway, air, water, pipeline, or other means by the occupations standards contained in Child Labor Regulation No. 3.
  - e. Clerical work in yards or shipping sheds, such as done by order-men, tallymen, and shipping clerks.
  - f. Clean-up work outside shake and shingle mills, except when the mill is in operation.
  - g. Splitting shakes manually from precut and split blocks with a froe and mallet, except inside the mill building or cover.
  - h. Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover.
  - i. Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury to himself, *except* minors under 16 years of age may not load bundles of shingles or shakes into trucks or railroad cars as they are prohibited from loading and unloading goods or property onto or from motor vehicles, railroad cars, or conveyors by the occupations standards contained in Child Labor Regulation No. 3.

### *Exemption*

The provisions contained in paragraph 8 above that prohibit youth between 16 and 18 years of age from performing any work that entails entering the sawmill building do not apply to the employment of a youth who is at least 14 years of age and less than 18 years of age and who by statute or judicial order is exempt from compulsory school attendance beyond the eighth grade, if:

1. the youth is supervised by an adult relative or by an adult member of the same religious sect or division as the youth;
2. the youth does not operate or assist in the operation of power-driven woodworking machines;
3. the youth is protected from wood particles or other flying debris within the workplace by a barrier appropriate to the potential hazard of such wood particles or flying debris or by maintaining a sufficient distance from machinery in operation; and
4. the youth is required to use, and uses, personal protective equipment to prevent exposure to excessive levels of noise and saw dust.

Compliance with the provisions of paragraphs 3 and 4 above will be accomplished when the employer is in compliance with the requirements of the applicable governing standards issued by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) or, in those areas where OSHA has authorized the state to operate its own Occupational Safety and Health Plan, the applicable standards issued by the Office charged with administering the state occupational safety and health plan.

### *Definitions*

1. The term *all occupations in forest fire fighting and forest fire prevention* shall include the controlling and extinguishing of fires, the wetting down of areas or extinguishing of spot fires, and the patrolling of burned areas to assure the fire has been extinguished. The term shall also include the following tasks when performed in conjunction with, or in support of, efforts to extinguish a forest fire: the piling and burning of slash; the clearing of fire trails or roads; the construction, maintenance, and patrolling of fire lines; acting as a fire lookout or fire patrolman; and the maintaining of fire fighting equipment. The prohibition concerning the employment of youth in forest fire fighting and fire prevention applies to all forest and timber tract locations, logging operations, and sawmill operations, including all buildings located within such areas.
2. The term *all occupations in forestry services* shall mean all work involved in the support of timber production, wood technology, forestry economics and marketing, and forest protection. The term includes such services as timber cruising, surveying, or logging-engineering parties; estimating timber; timber valuation; forest pest control; forest fire fighting and forest fire prevention as defined in this section; and reforestation. The term shall not include work in forest nurseries, establishments primarily engaged in growing trees for purposes of reforestation. The term shall not include the gathering of forest products such as balsam needles, ginseng, huckleberry greens, maple sap, moss, Spanish moss, sphagnum moss, teaberries, and tree seeds; the distillation of gum, turpentine, and rosin if carried on at the gum farm; and the extraction of pine gum.
3. The term *all occupations in logging* shall mean all work performed in connection with the felling of timber; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of such products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging.
4. The term *all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill* shall mean all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, lathers, shingles, or cooperage stock; storing drying, and shipping lumber, laths, shingles, cooperage stock, or other products of such mills; and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing mill department or other remanufacturing departments of any sawmill or remanufacturing plant not a part of a sawmill.
5. The term *all occupations in timber tracts* means all work performed in or about establishments that cultivate, manage or sell standing timber. The term includes work performed in timber culture, timber tracts, timber-stand improvement, and forest fire fighting and fire prevention. It includes work on tree farms, except those tree farm establishments that meet the definition of agriculture contained in section 3(f) of the FLSA.
6. The term *inside or outside places of business* shall mean the actual physical location of the establishment employing the youth, including the buildings and surrounding land necessary to the business operations of that establishment.
7. The term *operate or assist in the operation of power-driven woodworking machines* includes operating such machines, including supervising or controlling the operation of such machines, feeding material into such machines, helping the operator feed material into such machines, unloading materials from such machines, and helping the operator unload materials from such machines. The term also includes the occupations of setting-up, adjusting, repairing, oiling, or cleaning such machines.
8. The term *places of business where machinery is used to process wood products* shall mean such permanent workplaces as sawmills, lath mills, shingle mills, cooperage stock mills, furniture and cabinet making shops, gazebo and shed making shops, toy manufacturing shops, and pallet shops.

