

Today's Discussion

- Fair Labor Standards Act
- Workers' Compensation Insurance
- Student Learner Program
- Q&A

State and FLSA Wage Rights

- The minimum wage is \$8.85 per hour.
- Opportunity Wage of \$4.25 per hour is permitted for the first calendar 90 days of employment
- Tipped EE's-\$4.425/hr + tips= \$8.85
- Any deductions that drop wages below the minimum wage are illegal (property damage, cash register shortages, work tools = illegal deductions)
- Most training must be paid
- Overtime = time and a half the regular rate after 40 hrs. worked

How to Determine Which Laws to Follow

- Every employer must follow South Dakota Labor Laws
- Things to look for federally:
 - \$500,000.00 Annually
 - Interstate Commerce

What Age Do You Have To Be To Work?

- 14 years of age is the youngest a person may be employed *
- Exceptions for children of parents who own their own business
- Exceptions for children in agriculture

State and Federal Child Labor Provisions Do Not:

- Require minors to obtain work permits
- Limit hours or restrict time worked for minors 16 years of age or older

Hours that 14 and 15 Year Olds May Work, State

- No more than 4 hours on a school day, including Friday's *
- No more than 20 hours in any school week *
- No more than 8 hours in any non-school day
- No more than 40 hours during a week when school is not in session

Hours that 14 and 15 Year-Olds May Work, Federal

- No more than 3 hours on a school day, including Fridays
- No more than 18 hours during a week when school is in session
- No more than 8 hours on a non-school day
- No more than 40 hours during a week when school is not in session

Times When 14- and 15-Year-Olds May Work, Federal

- Between 7 AM and 7 PM; or
- Between 7 AM and 9 PM from June 1 through Labor Day; and
- Outside school hours



Jobs 14- and 15-Year-Olds May Do

- Cashiering and selling
- Price marking, assembling orders, packing
- Office and clerical work
- Bagging groceries
- Hand washing cars
- Pumping Gas

Retail & Service Jobs 14- and 15-Year-Olds May Do

- Work of an **intellectual or artistically creative nature**
- Cooking with electric or gas grills that does not entail cooking over an open flame
- Work as a **Lifeguard** or **Swimming Instructor** at a swimming pool if at least 15 years of age and properly certified.

14- and 15-Year-Olds **May Not** perform work in occupations that involve:

- Manufacturing and Mining
- The operation of power-driven equipment
- Transportation and Communications*
- Warehousing and storage*
- Most processing* occupations
- Construction*

* Exceptions apply for office work

Work 14 and 15 Year-Olds **May Not**

- Work in freezers and meat coolers, except they may momentarily enter a freezer to retrieve items on an occasional basis
- Perform outside window washing that involves working from windowsills
- Any work requiring the use of ladders, scaffolds or their substitutes
- Work as a poultry catcher, gathering poultry for slaughter or market

Hazardous Occupations 16 and 17 Year-Olds

- Manufacturing or storing explosives
- Driving a motor vehicle and being an outside helper
- Mining
- Logging and sawmilling, forest fire fighting and fire prevention, timber tract management and forestry services
- Power-driven wood working machines; power-driven metal forming, punching and shearing machines; power-driven hoisting apparatus, including forklifts; bakery machines, including vertical dough mixers; circular saws, band saws, chain saws, reciprocating saws, wood chippers, abrasive cutting discs and guillotine shears; and paper products machines, including balers and compactors.
- Exposure to radioactive substances and to ionizing radiation
- Meat and poultry packing or processing, including power-driven meat slicers
- Manufacturing brick, tile and related products
- Wrecking, demolition and ship-breaking operations
- Roofing operations and all work on or about a roof
- Excavating operations

Hazardous Occupations(HO) Most 16-17 Year Olds Encounter

- ****HO 2- Driving a motor vehicle and being an outside helper**
- ***HO 5- Power-driven wood working machines**
- **HO 7- Power-driven hoisting apparatus including forklifts, backhoes, skid-steer loaders, Bobcat loaders, front-end loaders, cherry pickers, boom trucks, scissor lifts, and work assist platforms.**
- **HO 8- Power-driven metal forming, punching, and shearing machines**
- **HO 10- Meat and poultry packing or processing, including operating and cleaning power-driven meat slicers**
- **HO 11- Power-driven bakery machines, including vertical dough mixers**
- **HO 12- Compactors, Balers, and power-driven paper products processing machines**
- ***HO 14- Power-driven circular saws, band saws, chain saws, reciprocating saws, wood chippers abrasive cutting discs and guillotine shears**
- **HO 15- Wrecking, demolition, and ship-breaking operations**
- ***HO 16- Roofing operations and all work on or about a roof**
- ***HO 17- Excavating operations**

