

CALIFORNIA

# CHILD LABOR LAWS



**2013**

State of California

Department of Industrial Relations

Division of Labor Standards Enforcement

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## **1. MINOR DEFINED**

Almost all minors under the age of 18 are subject to California's child labor protections. Under the California Labor Code, "minor" means any person under the age of 18 years who is required to attend school under the provisions of the Education Code, and includes minors under age six. Nonresidents of the state who would be subject to California's compulsory education laws if they were residents are also considered minors and are subject to all the requirements and protections of the Labor Code. [LC 1286(c)] (See Chapter 3 of this digest). The Labor Code definition means, for example, the high school graduates under the age of 18, who are not subject to the compulsory education laws, are entirely excluded from permit requirements, work hour restrictions, and all occupational prohibitions. However, under federal regulation high school graduates may not be employed in an occupation prohibited to minors under 18 unless they have also completed a bona fide course of training in that occupation. [29 CFR 570.50] "Dropouts" are still subject to California's compulsory education laws, and thus are subject to all state child labor requirements. (See Chapter 2 of this digest). Emancipated minors are subject to all California's child labor laws, except that they may apply for a work permit without their parents' permission. [FC 7050] (See Chapter 3 of this digest).

## **2. SCHOOL ATTENDANCE REQUIREMENTS**

Minors age six through 15 years must attend school full-time unless the minor is a high school graduate [EC 49110], attends an approved alternative school [EC4822], is tutored [EC 48224], is on an approved leave absence [EC 48232], has transferred from another state with less than 10 days left in the school year [EC 48231], or has justifiable personal reasons requested by the parent and approved by the principal including, illness, court appearances, religious observances and retreats, funerals, or employment conferences. [EC 48205] In rare circumstances, 14 and 15 year olds enrolled in Work Experience Education may be granted a permit to work full-time during school hours. [EC 49130] (See Chapter 5 of this digest).

Sixteen and seventeen year olds, who have not graduated from high school or who have not received a certificate of proficiency may opt to attend part-time classes. Those who are regularly employed must attend continuation classes for at least four hours per week. Those not regularly employed must attend continuation classes for at least 15 hours per week. [EC 48400 and 48402] No minor may legally drop out of school entirely.

Note: Schools may excuse the absences of a pupil who holds an entertainment work permit or who participates with a not-for-profit arts organization in a performance for a public school audience. For additional information, refer to the section entitled, "Excused School Absences," in Chapter 9 of this digest.

### 3. PERMITS TO EMPLOY AND WORK

#### Overview

Except in limited circumstances defined in law and summarized below, all minors under 18 years of age employed in the state of California must have a permit to work. [EC 49160; LC 1299] The federal Fair Labor Standards Act also requires a certificate of age for working minors. The state Permit to Employ and Work (“Permit”) is accepted as the federal certificate [EC 49110, 49112, 49113, 49116]

Employers must have a Permit to Employ and Work on file and available for inspection by school and labor officials at all times. [LC 1299, EC 49161 and 49164] Permits to Employ and Work are issued on the same form. Permits are always required, even when school is not in session. Permits are issued for specific employment at a specified address. [EC 49115 and 49163] Permits contain the maximum number of hours a minor may work in a day and week, the range of hours during the day that a minor may work, any limitations, and any additional restrictions imposed at the school’s discretion.

Permits may not be issued that violate any provision of law. [EC 49164] Thus, all restrictions on minimum ages for employment in various occupations and all work hour restrictions must be strictly followed. (See Chapters 5, 6, 7, and 8 of this digest). **Neither school nor labor officials are empowered to waive, at any time or under any circumstances, any minimum labor standard established by law or regulation.**

Minors work with the permission of the local school district, and no law requires schools to issue permits for the maximum hours allowed by law or for every occupation for which a minor might be eligible. Thus, depending on the minor’s particular circumstances or local district policy, school officials may impose additional restrictions at their discretion. Any violation of such special restrictions subjects the permit to revocation. [EC 49164] Any person empowered to issue a permit that knowingly certifies to false information on a permit, commits a misdemeanor. [EC 49183]

Permits to Employ and Work may be denied or canceled at any time by school officials or the Labor Commissioner, whenever the conditions for the issuance of the certificate or permit do not exist, no longer exist, or have never existed. [LC 1300; EC 49164] School officials who determine that school work or health of the minor is impaired by the employment may revoke the permit. [EC 49116]

Permits issued during the school year expire five days after the opening of the next succeeding school year and must be renewed. [EC 49118]

## **Inclusions**

Federal and state occupational restrictions are such that in most cases minors must be at least 14 years of age to begin working. Any minor who is at least 12 years of age may be issued a permit by school officials [EC 49111], however few occupations are available to them. (See Chapters 6 and 7 of this digest). **Exception:** An employer must first obtain a Permit to Employ Minors in the entertainment industry before a minor may be employed in such industry. Additionally, the minor's parent or legal guardian must obtain an Entertainment Work Permit before the minor may be employed in the entertainment industry. Both such permits are issued by the Division of Labor Standards Enforcement. [LC 1308.5 CCR 11752 and 11753] Please refer to Chapter 9 of this digest for additional information regarding minors working in the entertainment industry.

A minor enrolled in a Work Experience Education program must obtain a work permit, and his or her employer must possess a permit to employ. The minor must be at least 16 years of age to be enrolled in a Work Experience Education program, with certain exceptions as specified in the Education Code. [EC 49113]

An apprentice in a bona fide apprenticeship training program must have the standard Permit to Employ and Work issued by his or her school. Apprentices must be at least 16 years of age. [LC 3077]

Parents who employ their children in any occupation permitted to minors, including industrial, mercantile, or similar commercial enterprises, must obtain the standard Permit to Employ and Work. [EC 49141] This means that parents must obtain permits for the employment of their minor children in any enterprise, unless they employ their minor children in agriculture or domestic labor. (See "Permit Exclusions" below and Chapter 10 of this digest).