The term shall not include construction sites, portable sawmills, areas where logging is being performed, or mining operations.

9. The term *portable sawmill* shall mean a sawmilling operation where no office or repair or maintenance shop is ordinarily maintained, and any lumberyard operated in conjunction with the sawmill is used only for the temporary storage of green lumber.
10. The term *power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening or otherwise assembling, pressing or printing wood, veneer, trees, logs, or lumber.
11. The term *remanufacturing department* shall mean those departments of a sawmill where lumber products such as boxes, lawn furniture, and the like are remanufactured from previously cut lumber. The kind of work performed in such departments is similar to that done in planing mill departments in that rough lumber is surfaced or made into other finished products. The term is not intended to denote those operations in sawmills where rough lumber is cut to dimensions.
12. The term *supervised by an adult relative or is supervised by an adult member of the same religious sect or division as the youth* has several components.
  - a. *Supervised* refers to the requirement that the youth's on-the-job activities be directed, monitored, and controlled by certain named adults. Such supervision must be close, direct, constant and uninterrupted.
  - b. *Adult* shall mean an individual who is at least eighteen years of age.
  - c. *Relative* shall mean the parent (or someone standing in place of a parent), grandparent, sibling, uncle, or aunt of the young worker.
  - d. *Member of the same religious sect or division as the youth* refers to an individual who professes membership in the same religious sect or division to which the youth professes membership.

## **HO 5 - Power-Driven Woodworking Machine Occupations**

The following occupations involved in the operation of power-driven woodworking machines are prohibited:

1. The occupation of operating power-driven woodworking machines including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.
2. The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.
3. The operations of off-bearing from circular saws and from guillotine-action veneer clippers.

### *Exemption*

The exemption for student-learners and apprentices applies to HO 5.

### *Definitions*

1. *Off-bearing* shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include:
  - a. The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller; and
  - b. The following operations when they do not involve the removal of materials or refuse directly from a saw table or point of operation: The carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.
2. *Power-driven woodworking machines* shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening or otherwise assembling, pressing or printing wood, veneer, trees, logs, or lumber.



## HO 6 - Occupations Involving Exposure to Radioactive Substances and to Ionizing Radiation

The following occupations are prohibited:

1. Any work in any workroom in which:
  - a. radium is stored or used in the manufacture of self-luminous compound;
  - b. self-luminous compound is made, processed, or packaged;
  - c. self-luminous compound is stored, used, or worked upon;
  - d. incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged;
  - e. other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupations exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of Table One of the National Bureau of Standards Handbook No. 69 entitled *Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and In Water for Occupational Exposure* issued June 5, 1959.
2. Any other work which involves exposure to ionizing radiations in excess of 0.5 rem per year.

### Definitions

1. The term *self-luminous compound* shall mean any mixture of phosphorescent material and radium, mesothorium, or other radioactive element.
2. The term *workroom* shall include the entire area bounded by walls of solid material and extending from floor to ceiling.
3. The term *ionizing radiations* shall mean alpha and beta particles, electrons, protons, neutrons, gamma, and X-ray and all other radiations which produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and X-ray.

## HO 7 - Power-Driven Hoisting Apparatus Occupations

The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors between 16 and 18 years of age:

1. Work of operating, tending, riding upon, working from, repairing, servicing, or disassembling an elevator, crane, derrick, hoist, or high-lift truck, except operating or riding inside an unattended automatic operation passenger elevator. Tending such equipment includes assisting in the hoisting tasks being performed by the equipment.
2. Work of operating, tending, riding upon, working from, repairing, servicing, or disassembling a manlift or freight elevator, except 16- and 17-year-olds may ride upon a freight elevator operated by an assigned operator. Tending such equipment includes assisting in the hoisting tasks being performed by the equipment.

### Exemption

HO 7 does not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive overtravel by the car. <sup>2</sup>

### Definitions

1. *Crane* shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of

cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

2. *Derrick* shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy, and stiff-leg derrick.
3. *Elevator* shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.
4. *High-lift* truck shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or a platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include high lift trucks known under such names as forklifts, fork trucks, forklift trucks, tiering trucks, backhoes, front-end loaders, skid loaders, skid-steer loaders, Bobcat loaders, or stacking trucks, but shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of materials.
5. *Hoist* shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum, and trolley suspension hoists.
6. *Manlift* shall mean a device intended for the conveyance of persons that consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; with such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom. The term shall also include truck- or equipment-mounted aerial platforms commonly referred to as scissor lifts, boom-type mobile elevating work platforms, work assist vehicles, cherry pickers, basket hoists, and bucket trucks.

