

AHO9 Handling or applying agricultural chemicals identified by the word *poison* and the *skull and crossbones* on the label or those identified by the word *warning* on the label.

AHO10 Handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord.

AHO11 Transporting, transferring, or applying anhydrous ammonia.

Agricultural Hazardous Occupations Order (AHHO) Exemption Qualifications (29 CFR 570.50)

An AHHO Exemption allows industry and schools working in partnership to be protected under the child labor law and employ students in some hazardous agricultural occupations. Child labor regulations allow limited involvement in the six hazardous occupations starred (*) above if the individual is at least 14 years old, a cooperative education student-learner or apprentice, and **all** of the following requirements are properly met:

- ✓ Individual must be 14-15 years old
- ✓ Student Learner must be:
 - enrolled in a *state-recognized course*, e.g. COOP program.
 - employed under a *written Training Agreement* signed by the employer, school, parent, and student.
 - employed under a *written Training Plan* that clearly identifies the competencies the student is expected to attain in the related high school course and as a result of the on-the job training.
 - employed with the understanding that the hazardous portion of the work:
 - is *incidental* to training.
 - is *intermittent* and for *short* periods of time.
 - is under direct and close supervision of a qualified person.
 - follows safety instructions given by the school and/or the employer on the job.

APPRENTICES must be:

- employed in an apprenticeship program *registered* by the Bureau of Apprenticeship and Training (BAT).
- employed with the understanding that the hazardous portion of the work:
 - is *incidental* to training.
 - is *intermittent* and for *short* periods of time.
 - is under *direct* and *close* supervision of a qualified person.

(The following are not required by FLSA, but are recommended to insure the safety and well being of the student apprentices.)

- provided with safety instructions given by the school and/or the employer on the job.
- employed under a *written Training Agreement* signed by the employer, school, parent, and student.
- employed under a *written Training Plan* that clearly identifies the competencies the student is expected to attain in the related high school course and as a result of the on-the job training.

Resources:

The following publications are available from US Dept. of Labor:

Child Labor Requirements in Nonagricultural Occupations Under the Fair Labor Standards Act. Child Labor Bulletin No. 101.

Child Labor Requirements in Agricultural Under the Fair Labor Standards Act. Child Labor Bulletin No. 102.

Handy Reference Guide to the Fair Labor Standards Act, WH Publication 1282.

Employment Relationship Under the Fair Labor Standards Act, WH Pub. 1297

U.S. Department of Labor
Employment Standards Administration, Wage and Hour Division
200 Constitution Avenue, NW
Washington, D.C. 20210
202-219-4907
www.youthrules.gov.

Nebraska Work Based Learning Manual
Nebraska Department of Education
301 Centennial Mall South
Lincoln, NE 68509-4987
www.nde.state.ne.us/nce

For More Information Contact:

Greg Stahr, Work Based Learning Director
Nebraska Department of Education
(402) 471-0898
greg.stahr@nebraska.gov

This brochure is intended as a reference only, not as a legal interpretation, and is not a substitute for legal advice. It is in no way a complete statement of the child labor laws, but a simplified interpretation intended for use by educators, employers, policy makers, and parents as they plan and implement work-based learning opportunities. For more complete information regarding state and federal law, consult the resources listed below.

Those needing legal advice should consult an attorney.



Legal Conditions for Employment of Youth Under 18 Years of Age in Agricultural Occupations



**Work-Based Learning
Nebraska Department of Education
September 2008**

Employment of Youth Under 18 Years of Age in Agricultural Occupations

Employers, schools and students are impacted by a number of labor laws as they participate in work-based learning activities. The degree to which coverage is mandated is dependent on the individual situation. Coverage is principally affected by the determination of whether or not an employer-employee relationship exists between the employer and student.

Child labor laws were enacted to protect minors from injury in the workplace and to prevent work from interfering with education. Students in work-based learning opportunities may engage in a range of types and intensities of activities in the workplace from gaining career awareness through job shadowing, to learning occupational and employability skills by working in internships or youth apprenticeships.

Why Employ Youth Under Age 18?