Minors visiting from another state (or country, if eligible to work in the United States) who wish to work in California must obtain the standard Permit to Employ and Work, and their employers must possess such permit. [LC 1286 and 1299; EC 49160 and 49164] These permits may be issued by the local school district in which the minor will reside while visiting. [EC 49110]

Emancipated minors must have the standard Permit to Employ and Work, and employers employing them must possess this permit. Emancipated minors are those persons under 18 who have entered into a valid marriage (whether or not the marriage was dissolved), are on active duty with the armed services, or possess a "Declaration of Emancipation" issued by the superior court. Minors declared emancipated by the court must be at least 14 years of age. Emancipated minors may apply for a Permit to Employ and Work without parental consent [FC 7000 et seq.], but they are subject to all other child labor laws. So-called "dropouts" under 18 are still subject to California's compulsory education laws, and must, therefore, have permits in order to work. (See Chapter 2 of this digest).

## Exclusions

High school graduates or minors who have been awarded a certificate of proficiency are exempt from the permit requirements. [EC 49101; LC 1286] Minors do not need to attain a minimum age in order to graduate from high school. However, to qualify for a certificate of proficiency, the minor must be at least 16 years of age, or must have been enrolled for one academic year in the 10<sup>th</sup> grade, or have completed one academic year of enrollment in the 10<sup>th</sup> grade at the end of the semester the test was taken.

Parents or guardians who employ their children in agriculture, horticulture, viticulture, or domestic labor on or in connection with property the parent or guardian owns, operates, or controls do not require permits. [LC 1394]

Minors who are self-employed do not require permits.

Minors *irregularly* employed in odd jobs in private homes, such as baby-sitting, lawn mowing, and leaf raking, do not need to obtain a Permit to Employ and Work. [18 Ops. Cal. Atty. Gen. 114, August 31, 1951]

Minors engaged in the sale and distribution of newspapers or magazines are often self-employed, and thus do not require permits. Minors who are at least 14 years of age and employed to deliver newspapers to consumers do not require permits, whether or not they are self-employed. [EC 49112 (d)]

Requirements for this occupation are detailed in Chapter 7 of this digest.

Minors of any age who participate in any horseback riding exhibition, contest, or event, whether or not they receive payment for services or prize money do not need to obtain a Permit to Employ and Work. [EC 49119 and 49165; LC 1308(b) (3)] **Note:** Minors under 16 years of age are prohibited from participating in any rough stock rodeo event, circus, or race. “Rough stock rodeo event” means any rodeo event operated for profit or operated by other than a nonprofit organization in which unbroken, little-trained, or imperfectly trained animals are ridden or handled by the participant, and shall include, but not be limited to, saddle bronco riding, bareback riding, and bull riding.” “Race” means any speed contest between two or more animals that are on a course at the same time and that is operated for profit or operated other than by nonprofit organizations.” [LC 1308(b) (3)]

State and local agencies that directly employ minors are not included in the Labor Code’s child labor provisions, and are exempt from permit requirements. State and local agencies must be expressly included in the Labor Code to be subject to its requirements. State and local agencies are, however, covered by the federal Fair Labor Standards Act and must meet all of its requirements. [29 USC 203 (s) (1)]

## **Obtaining Permits to Employ and Work**

Prior to permitting the minor to work, employers must possess a valid Permit to Employ and Work. The minor's school issues the permit. In typical circumstances, after an employer agrees to hire a minor, the minor then obtains from his or her school a brief form with the title "Statement of Intent to Employ Minor and Request for Work Permit" ("Application"). [EC 49162] The application is completed by the minor and the employer, and signed by the minor's parent or guardian and the prospective supervisor. [EC 49163] After returning the completed and signed application to the school, school officials may then issue the Permit to Employ and Work. [EC 49110 – 49113 and 49130]

**Exception:** A minor employed in the entertainment industry must have an Entertainment Work Permit issued by the Division of Labor Standards Enforcement. [LC 1308.5, CCR 11753] The employer of such a minor must have a Permit to Employ Minors in the Entertainment Industry that is also issued by the Division of Labor Standards Enforcement. [CCR 11752] (See Chapter 9 of this digest).

## **Minors Who Attend a Charter School**

A minor attending a charter school\* who wishes to work, must obtain the standard Permit to Employ and Work, and the employer must possess such permit. Either the minor's school or the authority that granted the school's charter (normally the local school district) may issue the permit.

\*Please see EC 47600 et seq. for a description of charter schools and how they are established.



## 4. WAGES

Minors must be paid at least the minimum wage and applicable overtime rates established by the California Industrial Welfare Commission. [LC 1197, IWC Orders Section 4] Employers who are subject to the federal Fair Labor Standards Act (and most are) must pay the applicable federal minimum wage and overtime rates. [29 USC 206, 207, and 214] Whenever state and federal wage standards differ; the higher wage must always be paid. [LC 1182, 29 USC 218]

### **Required Payment of Adults Wage Rates**

High school graduates or the equivalent must be paid commensurate with adults when they perform the same quantity, quality, and classification of work. This includes wage rates that are above the minimum wage. [LC 1391.2]

Minors participating in Work Experience Education programs and who work between 10 p.m. and 12:30 a.m. (an extension of hours which requires the express approval of parents and school officials) must be paid at least the adult minimum wage for any work performed during those hours. [LC 1391.1]

Sixteen and seventeen year olds who are permitted to work 48 hours in a week must be paid any applicable overtime pay. [LC 1391 (a) (3), IWC Orders Section 3, USC 207]

### **FEDERAL OPPORTUNITY WAGE & IWC LEANER & MINOR RATES**

Amendments to FLSA also provide a subminimum “opportunity wage” for youth. The opportunity wage, effective October 1, 1996, must be at least \$4.25 per hour and applies only to workers under 20 years of age during the first 90 consecutive *calendar* days after the employee is *initially* hired. [29 USC 206 (g)] It is unlawful for an employer to displace a current employee or reduce his or her work hours or benefits in order to pay the opportunity wage.