## **HO 8 - Power-Driven Metal Forming, Punching, and Shearing Machine Occupations**

The following occupations are prohibited:

1. The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:
  - a. All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.
  - b. All pressing or punching machines, such as punch presses *except* those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the areas between the dies; power presses; and plate punches.
  - c. All bending machines, such as apron brakes and press brakes.
  - d. All hammering machines, such as drop hammers and power hammers.
  - e. All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.
2. The occupations of setting-up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

### *Exemption*

The exemption for student-learners and apprentices applies to HO 8.

### *Definitions*

1. The term *operator* shall mean a person who operates a machine covered by this HO by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in the operation of the machine.
2. The term *helper* shall mean a person who assists in the operation of a machine covered by the HO by helping place materials into or removing them from the machine.

3. The term *forming, punching, and shearing* shall mean power-driven metalworking machines, other than machine tools, which change the shape of or cut metal by means of tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching and shearing machines enumerated in this section are the machines to which the designation is by custom applied. Not included in this term are metalworking machines known as *machine tools*.
4. The term *machine tools* shall mean power-driven complete metalworking machines having one or more tool- or work-holding devices and used for progressively removing metal in the form of "chips." Since the HO does not apply to machine tools, the 18-year minimum age does not apply. The following is a list of common machine tools:

Milling Function Machines

Horizontal Milling Machines  
 Vertical Milling Machines  
 Universal Milling Machines  
 Planer-type Milling Machines  
 Gear Hobbing Machines  
 Profilers  
 Routers

Turning Function Machines

Engine Lathes  
 Turret Lathes  
 Hollow Spindle Lathes  
 Automatic Lathes  
 Automatic Screw Machines

Planing Function Machines

Planers  
 Shapers  
 Slotters  
 Broaches  
 Keycasters  
 Hack Saws

Grinding Function Machines

Grinders  
 Abrasive Wheels  
 Abrasive Belts  
 Abrasive Disks  
 Abrasive Points  
 Polishing Wheels  
 Buffing Wheels  
 Stoppers  
 Lapping Machines

Boring Function Machines

Vertical Boring Mills  
 Horizontal Boring Mills  
 Jig Borers  
 Pedestal Drills  
 Radial Drills  
 Gang Drills  
 Upright Drills  
 Drill Presses  
 Centering Machines  
 Reamers  
 Honers

**HO 9 - Occupations in Connection with Mining, Other than Coal**

All occupations in connection with mining, other than coal (see HO 3), are prohibited *except* the following:

1. Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and in repair or maintenance shops not located underground.
2. Work in the operation and maintenance of living quarters.
3. Work outside the mine in surveying, in the repair and maintenance of roads, and in general cleanup about the mine property such as clearing brush and digging drainage ditches.
4. Work of track crews in the building and maintaining of sections of railroad track located in those areas of opencut metal mines where mining and haulage activities are not being conducted at the time and place that such building and maintenance work is being done.
5. Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations.
6. The following work in metal mills other than in mercury-recovery mills or mills using the cyanide process:
  - a. Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters.
  - b. Work of hand sorting at picking table or picking belt.
  - c. General cleanup work.

*Provided, however,* that nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other HO issued by the Secretary of Labor.

#### *Definitions*

The term *all occupations in connection with mining, other than coal* shall mean all work performed:

- underground in mines and quarries;
- on the surface at underground mines and underground quarries;
- in or about opencut mines, open quarries, clay pits, and sand and gravel operations;
- at or about placer mining operations;
- at or about dredging operations for clay, sand, or gravel; at or about borehole mining operations;
- in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and
- at or about any other crushing, grinding, screening, sizing, washing, or cleaning operations performed upon the extracted minerals *except* where such operations are performed as part of a manufacturing process.

The term shall not include work performed in subsequent manufacturing or processing operations, such as work performed in smelters, electro-metallurgical plants, refineries, reduction plants, cement mills, plants where quarried stone is cut, sanded, and further processed, or plants manufacturing clay, glass, or ceramic products. Neither shall the term include work performed in connection with coal mining, in petroleum production, in natural-gas production, nor in dredging operations which are not a part of mining operations, such as dredging for construction or navigation purposes.