It has become increasingly apparent that structured work-based learning enhances rather than detracts from education by reinforcing academic learning and highlighting the relevance of education to goals in later life. The employment of youth under age 18 is desirable in many instances because of the need:

- To create early opportunities for youth to develop an awareness of new and emerging careers so they can more effectively plan postsecondary education pursuits.
- To introduce youth to the modern workplace, equipment and actual workplace problems.
- To give youth access to jobs that require more knowledge and skills than ordinary youth jobs.
- To allow youth to experience a career field before the 12th grade so they can adjust their academic and career program of study before graduation.
- To demonstrate to youth that high performance in high school "counts" in students' plans for the future.
- To enable students to observe the interaction of all aspects of a company's operations

Federal Fair Labor Standards Acts (FLSA) Child Labor Provisions

The FLSA was passed in 1938 and is a federal law enforced by the U.S. Department of Labor's Wage and Hour Division. The law applies to all fifty states and ninety percent of nonagricultural businesses. All states also have child labor laws. If the FLSA and the state's child labor laws regulate the same activity, the stricter labor standard is the one that applies, e.g., Nebraska Child Labor Law requires that all workers under age 16 obtain an Employment Certificate from the school district in which the child resides. The following conditions are based on the Federal law.

- The FLSA applies **only** when an (employer/employee) relationship exists. When a child reaches the age of eighteen, the child labor law does not apply.
- Provisions for work in agriculture are less restrictive than those for non-agricultural work. Agriculture is defined in FLSA as "includes farming in all its branches...performed by a farmer or on a farm as an incident to or in conjunction with such farming occupations" (29 CFR 780.103).
- Child labor law for **agricultural** occupations stipulates conditions of employment in three major areas: Age and Hour Limitations, Occupational Limitations, and Hazardous Occupations Order Exemption Qualifications.

Age and Hour Limitations

Under 12 Years of Age

Youths under 12 years old may perform jobs on farms owned or operated by parents or, with parents' written consent, outside of school hours in nonhazardous jobs *on farms not covered by the minimum wage provisions of the Fair Labor Standards Act.*

12 and 13 Year Olds

Youth who are 12 and 13 years of age may work outside of school hours in nonhazardous jobs, either with parent's written consent or on the same farm as the parents.

14 and 15 Year Olds

Youth who are 14 and 15 years of age may work outside of school hours in nonhazardous jobs. Fourteen and fifteen year old students enrolled in a *state-recognized agricultural education program* may obtain an exemption from Agricultural Hazardous Occupations Orders 1,2,3,4,5, and 6 listed on the next page.

16 and 17 Year Olds

Youth who are 16 and 17 years of age may perform any agricultural job, whether hazardous or not, and whether during school hours or not, for unlimited hours. Educators, employers, and parents should, however, control the hours to ensure that education remains the student's top priority.

Agricultural Occupation Limitations

There are eleven Agricultural Hazardous Occupations Orders (AHOO) described in detail in the law. Minors under age 16 may **not** be employed to work in these occupations unless they qualify for an exemption as a *student learner* or *apprentice* enrolled in a state-recognized training program. Industry can hire 14 and 15 year old students to work in AHOO # 1, 2,3,4,5, and 6 if they work in partnership with an approved educational facility and an agreement has been signed by the employer, the school, a parent, and the student (see Exemption Qualifications). There are no exemptions for AHOO # 7, 8,9,10, and 11.

AHO 1* Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

AHO 2* Operating or assisting to operate any of the following machines: corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner; feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; power post-hole digger; power post driver, or nonwalking-type rotary tiller.

AHO 3* Operating or assisting to operate the following machines: trencher or earthmoving equipment, fork lift, potato combine, power-driven circular, band, or chain saw.

AHO 4* Working on a farm in a yard, pen, or stall occupied by a bull, boar, or study horse maintained for breeding purposes; sow with suckling pigs; or cow with newborn calf.

AHO 5* Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches

AHO 6* Working from ladder/scaffold at a height of over 20 feet.

AHO 7 Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

AHO 8 Working inside a fruit, forage, or grain storage designed to regain an oxygen deficient or toxic atmosphere; an upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position; a manure pit; or a horizontal silo while operating tractor for packing purposes.