State labor regulations (IWC Orders Section 4 Learners) allows a learner employee to be paid at 85% of the minimum wage rounded to the nearest nickel during their first 160 hours of employment in occupations in which the employee has no previous similar or related experience.

In order to pay a subminimum wage, a California employer who is also subject to the FLSA and local law must determine if the employment is eligible for a subminimum “opportunity wage” under federal and local law simultaneously. If the employment violates any state requirements, then the state minimum wage must be paid even though the employment meets all federal subminimum wage requirements. Likewise, if the employment violates any federal requirement, the federal minimum wage must be paid even though the employment meets all state subminimum wage requirements.

In a special case in which a statute overrides the applicable IWC Order [Order No. 10 in this case], student employees, camp counselors, or program counselors of an organized camp, **regardless of age**, may be paid a weekly salary amounting to 85% of the minimum wage for a 40 hour week, even if they work more than 40 hours in a week. [LC 1182.4] This provision *does not* exempt employers from the maximum work hour limits for minors established in Labor Code Section 1391, which are explained in Chapter 5 of this digest. Thus, the only savings on overtime hours that can apply are those for 16 and 17 year olds, who are allowed to work up to 48 hours per week. [LC 1391 (a) (3)] If student employees, camp counselors, or program counselors, regardless of age, work less than 40 hours per week, they must be paid at least 85% of the minimum wage for each hour worked. An “organized camp” is defined in state law as a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days or more during one or more seasons of the year. The term does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp, child care institution, home-finding agency, or any charitable or recreational organization operating a special (i.e., temporary) occupancy trailer park. [HSC 18897 and 18301] The organized camp must meet the standards established by the American Camping Association.

The federal Fair Labor Standards Act also exempts from minimum wage and overtime requirements employees of organized camps (and amusement or recreational establishments and religious or nonprofit educational conference centers) if the facility does not operate for more than seven months in any calendar year or if its average receipts for any six months of the preceding year do not exceed 33 1/3% of the receipts for the remaining six months of the preceding year. However, private entities providing services or facilities in a National Park, National Forest, or National Wildlife Refuge is not exempt from federal wage requirements, unless the services or facilities are related to skiing. [29 USC 213 (a) (3)]

### **Minimum Wage Exemptions**

State minimum wage and overtime exemptions are listed in the applicable IWC Order. Employers who are also subject to the federal Fair Labor Standards Act should also check with the U.S. Department of Labor to determine if the state’s exemption coincides with federal requirements. Exemptions for parent or guardians are explained in Chapter 10 of this digest.

## 5. HOURS OF WORK

### SUMMARY CHART

	Ages 16 & 17 Must have completed 7th grade to work while school in session. (EC 49112)	Ages 14 & 15 Must have completed 7 <sup>th</sup> grade to work while school in session (EC 49112)	Ages 12 & 13
SCHOOL IN SESSION*	4 hours per day on any schoolday** [EC 49112; 49116; LC 1391]  8 hours on any non-schoolday or on any day preceding a non-schoolday. [EC 49112; 49116; LC 1391]  48 hours per week [LC 1391]  WEE students & personal attendants*** may work more than 4 hours on a schoolday, but never more than 8. See text. [EC 49116; LC 1391, 1392]	3 hours per schoolday outside of school hours [EC 49112, 49116; LC 1391]  8 hours on any non-schoolday  18 hours per week [EC 49116; LC 1391]  WEE students may work during school hours & up to 23 hours per week. See text. [EC 49116; LC 1391]	May be employed only during school holidays and vacations (usually construed to include weekends). May never be employed on any schoolday, either before or after school. [EC 49111] See text.  Daily and weekly work hour maximums while school is in session are not specified in statute, but may not exceed the maximum allowed when school is not in session or the maximum stated on permit. [EC 49111; LC 1391, 1392] See text.  Not eligible for WEE programs. [EC 49113]
SCHOOL NOT IN SESSION	8 hours per day [LC 1391, 1392]  48 hours per week [LC 1391]	8 hours per day [LC 1391, 1392]  40 hours per week [LC 1391]	8 hours per day [LC 1391, 1392]  40 hours per week [LC 1391]
SPREAD OF HOURS	5 a.m. – 10 p.m. However, until 12:30 a.m. on any evening preceding a nonschoolday [LC 1391]  WEE students, with permission, until 12:30 a.m. on any day [LC 1391.1]  Messengers: 6 a.m. – 9 p.m.	7 a.m. – 7 p.m., except that from June 1 through Labor Day, until 9 p.m. [LC 1391]	7 a.m. – 7 p.m., except that from June 1 through Labor Day, until 9 p.m. [LC 1391]

#### PENALTIES

EC 49111, 49112, 49116 Misdemeanor. [EC 49182]

LC 1297 Misdemeanor.[LC 1303]

LC 1391 First violation, Class B, \$500; second violation, Class B, \$1,000; third and subsequent violations, Class A, \$5,000 - \$10,000. [LC 1288] Misdemeanor.[1303]

LC 1392 Class A violation \$5,000 - \$10,000. (Minor must be a ward or apprentice.) Misdemeanor. [LC 1392]

- Permits must be revoked (by school officials or the Labor Commissioner) if work exceeds the hours stated on the permit.  
[LC 1300; EC 49164]
- With few exceptions, all employees are entitled to one day of rest in seven. [LC 551, 552] Days of rest may be accumulated providing that in each calendar month the employee receives the equivalent of one day of rest in seven. [LC 554] A violation of Sections 551, 552 and 554 is a misdemeanor. [LC 553]. School

attendance is not considered work time.