#### **HO 10 - Occupations in the Operation of Power-Driven Meat-Processing Machines and Occupations Involving Slaughtering, Meat and Poultry Packing, Processing, or Rendering**

The following occupations in retail establishments, wholesale establishments, service establishments, slaughtering and meatpacking establishments, or rendering plants are prohibited:

1. All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, oiling, or cleaning such machines, regardless of the product being processed by these machines (including, for example, the slicing in a retail delicatessen of meat, poultry, seafood, bread, vegetables, or cheese, etc.): meat slicers, meat patty forming machines, meat and bone cutting saws, knives (*except* bacon-slicing machines <sup>3</sup>).
2. All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, or oiling such machines or the cleaning of such machines or the individual parts or attachments of such machines, regardless of the product being processed by these machines: headsplitters, and guillotine cutters; snoutpullers and jawpullers; skinning machines; horizontal rotary washing machines; casing-cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines). *Except*, the provisions of this subsection shall not apply to the operation of those lightweight, small capacity, portable, countertop mixers discussed in HO 11 when used as a mixer to process materials other than meat or poultry.
3. All boning operations.
4. All operations on the killing floor, in curing cellars, and in hide cellars, *except* the work of messengers, runners, handtruckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.
5. All occupations involved in the recovery of lard and oils, *except* packaging and shipping of such products and the operations of lard-roll machines.
6. All occupations involved in tannage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stockfeed, tallow, inedible greases, fertilizer ingredients, and similar products.

7. All occupations involving the hand lifting or hand carrying of any carcass or half carcass of beef, pork, horse, deer, or buffalo, or any quarter carcass of beef, horse, or buffalo.
8. All occupations involving hand-lifting or hand-carrying any carcass or half-carcass of beef, pork, or horse, or any quarter-carcass of beef or horse.

#### *Exemptions*

The exemption for student-learners and apprentices applies to HO 10.

HO 10 shall not apply to the killing and processing of rabbits or small game in areas physically separated from the killing floor.

#### *Definitions*

1. The term *boning occupations* means the removal of bones from meat cuts. It does not include work that involves cutting, scraping, or trimming meat from cuts containing bones.
2. The term *curing cellar* includes a workroom or workplace which is primarily devoted to the preservation and flavoring of meat, including poultry, by curing materials. It does not include a workroom or workplace solely where meats are smoked.
3. The term *hide cellar* includes a workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.
4. The term *killing floor* includes a workroom, workplace where such animals as cattle, calves, hogs, poultry, sheep, lambs, goats, buffalo, deer, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.
5. The term *retail/wholesale or service establishments* include establishments where meat or meat products, including poultry, are processed or handled, such as butcher shops, grocery stores, restaurants and quick service food establishments, hotels, delicatessens, and meat locker (freezer-locker) companies, and establishments where any food product is prepared or processed for serving to customers using machines prohibited by paragraph (a) of this HO.
6. The term *rendering plants* means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.
7. The term *slaughtering and meat packing establishments* means places in or about which such animals as cattle, calves, hogs, poultry, sheep, lambs, goats, buffalo, deer, or horses are killed, butchered, or processed. The term also includes establishments which manufacture or process meat or poultry products, including sausage or sausage casings from such animals.

### **HO 11 - Power-Driven Bakery Machine Occupations**

The following occupations involved in the operation of power-driven bakery machines, no matter where performed, are prohibited:

1. The occupations of operating, assisting to operate, or setting-up, adjusting, repairing, oiling, or cleaning any horizontal or vertical doughmixer; battermixer<sup>4</sup>; bread dividing, rounding, or molding machine; doughbrake; doughsheeter; combination bread slicing and wrapping machine; or cake-cutting bandsaw.
2. The occupation of setting-up or adjusting a cookie or cracker machine.

#### *Exemptions*

1. This HO shall not apply to the operation, including the setting up, adjusting, repairing, oiling and cleaning, of lightweight, small capacity, portable counter-top power-driven food mixers that are, or are comparable to, models intended for household use. For purposes of this exemption, a lightweight, small capacity mixer is one that is not hardwired into the establishment's power source, is equipped with a motor that operates at no more than ½ horsepower, and is equipped with a bowl with a

capacity of no more than five quarts. *Except*, this exception shall not apply when the mixer is used, with or without attachments, to process meat or poultry products as prohibited by HO 10.