HO 2 Driving or Outside Helper on Motor Vehicles

- [No employee under 17 may drive motor vehicles on public roads](#)
- [17 year olds may drive under limited circumstances. \(daylight/less than 20% of job hrs/seat belts/drivers education class etc.\)](#)
- [Bans driving of cars and trucks for delivery work.](#)
- Bans the driving of cars for route sales
- Bans driving that involves towing
- [Bans driving of golf carts, ATVs and motorcycles on public roads](#)
- Prohibits the transportation of people, (cannot work as a bus driver)
- Bans working as an outside helper on motor vehicles. An outside helper is anyone, other than the driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods
- 16 and 17 years old may however operate lawn mowers, push or riding

HO 5 Power-Driven Woodworking Machines

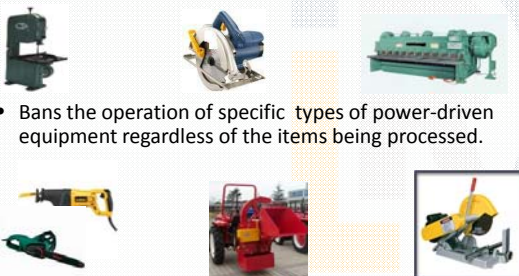
- Bans the operation of most power-driven woodworking machines, including saws, stapling machines, nailing machines and sanders

HO 7 Power-Driven Hoisting Apparatus

- Bans operating and riding on most power-driven hoisting apparatus such as freight elevators, Bobcat loaders, cherry pickers, boom trucks, cranes, scissor lifts and most high lift trucks, including FORKLIFTS
- Also bans operating and riding on smaller hoists, such as those used for lifting patients in nursing homes and hospitals.

HO 14 Power-Driven Band Saws, Circular Saws, Guillotine Shears, Chain Saws, Reciprocating Saws, Wood Chippers and Abrasive Cutting Discs

- Bans the operation of specific types of power-driven equipment regardless of the items being processed.



HO 15 Wrecking, Demolition and Ship Breaking Operations

- All work performed at the site of a total or partial building demolition (including clean up and salvage work)
- Dismantling of a building, bridge, steeple, tower chimney or other structure
- Dismantling of a ship

HO 16 Roofing Occupations and All Work On or About a Roof

- Bans all jobs in roofing operations including work performed on the ground and
- All work performed on or about a roof (in close proximity)



HO 17 Occupations in Excavation

- Bans most jobs in trenching and excavation work, including working in a trench more than four feet deep

Exceptions and Exemptions

- Apprentices and StartTodaySD
 - <https://www.starttoday.com/businesses/resources>
- Student Learners
- Manufacturing and Construction Equipment Chart
 - http://dlr.sd.gov/workforce_services/individuals/training_opportunities/documents/apprenticeship_youthho_exemptionchart.pdf

Apprenticeships and Student Learner Programs

- **Fair Labor Standards Act**
 - allows youth who are 16 and 17 years old to work in any occupation
 - occupation has not been deemed particularly hazardous or detrimental to youth health or welfare.
 - EXCEPTION: some HAZARDOUS OCCUPATIONS when the youth participate in a qualified apprenticeship or student-learner program

Apprenticeship Qualifications for Exceptions with 16 & 17 year olds

- Registered Apprenticeship Webinar was April 11th, 2018
- Recording: <https://www.youtube.com/watch?v=GH69Uq11yDg&feature=youtu.be>
- Slides: <https://www.sdra.org/userfiles/files/WebinarPowerpoint/Apprenticeship3SlidesPerPage.pdf>

Student-learner Qualifications for Exceptions with 16 & 17 year olds

- The student learner program must meet the following criteria:
- the youth must be 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;
 - the youth is employed under a written agreement which provides that:
 - the particularly hazardous work performed by the student-learner is incidental to his training;
 - the particularly hazardous work is intermittent and for short periods of time;
 - the particularly hazardous work is performed under the direct and close supervision of a qualified and experienced person;
 - safety instructions will be given by the school and correlated by the employer with on-the-job training; and
 - a schedule of organized and progressive work processes to be performed by the youth on the job have been prepared. [29 CFR 570.50\(c\)](#)

Student-learner Agreement

- Must contain:
- name of student-learner
 - signed by the employer and the school coordinator or principal
 - Both the school and the employer must keep copies of agreements from each youth participating in the student-learner program
 - The student-learner exception may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of the enrolled minors
 - A high school graduate may be employed in an occupation in which he has completed training as provided in this paragraph as a student-learner, even though he is not yet 18 years of age. [29 CFR 570.50\(c\)](#)

Workers' Compensation

- Private insurance system: employers pay premiums to company they choose or assigned-risk carrier, injured workers get lost-time and medical costs covered.
- Employers DON'T HAVE TO HAVE IT. But can be sued directly (instead of insurer paying a claim) if they don't.



Workers' Compensation Insurance

- Only applies if there is an injury on the job
- Business decision for an insurance company
 - History with company
 - Size of company
 - Type of work the company does
- Typically not aware of or concerned if 16 or 17 years olds are working
- Oversight and safety awareness generally prevents injuries

Contact Information

DLR Workforce Training
605.773.3101

DLR Labor and Management
605.773.3681

Labor Law FAQ
http://dlr.sd.gov/employment_laws/publications/federal_youth_labor_laws.pdf