- See Chapter 11 of this digest for additional details on penalties

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\*Statutes governing workhours for 14- and 15-year-olds use the phrase, "while school is in session", for the three-hour day, 18-hour week. California provides no precise definition of this phrase. However, the phrase is also used in federal regulations from which California's standard is derived [29 CFR 570.35(a)]. The U.S. Department of Labor considers the term "school in session" to mean the scheduled schooldays of the public school system in the county where the minor resides. A school week under federal standards is any week during which school is in session for at least one day. Thus, school is considered in session during any week that has at least one scheduled schoolday. Since the school session is derived from the schedule for the county's public schools, school may be considered in session for a minor who attends a private school that is closed during the summer if the public schools are in session at that same time.

\*\*A "schoolday" is any day that the minor is required to attend school for 240 minutes or more. [EC 49116; LC 1391]

\*\*\*"Personal attendant" is specifically defined; see "Household Occupations" in Chapter 7 of this digest.

### **Work Hour Exceptions for Sixteen and Seventeen Year Olds**

Sixteen and seventeen year olds enrolled in Work Experience or cooperative vocational education programs approved by the California Department of Education or those conducted by private schools may work on any day after 10 p.m., but not later than 12:30 a.m., provided that the parent or guardian and the Work Experience Education coordinator approve. Such employment may not be detrimental to the health, education, or welfare of the minor. Minors in these programs who work between the hours of 10 p.m. and 12:30 a.m. must be paid at least the adult minimum wage for those hours. [LC 1391.1] As the chart indicates, 16 and 17 year olds enrolled in a school approved Work Experience or cooperative vocational education program may work more than 4 hours on a school day, but never more than eight hours in any day. [EC 49116, LC 1391 and 1392]

Sixteen and seventeen year olds employed in agricultural packing plants during the peak harvest season may work up to 10 hours on any day that school is *not* in session. Such employment requires a special permit granted by the Labor Commissioner to the employer operating the packing plant. Permits may only be granted if they do not materially affect the safety and welfare of minor employees and will prevent undue hardship on the employer. The Labor Commissioner may require an inspection of a packing plant prior to granting the permit. Permits may be revoked after reasonable notice is given in writing or immediately if any of its terms or conditions are violated. Applications must be made upon a form provided by the Labor Commissioner and a copy must be posted at the place of employment at the time the application is submitted. [LC 1393]\*

## **Work Hour Exceptions for Fourteen and Fifteen Year Olds**

Fourteen and fifteen year olds who have successfully completed elementary school and are enrolled in a Work Experience Education program may be issued permits for full-time employment if: (1) it is demonstrated that through the death or desertion of the minor's father or mother, the family needs the minor's earnings and sufficient aid cannot be secured in any other manner; (2) the minor is unable to reside with his or her family and such full-time earnings are necessary for the support of the minor; or (3) the minor is residing in foster care and, with the written authorization of their social worker, probation officer, or child protective services worker, they wish to further the goal of obtaining a court ordered Declaration of Emancipation or gain knowledge of work skills and habits. [EC 49130]

\*As of January 1, 1996, authority for this extension rest solely and expressly with the Labor Commissioner; school officials are not required to review or amend work permits to reflect the extended hours.

School officials must investigate the conditions claimed for issuance of this permit and issue a written judgment that the earnings are needed for the support of the minor and that sufficient aid cannot be secured in any other way. For minors who are in foster care, the school official must sign a statement that he or she has received authorization from the minor's social worker, probation officer, or child protective services worker. [EC 49130] These permits may only be issued if the minor's parent or guardian appears in person before the permit issuer and applies for the permit. [EC 49132] In addition, the issuing authority must receive and examine bona fide and current school and attendance records, proof of age, a written statement from the prospective employer affirming and describing the prospective employment, and a certificate of health signed by a physician or public medical officer that the minor is physically fit for the prospective employment. No fee may be charged the minor for this certificate. [EC 49133] Finally, the parent, guardian, or custodian who accompanies the minor must swear an oath that his or her statement of the name, address, birthplace, and age of the minor entered on the application are true and correct to the best of their knowledge. [EC 49134] These permits must expire no later than the end of the school year in which they are issued. [EC 49130] **Note:** These permits may only be issued for employment that is exempt from the federal Fair Labor Standards Act. See Chapter 12 of this digest or contact the nearest office of the Wage and Hour Division of the U. S. Department of Labor for further information.

## **Work Hour Exceptions for Fourteen and Fifteen Year Old Sports Attendants**

Fourteen and fifteen year olds may be employed in "sports attending services" at professional baseball games until 10:00 p.m. on any night preceding a school day or until 12:30 p.m. on any night preceding a nonschool day. When school is in session, fourteen and fifteen year olds may work a maximum of 5 hours per day and 18 hours per week as professional baseball "sports attendants." When school is not in session, they may work a maximum of 40 hours per week. [LC 1295.5]

No minor may be permitted to work in professional baseball sports attending services without the prior written approval of either his or her school district or county board of education. [LC 1295.5]