2. This HO shall not apply to the operation of pizza-dough rollers, a type of dough sheeter, that: have been constructed with safeguards contained in the basic design so as to prevent fingers, hands, or clothing from being caught in the in-running point of the rollers; have gears that are completely enclosed; and have microswitches that disengage the machinery if the backs or sides of the rollers are removed. This exception applies only when all the safeguards detailed in this paragraph are present on the machine, are operational, and have not been overridden. This exception does not apply to the setting up, adjusting, repairing, oiling or cleaning of such pizza-dough rollers.

HO 11 does not apply to the following list of bakery machines which may be operated by 16- and 17-year-olds minors:

Ingredient Preparation and Mixing

Flour-sifting Machine Operator  
Flour-blending Machine Operator  
Sack-cleaning Machine Operator

Product Forming and Shaping

Roll-dividing Machine Operator  
Roll-making Machine Operator  
Batter-sealing Machine Operator  
Depositing Machine Operator  
Cookie or Cracker Machine Operator  
Wafer Machine Operator  
Pretzel-stick Machine Operator  
Pie dough Rolling Machine Operator  
Pie dough Sealing Machine Operator  
Pie-crimping Machine Operator

Finishing and Icing

Depositing Machine Operator  
Enrobing Machine Operator  
Spray Machine Operator  
Icing Mixing Machine Operator

Slicing and Wrapping

Roll Slicing and Wrapping Machine Operator  
Cake Wrapping Machine Operator  
Carton Packing and Sealing Machine Operator

Pan washing

Spray-type Pan washing Machine Operator  
Tumbler-type Pan washing Machine Operator

**HO 12 - Occupations involved in the operation of balers, compactors, and paper-products machines**

The following occupations are prohibited in any type of establishment (manufacturing, nonmanufacturing, retail, wholesale, service, etc.):

1. The occupations of operating or assisting to operate any of the following power-driven paper-products machines:
  - a. Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single- or double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, or vertical slotter.
  - b. Scrap paper balers and paper box compactors, including those machines that process other materials in addition to paper.
  - c. Platen die cutting press, platen printing press, or punch press which involves hand feeding of the machine.
2. The occupations of operating or assisting to operate any baler that is designed or used to process materials other than paper.
3. The occupations of operation or assisting to operate any compactor that is designed or used to process materials other than paper.
4. The occupations of setting up, adjusting, repairing, oiling, or cleaning any of the machines listed in paragraphs (a)(1), (2), and (3) of this section.

*Exemptions*

1. The exemption for student-learners and apprentices applies to HO 12.

2. Section 13(c)(5) of the FLSA permits 16- and 17-year-old employees to load, but not operate or unload, certain scrap paper balers and paper box compactors if all of the following conditions are met:
- a. the scrap paper balers and the paper box compactors must meet an applicable American National Standard Institute (ANSI) Standard as discussed in the following chart:<sup>5</sup>

In order for employers to take advantage of the limited exception discussed in this section, the <i>scrap paper baler</i> must meet one of the following ANSI Standards:	In order for employers to take advantage of the limited exception discussed in this section, the <i>paper box compactor</i> must meet one of the following ANSI Standards:
ANSI Standard Z245.5-1990	ANSI Standard Z245.2-1992
ANSI Standard Z245.5-1997	ANSI Standard Z245.2-1997
ANSI Standard Z245.5-2004	ANSI Standard Z245.2-2004
ANSI Standard Z245.5-2008	ANSI Standard Z245.2-2008

- b. the scrap paper balers and paper box compactors cannot be operated while being loaded;
- c. the scrap paper balers and paper box compactors include an on-off switch incorporating a key-lock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;
- d. the on-off switch of the scrap paper balers and paper box compactors is maintained in an off position when the equipment is not in operation; and
- e. the employer posts a notice on each scrap paper baler and each paper box compactor that 16- and 17-year-olds will be loading which states (see §:570.63(c)):
  - the equipment meets an appropriate ANSI Standard mentioned above, or a more recent applicable ANSI Standard that the Secretary of Labor has certified as being as protective of minors as those listed above – *Note: the specific standard must be listed on the notice in its entirety;*
  - Sixteen- and 17-year-old employees may only load the scrap paper baler and paper box compactor; and
  - any employee under the age of 18 may not operate or unload the scrap paper baler and paper box compactor.<sup>6</sup>

### Definitions

1. *Applicable ANSI Standard* means one of the American National Standard Institute Standards listed in the above chart, or a newer standard that the Secretary of Labor has certified as being as protective of minors as those listed in the chart on page 21. The ANSI standards for scrap paper balers and paper box compactors govern the manufacture and modification of the equipment, the operation and maintenance of the equipment, and employee training.
2. *Baler that is designed or used to process materials other than paper* means a powered machine designed or used to compress materials other than paper and cardboard boxes, with or without binding, to a density or form that will support handling and transportation as a material unit without requiring a disposable or reusable container.
3. *Compactor that is designed or used to process materials other than paper* means a powered machine that remains stationary during operation, designed or used to compact refuse other than paper or cardboard boxes into a detachable or integral container or into a transfer vehicle.
4. *Operating or assisting to operate* means all work that involves starting or stopping a machine covered by this section, placing materials into or removing materials from a machine, including clearing a machine of jammed materials, paper, or cardboard, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

5. *Paper box compactor* means a powered machine that remains stationary during operation, used to compact refuse, including paper boxes, into a detachable or integral container or into a transfer vehicle.
6. *Paper products machine* means all power-driven machines used in (1) remanufacturing or converting paper or pulp into a finished product, including preparing such materials for recycling; or (2) preparing such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishment. The term also applies to those machines which, in addition to paper products, process other material for disposal.
7. *Scrap paper baler* means a powered machine used to compress paper and possibly other solid waste, with or without binding, to a density or form that will support handling and transportation as a material unit without requiring a disposable or reusable container.

### **HO 13 - Occupations Involved in the Manufacture of Brick, Tile, and Kindred Products**

The following occupations involved in the manufacture of clay construction products and of silica refractory products are prohibited:

1. All work in or about establishments in which clay construction products are manufactured, except
  - a. work in storage and shipping;
  - b. work in offices, laboratories, and storerooms; and
  - c. work in the drying departments of plants manufacturing sewer pipe.
2. All work in or about establishments in which silica brick or other silica refractories are manufactured except work in offices.
3. Nothing in this section shall be construed as permitting employment of minors in any occupations prohibited by any other HO issued by the Secretary of Labor.

#### *Definitions*

1. The term *clay construction products* shall mean the following clay products: brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and drain tile. The term shall not include the following non-structural-bearing clay products: ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor shall the term include non-clay construction products such as sand-lime brick, glass brick, or non-clay refractories.
2. The term *silica brick or other silica refractories* shall mean refractory products produced from raw materials containing free silica as their main constituent.

### **HO 14 - Occupations Involving the Operation of Circular Saws, Band Saws, Guillotine Shears, Chain Saws, Reciprocating Saws, Wood Chippers, and Abrasive Cutting Discs**

The following occupations are prohibited in any type of establishment (manufacturing, non-manufacturing, retail, wholesale, service, etc.):

1. The occupations of operator of or helper on the following power-driven fixed or portable machines *except* for machines equipped with full automatic feed and ejection: circular saws, band saws, and guillotine shears.
2. The occupations of operator of or helper on the following power-driven fixed or portable machines: chain saws, reciprocating saws, wood chippers, and abrasive cutting discs.
3. The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs.

#### *Exemption*

The exemption for student-learners and apprentices applies to HO 14.



### *Definitions*

1. *Abrasive cutting disc* shall mean a machine equipped with a disc embedded with abrasive materials used for cutting materials.
2. *Band saw* shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.
3. *Chain saw* shall mean a machine that has teeth linked together to form an endless chain used for cutting materials.
4. *Circular saw* shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.
5. *Guillotine shear* shall mean a machine equipped with a moveable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.
6. *Helper* shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.
7. *Operator* shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.
8. *Reciprocating saw* shall mean a machine equipped with a moving blade that alternately changes direction on a linear cutting axis used for sawing materials.
9. *Wood chipper* shall mean a machine equipped with a feed mechanism, knives mounted on a rotating chipper disc or drum, and a power plant used to reduce to chips or shred such materials as tree branches, trunk segments, landscape waste, and other materials.

### **HO 15 - Occupations Involved in Wrecking, Demolition, and Shipbreaking Operations**

All occupations in wrecking, demolition, and shipbreaking operations are prohibited.

### *Definitions*

The term *wrecking, demolition, and shipbreaking operations* shall mean all work, including cleanup and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, or other structure, ship or other vessel.