### **Work Hours for Twelve and Thirteen Year Olds**

Twelve and thirteen year olds may be issued permits to work in the occupations permitted to them on a “regular school holiday, during the regular vacation of the public school..., and during a specified occasional public school vacation...” but not on any regular school day, either before or after school. [EC 49111, 49112, and 49116] The phrases referring to vacations and holidays are not precisely defined, but are usually construed to include weekends during the regular school year. Daily and weekly work hour maximums for 12 and 13 who may work during the regular school year are not specified in any statute, and are therefore left to local school officials to determine. [EC 49111] However, it is very unlikely that any local school official would issue permits allowing 12 and 13 year olds to work hours in excess of the 3 per day and 18 per week accorded to 14 and 15 year olds. At no time during the year or under any circumstances may 12 and 13 year olds work more than 8 hours in a day or 40 hours in a week in the occupations permitted to them. [LC 1391]

**Note:** State law provides that a 13 year old may be issued a permit to work up to 2 hours on a school day and up to 4 hours in a week if he or she has completed sixth grade, been identified by the school district as a potential dropout, and is a participant in an employment program conducted on school premises and sponsored by one or more school districts. [EC 49112] **Note:** State schools are subject to the federal Fair Labor Standards Act, which prohibits employment of minors under 14 except in an exempted occupation. See Chapter 12 of this digest for those exemptions or contact the nearest office of the Wage and Hour Division of the U. S. Department of Labor for further information.

### **Work hour Exceptions Applicable to All Age Groups**

High school graduates or those awarded a certificate of proficiency may be employed for the same hours as adults and do not require permits. [LC 1286]

School officials may restrict working hours to fewer than the maximum allowed by law. Minors work with the permission of school authorities, and no law requires school authorities to issue a permit for the maximum hours allowed by law.

Minors aged 12 to 18 who enter an attendance area from another state with less than 10 days remaining in the school term may be issued permits for the remainder of the school term and are exempt from full-time school attendance requirements. [EC 49111, 48231]

Finally, several exceptions are discussed in detail in subsequent chapters of this digest: News carriers (Chapter 7), personal attendants and household occupations (Chapter 7),

minors employed in the entertainment industry (Chapter 9), parent or guardian employers (Chapter 10), and exemptions under federal law (Chapter 12).

## **6. MINIMUM AGES FOR EMPLOYMENT**

### **Eighteen**

**Eighteen** is the minimum age that minors may be:

- Employed in occupations declared hazardous by federal regulation and adopted by inclusion by the state of California. [LC 1294.1, 29 CFR 570 subpart E] (See Chapter 8 of this digest).
- Employed without being subject to child labor restrictions since they are no longer minors. With rare exceptions, such as the sale and service of alcohol or the transportation of hazardous materials, persons who are at least 18 may be employed in any occupation without restriction.

### **Sixteen**

**Sixteen** is the minimum age that minors may be:

- Employed in California unless minors under that age are expressly permitted by law to work: “NO MINOR UNDER THE AGE OF 16 YEARS SHALL BE EMPLOYED, PERMITTED, OR SUFFERED TO WORK in or in connection with any manufacturing establishment OR OTHER PLACE OF LABOR OR EMPLOYMENT AT ANY TIME, except as may be provided in this article (namely, LC Sections 1285 -1312) or by the provisions of Part 27 of the Education Code [EC 48000 et seq.] [LC 1290] (Emphasis added).” Exceptions for minors under 16 are summarized below and detailed in Chapters 7 and 8 of this digest.
- Employed in any of the occupations prohibited by Labor Code Sections 1292, 1293, 1294, 1294.1, and 1297 or by Article 1 of Subchapter 1 of Chapter 6 of Title 8 of California Code of Regulations. (See Chapters 7 and 8 of this digest).
- Accepted in an approved apprenticeship training program. [LC 3077]

- Trained in specified occupations declared hazardous by federal regulations to minors under 18. Such training must be pursuant

to an approved training course or apprenticeship. [LC 1294.1, 29 CFR 570 Subpart E] (See Chapter 8 of this digest).

- Employed during the regular school year and during regular school hours (in addition to 14 and 15 year olds enrolled in Work Experience Education programs). [EC 49113 and 49116]

## **Fourteen**

**Fourteen** is the minimum age that minors may be:

- Employed in occupations permitted in Subpart C of Title 29 of the Code of Federal Regulation and adopted by inclusion by the state of California in Labor Code Section 1294.1 (a) (2). These occupations are listed in Chapter 7 of this digest. No minor under 14 may be employed in firms subject to federal Fair Labor Standards Act unless the employment is exempt as specified in Chapter 12 of this digest.
- Employed during the regular school year, but only before or after school. [EC 49112] (For exceptions see Chapter 5 of this digest).
- Enrolled in a Work Experience Education program. [EC 49113]

## **Twelve**

**Twelve** is the minimum age that minors may be:

- Issued a Permit to Work by school authorities. [EC 49111]
- Employed in household occupations or as a personal attendant if issued a Permit to Work. [EC 49111] This should not be construed to apply to irregular employment as a babysitter or other personal attendant duties or to irregular yard or housework since those occupations, when pursued on a casual, irregular basis, are considered exempt from permit requirements. [18 ops. Cal. Atty. Gen. 114 (1951)] Since most domestic service is not considered part of the child labor provisions of the FLSA, the federal minimum age of 14 for permitted occupations does not apply to domestic service. [29 CFR 552.108] (See Chapter 7 of this Digest).