### **HO 16 - Occupations in Roofing Operations and All Work On or About a Roof**

All occupations in roofing operations and all work on or about a roof are prohibited.

### *Exemption*

The exemption for student-learners and apprentices applies to HO 16.

### *Definitions*

1. The term *roofing operations* means all work performed in connection with the installation of roofs, including related metal work such as flashing, and applying weatherproofing materials and substances (such as waterproof membranes, tar, slag or pitch, asphalt prepared paper, tile, composite roofing materials, slate, metal, translucent materials, and shingles of asbestos, asphalt, wood or other

materials) to roofs of buildings or other structures. The term also includes all jobs on the ground related to roofing operations such as roofing laborer, roofing helper, materials handler and tending a tar heater.

2. The term *on or about a roof* includes all work performed upon or in close proximity to a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and coating of existing roofs; the construction of the sheathing or base of roofs (wood or metal), including roof trusses or joists; gutter and downspout work; the installation and servicing of television and communication equipment such as cable and satellite dishes; the installation and servicing of heating, ventilation and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed on or about roofs.

## **HO 17 - Occupations in Excavation Operations**

The following occupations in excavation operations are prohibited:

1. Excavating, working in, or backfilling (refilling) trenches, *except*
  - manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or
  - working in trenches that do not exceed four feet in depth at any point.
2. Excavating for buildings or other structures or working in such excavations, *except*
  - manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or
  - working in an excavation not exceeding such depth, or
  - working in an excavation where the side walls are shored or sloped to the angle of repose.
3. Working within tunnels prior to the completion of all driving and shoring operations.
4. Working within shafts prior to the completion of all sinking and shoring operations.

### *Exemption*

The exemption for student-learners and apprentices applies to HO 17.



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## **Special Provisions Permitting the Employment of Certain Minors in Places of Business that Use Machinery to Process Wood Products**

Section 13(c)(7) of the FLSA permits the employment of certain minors between the ages of 14 and 18, inside and outside of places of businesses where machinery is used to process wood products.

This exemption applies only to a minor who is:

1. exempt from compulsory school attendance beyond the eighth grade either by statute or judicial order, and,
2. is supervised in the work place by an adult relative or adult member of the same religious sect or division as the minor.

Although a minor meeting these requirements maybe employed inside and outside of places of businesses that use machinery to process wood products—activities normally prohibited by Child Labor Regulation No. 3 and HO 4—the minor is still prohibited from operating, or assisting to operate, any power-driven

woodworking machines. This prohibition includes the starting and stopping of the machines and the feeding of materials into the machines as well as the off-bearing of materials from the machines.

Such minors are also prohibited from cleaning, oiling, setting-up, adjusting and maintaining the machines. Minors 14 and 15 years of age must be employed in compliance with the remaining occupations and hours standards of CL Regulation No. 3. In addition, such minors must be protected from wood particles or other flying debris within the workplace by a barrier appropriate to the potential hazard of such wood particles or flying debris or by maintaining a sufficient distance from machinery in operation. The minors are also required to use personal protective equipment to prevent exposure to excessive levels of noise and sawdust.



### **Exemptions from Certain HOs for Apprentices and Student-Learners**

Hazardous Occupations Orders Nos. 5, 8, 10, 12, 14, 16, and 17 contain exemptions for 16- and 17-year-old apprentices and student-learners provided they are employed under the following conditions:

#### Apprentices:

1. the apprentice is employed in a craft recognized as an apprenticeable trade;
2. the work of the apprentice in the occupations declared particularly hazardous is incidental to his or her training;
3. such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and
4. the apprentice is registered by the Bureau of Apprenticeship and Training of the U. S. Department of Labor as employed in accordance with the standards established by that Bureau, or is registered by a state agency as employed in accordance with the standards of the state apprenticeship agency recognized by the Bureau of Apprenticeship and Training, or is employed under a written apprenticeship agreement and conditions which are found by the Secretary of Labor to conform substantially with such federal or state standards.

#### Student-Learners:

1. the student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized state or local educational authority or in a course of study in a substantially similar program conducted by a private school; and
2. such student-learner is employed under a written agreement which provides:
  - a. that the work of the student-learner in the occupations declared particularly hazardous shall be incidental to the training,
  - b. that such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person,
  - c. that safety instruction shall be given by the school and correlated by the employer with on-the-job training, and
  - d. that a schedule of organized and progressive work processes to be performed on the job shall have been prepared.

Each such written agreement shall contain the name of the student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder.

A high school graduate may be employed in an occupation in which training has been completed as provided in this paragraph as a student-learner, even though the youth is not yet 18 years of age.

Although the regulations do not provide definitions of the terms *intermittent* and *short periods of time*, the Wage and Hour Division interprets those terms to mean that an apprentice or student-learner may not be the principal operator of prohibited machinery. He or she must work under the close supervision of a fully

qualified and experienced adult, such as a journeyman. Further, the duties assigned the minor may not be such that he or she is constantly operating the prohibited machinery during the work shift, but only doing so as part of the training experience. This would preclude an apprentice or student-learner from being a production worker, responsible for spending a significant portion of the workday operating prohibited machinery or performing prohibited tasks. The Wage and Hour Division considers the continuous performance of otherwise prohibited work that exceeds one hour a day to be more than *intermittent* and more than for *short periods of time*. The Wage and Hour Division also considers the performance of otherwise prohibited work which totals more than 20% of the student-learner's work shift to be more than for *short periods of time*.

The regulations do not define the term *direct and close supervision*. The Wage and Hour Division's interpretation of *direct and close supervision* as it applies to apprentices and student-learners is based on guidance received from the Bureau of Apprenticeship and Training (BAT) which is part of the U. S. Department of Labor's Employment and Training Administration. BAT establishes ratios governing the number of journeymen and apprentices that may be employed on the job site in order to ensure worker safety and that the apprentices receive both proper training and supervision. BAT has advised the Wage and Hour Division that the most widely used ratio is one apprentice for the first journeyman on-site, and one apprentice for every three additional journeymen thereafter. The Wage and Hour Division considers the requirement of *direct and close supervision* to be met when there is one journeyman or experienced adult working with the first apprentice/student-learner on-site, and at least three journeymen or experienced adults working alongside each additional apprentice/student-learner. Of course, the requirement for *direct and close supervision* applies only during the periods when the apprentice/student-learner is actually performing work that would otherwise be prohibited by the HO.

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### **Additional Information**

For information about the federal child labor requirements, visit the **YouthRules!** Web site at <http://www.youthrules.dol.gov>.

Inquiries about the Fair Labor Standards Act or any other law administered by the Wage and Hour Division may be addressed to any local office of the Wage and Hour Division. Additional information is available on our Home Page located at <http://www.dol.gov/whd/index.htm>.

Locate the Wage and Hour Division office nearest to you, telephone our toll-free information and helpline at 1-866-4US-WAGE (1-866-487-9243): a customer service representative is available to assist you with referral information from 8am to 5pm **in your own time zone**; or log onto the nationwide listing of Wage-Hour District Offices located at: <http://www.dol.gov/whd/america2.htm>.

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[1] Section 13(c)(7) of the FLSA, enacted in 2004, permits the employment of certain minors between the ages of 14 and 18, who have been excused from compulsory school attendance, inside and outside of places of business where machinery is used to process wood products. This provision, however, does not permit such minors to operate, or assist in the operation of power-driven woodworking machines.

[2] For purposes of this exception the term *automatic elevator* shall mean a passenger elevator, a freight elevator or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic. The term *automatic signal operation elevator* shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that

automatically closes the car and hoistway doors – from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

[3] The term *bacon slicing machine* as used in this HO refers to those machines which are designed solely for the purpose of slicing bacon and are equipped with enclosure or barrier guards that prevent the operator from coming in contact with the blade or blades, and with devices for automatic feeding, slicing, shingling, stacking, and conveying the sliced bacon away from the point of operation.

[4] HO 11 prohibits minors from operating any vertical or horizontal mixer (except lightweight, portable, countertop models discussed in the exemption) when used to mix dough, batter, and items such as vegetables, meat mixtures and other heavier products that require the use of the same strength or design of agitators, whips, or beaters as those used to mix dough or batter. HO 11 does not prohibit minors from using such equipment to mix lighter fare such as meringues and light icings when the agitators or whips used are designed solely for such use.

[5] The FLSA also allows the equipment to meet more recent ANSI standards that the Secretary of Labor has certified to be at least as protective of the safety of minors as the Standards listed above.

[6] There is no prescribed format for the notice but it must contain all the information as stated in subparagraph 2e. Posting a notice will satisfy the requirement that employers also provide notice.

[7] Pub. L. 110-223 revised FLSA § 16(e) authorizing increased civil money penalties for child labor violations occurring on or after May 21, 2008, that cause the death or serious injury of any minor employee.