- Employed or permitted to work in or in connection with the occupation of selling or distributing newspapers, magazines, periodicals, or circulars. [LC 1298] News carriers are exempt from the FLSA [29 USC 213]

### Under Twelve

- **Minors under 12** may perform irregular odd jobs in private households performing such duties as baby-sitting. [18 ops. Cal. Atty. Gen. 114, (1951)]
- **Minors under 12** may not be employed or permitted to work or accompany or be permitted to accompany an employed parent or guardian into an agricultural zone of danger [LC 1293.1], unless the minor is employed by the parent or guardian on or in connection with premises that the parent or guardian owns, operates, or controls. [LC 1394] (See Chapter 8 of this digest).
- **Six** is the minimum age that minors may engage in door-to-door sales or street sales of candy, cookies, flowers, or any other merchandise or commodities. [LC 1308.1] However, minors **under 12** may not engage in these activities unless they are exempt from permit requirements.\* And all minors **under 16** may only engage in these activities certain specified conditions. [8 CCR 11706] (See Chapter 7 of this digest).
- Minors **15 days to 18 years** may be employed in the entertainment industry under permits issued by the Division of Labor Standards Enforcement. [LC 1308.5] (See Chapter 9 of this digest).
- Parent or guardian employers have limited exemptions for this age group explained in Chapter 10 of this digest.

\*Notwithstanding the fact that LC 1308.1 provides that “No minor under the age of 6 years shall be permitted to engage in door-to-door sales or street sales of candy, cookies, flowers, or any other merchandise or commodities...”, thus raising an inference that a minor need only be six years of age in order to engage in such sales, this is not in fact the case. By virtue of provisions of LC 1299 which require that employers “shall keep on file all permits... either to work or to employ”, and the terms of EC 49111 which provide that “A permit to work be issued to any minor over the age of 12 years and under the age of 18 years...”, the effect of these two statutes is that a minor must be over the age of 12 years in order to engage in door-to-door and/or street sales and then, only if the all of the conditions described in 8 CCR 11706 are met.

## **7. RESTRICTED OCCUPATIONS**

### **Occupations Permitted to Fourteen and Fifteen Year Olds**

The State of California has adopted by inclusion federal standards for 14 and 15 year olds as they appear in the Code of Federal Regulation. The adoption of federal standards automatically includes any changes that may be made in federal regulations in the future. [LC 1294.1, 29 CFR Part 570, Subpart C] Fourteen and fifteen year olds who work in the food service, retail, and gasoline service industries may only be employed in the occupations expressly permitted to them in federal regulation and state law. [LC 1294.1; 29 CFR Part 570, Subpart C] Permitted occupations in these industries are listed below under individual headings. Fourteen and fifteen year olds may be employed in any occupation not prohibited by federal regulation [LC 1294.1, 29 CFR 570.32, 570.33 (a)] or under state law [C 1294.1 and 1294.3] These occupations are listed in Chapter 8 of this digest.

### **Food Service and Retail**

**Fourteen and fifteen year olds** may be employed in the following occupations in the food service and retail industries:

- Office and clerical work, including the operation of office machines.
- Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping.
- Price marking and tagging by hand or by machine, assembling orders, packing and shelving.
- Bagging and carrying out customers orders.
- Errand and delivery work by foot, bicycle, or public transportation.
- Clean-up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power driven mowers or cutters.
- Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of this work, including but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milkshake blenders, and coffee grinders.

- Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing, and stocking goods when performed in areas physically separate from areas where meat is prepared for sale and outside freezers or meat coolers.

**Fourteen and fifteen year olds** may perform cooking duties at soda fountains, lunch counters, snack bars, or cafeteria serving counters where such cooking is performed in plain sight of customers and is not the minor's sole duty. In fast food restaurants where, for example, the French fryer is in plain view, a 14 or 15 year old may perform duties related to that machine. Where hamburgers or other food items are prepared out of plain sight of the customers *or* such preparation is the minor's sole duty, the minor must be **at least 16**. [LC 1294.1, 29 CFR 570.34 (b)] Additional occupations prohibited to minors under 16 in food service and retail are listed in Chapter 8 of this digest. **Minors under 18** are prohibited from using power-driven meat processing machines and certain baking machines. [LC 1294.1, 29 CFR 570.61 and 570.52] Occupations prohibited to minors under 18 are also detailed in Chapter 8 of this digest.

Underage employment in any of these occupations is a Class A child labor violation. Penalties are explained in Chapter 11 of this digest.

### **Liquor and Lottery Sales**

**Persons under 21** may not be employed during business hours in or on that portion of any premises that are primarily designed and used for the sale and service of alcoholic beverages for consumption on the premises. [BPC 25663] This refers to any activity, not just the sale and service of alcohol. However, **person's 18 to 21** years of age may perform as musicians in such establishments if no live lewd acts are allowed on the premises and if no alcohol is allowed in the musicians' performance area. [BPC 25667] **Persons 18 to 21** years of age may serve alcohol in a bona fide public eating establishment if the person is not employed as a bartender and the service is in that part of the establishment used for the sale and service of food. [BPC 25667] No law prohibits **minors under 18** from bussing tables in a bona fide public eating establishment where alcohol is served.

**Minors under 18** may be employed by establishments that sell alcohol for consumption off the premises only if the minor is constantly supervised by a person 21 years of age or older. [BPC 25663 (b)]

**Minors under 18** may sell lottery tickets or shares only if they are constantly supervised by a person 21 years of age or older. [GC 8880.50]

## Gasoline Service Stations

**Fourteen and fifteen year olds** may work in gas stations, but only in those activities that are also permitted to 14 and 15 year olds in the food service and retail industries. [LC 1294.5]

**Sixteen** is the minimum age that minors may be allowed to work in the following activities. [LC 1294.5]:

- Dispensing gas or oil;
- Courtesy service;
- Car cleaning, washing, and polishing.

**Sixteen** is the minimum age that minors may be employed or permitted to perform any type of mechanical work [LC 1294.1, 29 CFR 570.34 (b) (3)] or any work in a gasoline service establishment prohibited to minors under 16 by federal regulation and adopted by inclusion by the state of California. [LC 1294.1; 29 CFR 570.34 (b)] (See Chapter 8 of this digest for a detailed list of these occupations).

**Eighteen** is the minimum age that a person may perform activities in gas stations that involve the use of pits, racks, lifting apparatuses, or the inflation of any tire mounted on a rim equipped with a removable retaining ring. [LC 1294.5] Minors may not be employed in a gas station service establishment in any occupation declared hazardous by the Secretary of Labor for minors under 18. [LC 1294.1, 29 CFR 570 Subpart E] (See Chapter 8 of this digest).

Underage employment in any of these occupations is a Class A child labor violation. Penalties are explained in Chapter 11 of this digest.

## Motor Vehicle Occupations

**Minors under 18** may not be employed for the purpose of driving a motor vehicle on the highways or streets. [LC 1294.1 (b); VC 12515] **Note:** The Vehicle Code is not violated unless the “primary or principal purpose” of the minor’s employment is the driving of a motor vehicle on the highway or street. [61 ops. Cal. Atty. Gen. 146, (1978)] Similarly, federal standards [29 CFR 570.52] adopted by the state prohibit persons **under 17** years of age from performing any on the job driving of automobiles and trucks on public roadways. Such standards do, however, permit 17 year old minors to drive automobiles and trucks on public roadways only if such driving meets **all** of the following conditions:

- such driving is restricted to daylight hours;

- the minor holds a State license valid for the type of driving involved in the job performed and has no records of any moving violation at the time of hire;
  - the minor has successfully completed a State approved driver education course;
  - the automobile or truck is equipped with a seat belt for the driver and any passengers and the employer has instructed the minor that the seat belts must be used when driving the automobile or truck;
  - the automobile or truck does not exceed 6,000 pounds of gross vehicle weight;
- such driving does not include:
- the towing of vehicles
  - route deliveries or route sales
  - the transportation for hire of property, goods, or passengers;
  - urgent, time-sensitive deliveries;
  - more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the minor's employer or to a customer (other than urgent, time-sensitive deliveries);
  - more than two trips away from the primary place of employment in any single day for the purpose of transporting passengers (other than employees of the employer);
  - transporting more than three passengers (including employees of the employer);
  - driving beyond a 30 mile radius from the minor's place of employment and
  - such driving is only occasional and incidental to the minor's employment.

The term “occasional and incidental” means no more than one-third of a minor’s work time in any workday and nor more than twenty percent of a minor’s work time in any work-week. [29 CFR 570.52]

**Minors under 16** may not be employed to drive a motor vehicle *in any capacity*. [LC 1294] However, certain exceptions are available for training programs in agriculture. (See Chapter 8 of this digest). **Minors under 16** may not deliver goods, merchandise, commodities, papers (except newspapers) or packages from a motor vehicle regardless of the vehicle’s size or type {8 CCR 11701, LC 1294/4}, serve as helpers on motor vehicles [LC 1294.1, 29 CFR 570.33], or be employed in any occupation which must be performed on any media of transportation. [LC 1294.1; 29 CFR 570.33]

Violation of the Labor Code or Title 8 regulations governing motor vehicles are Class A child labor violations. Penalties are explained in Chapter 11 of this digest.

**Persons under 21** may not be hired to transport hazardous materials. [VC 12515]

## **Messengers**

**Sixteen** is the minimum age that minors may be permitted to work as a messenger for any telegraph, telephone or messenger company in the distribution or delivery of goods or messages. [LC 1297] This statute does not apply to any minor employed to deliver newspapers to consumers. Although, Labor Code Section 1297 makes additional reference to the lawful employment of minors under 16 in messenger occupations, federal standards adopted by inclusion by the state of California prohibit **minors under 16** from being employed or permitted to work in occupations in a public messenger service. [LC 1294.1; 29 CFR 570.33 (d)] Messengers have a unique spread of hours, which allows them to work only from 6 a.m. to 9 p.m.

**Fourteen and fifteen year olds** may be employed to run errands and make deliveries by foot, bicycle, or public transportation. [LC 1294.1 and 1294.3, 29 CFR 570.34]

Persons or companies engaged in the delivery of packages, letters, notes, messages or other matter and every manager, superintendent or other agent thereof, who sends any minor (that is, **any person under 18**) in the employ of the company or person to the keeper of any house of prostitution, variety theater or other places of questionable repute, or to any person connected with, or to any inmate of such house, theater or other place, or who permits any minor to enter such house, theater, or other place is guilty of a misdemeanor. [PC 273 (e)]

## **Newspaper and Magazine Sales**

**Twelve** is the minimum age that minors may be permitted to work in or in connection with the occupation of selling or distributing newspapers, magazines, periodicals or circulars. Nothing prohibits a minor engaged in the delivery of newspapers to consumers from making deliveries by foot, or bicycle, public transportation, or from an automobile driven by a person who is at least 18 years of age or older. [LC 1294.4]\* News carriers are exempt from occupational restrictions governing door-to-door sales. [8 CCR 11706.2] News carriers who are at least 14 years of age do not require work permits, whether or not they are self-employed. [EC 49112 (d)] News carriers are except from all work hour restrictions, except that they may not work more than 8 hours in a day. [EC 49112 and 49116, LC 1391 and 1392] Employment as news carriers does not exempt minors from compulsory school attendance requirements, and their work activities must be performed outside of school hours. News carriers' exemption from the federal FLSA is explained in Chapter 12 of this digest.

## **Door-to-Door Sales**

“Door-to-door sales” has the same meaning as a “home solicitation contract or offer,” which is any contract, whether single or multiple or any offer which is subject to approval, for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises. No minimum or maximum monetary amount whatsoever applies to this definition when applied to minors' door-to-door sales. [LC 1286 (e), CC 1689.5, 8 CCR 11706.1]

No minor under the age of 6 may be permitted to engage in the door-to-door sales or street sales of candy, cookies, flowers, or any other merchandise or commodities. [LC 1308.1] Because school officials may only issue a Permit to Employ and Work to a minor who is at least 12 years of age [EC 49111], and because an employer is required to keep on file all such permits [LC 1299], the effect of these two statutes is to vitiate the inference raised by [LC 1308.1] that a minor need only be 6 years of age in order to engage in these activities. (See Chapter 6 of this digest).

\*As of January 1, 1996, a minor may be 16 to drive an automobile for these purposes. However, if the minor is construed to be *hired* to drive upon the public streets, he or she must still be 18 [VC 12515]

### **Minors under 16 MAY NOT:**

- Sell to passing motorists newspapers, candy, flowers or other merchandise or commodities from a fixed location on a street, highway, freeway island or divider, freeway on or off ramp, or the side of a freeway or highway entrance or exit shoulder. [LC 1296, 8 CCR 11706]

- Sell newspaper or magazine subscriptions, candy, cookies, flowers or other merchandise or commodities door-to-door **unless all** of the following conditions are met [LC 1296, 8 CCR 11706]:
  - Minors so engaged work in pairs, as a team, on the same or opposite side of the street;
  - Minors so engaged must be supervised by an adult supervisor for each crew of 10 or fewer minors;
  - Minors must be within the sight or sound of the adult supervisor at least once every 15 minutes;
  - Minors must be returned to their respective homes or place of rendezvous daily after each day's work
  - In addition, the door-to-door sales activities (including newspaper or magazine subscriptions) must be performed within 50 miles of the minor's residence. [LC 1308.1]

**Note:** Door-to-door selling includes minors selling in parking lots or malls, whether alone or in pairs or teams. [8 CCR 11706.1] **Exception:** These regulations do not apply to news carriers who solicit subscriptions, or sell newspapers door-to-door when they are directly employed by the newspaper company and deliver the newspaper on a regular basis to an established readership for a requested consideration. [8 CCR 11706.2]

*Employers, supervisors and transporters of minors under 16 engaged in door-to-door sales more than 10 miles from the minor's residence must register with the Labor Commissioner. [LC 1308.2, 1308.3 and 1308.4] (See Chapter 10 of this digest for individual information on registration requirements).*

## **Manufacturing and Processing**

Under state law 16 is the minimum age that minors may be employed, permitted or suffered to work in or in connection with any manufacturing establishment. [LC 1290] "Manufacturing" includes work done at any place upon the work of a manufacturing establishment or upon the materials entering into the products of a manufacturing establishment whether directly under any arrangement with the person in charge of the establishment or indirectly through contractors of third persons. [LC 1291]

Under federal regulation, adopted by inclusion by the state of California, **16** is the minimum age for employment in manufacturing and processing occupations. Minors under 16 may not be employed in manufacturing or processing in any occupation



performed in the work rooms or work places where goods are manufactured or processed, including occupations that would otherwise be permitted to 14 and 15 year olds. [LC 1294.1, 29 CFR 570.33 (a) and 570.34 (b)] Processing occupations include for example, filleting fish, dressing poultry, cracking nuts, commercial laundering, and dry cleaning (except in a retail, food service or gasoline service establishment in those occupations expressly permitted and listed in Chapter 7 or this digest).

Goods may only be manufactured or assembled in the home when both the employee and employer have special permits issued by the Labor Commissioner which allow industrial homework. [LC 2658 & 2659] A person must be at least 16 years of age to be issued a home worker permit. [LC 2661] Home worker permits are inexpensive and the fee may be waived if it causes financial hardship. [LC 2660] The following items may never be manufactured in a home, regardless of age or circumstances: Bandages and other sanitary goods, explosives, fireworks or similar items, drugs or poisons, tobacco, wearing apparel, toys, dolls, food, drink or articles connected with the serving of food and drink. [LC 2651]

## **Household Occupations**

Minors who are *irregularly* employed in odd jobs in private households such as babysitting and yard work do not require permits to work or employ. [18 Ops. Cal. Atty. Gen. 114 (1951)] However, they may not be employed in these occupations during regular school hours or in any hazardous duty prohibited to the minor's age group.

Employment of minors in a household on a regular basis to perform domestic duties requires permits to work and employ. Wage and working condition requirements for these occupations are governed by IWC Order No. 15 and the employer must keep a copy of this Order available for inspection by the employee upon request. [IWC Order No. 15 Section 17] IWC Orders are available on the Internet at <http://www.dir.ca.gov/IWC/iwc.html> or from any Division of Labor Standards Enforcement office. (<http://www.dir.ca.gov/dlse/DistrictOffices.htm>)

IWC Order No. 15 defines two groups of domestic duties, household occupations and personal attendants: "***Household occupations***" are all services related to the care of persons or maintenance of a private household or its premises by an employee of a private householder. Said occupations shall include, but not be limited to, the following: butlers, chauffeurs, companions, cooks, day workers, gardeners, graduate nurses, grooms, housecleaners, housekeepers, maids, practical nurses, tutors, valets and other similar occupations. [IWC Order No. 15 Section 2 (c)].

"***Personal attendants***" includes babysitters and means any person employed by a private householder or by any third party employer recognized in the health care industry to work in a private household, to supervise, feed or dress a child or person who by reason of advanced age, physical disability or mental deficiency

needs supervision. The status of ‘personal attendant’ shall apply when no significant amount of work other than the foregoing is required. [IWC Order No. 15 Section 2 (i)].

Personal attendants are exempt from state minimum wage requirements. Personal attendants who are at least 16 years old may be issued a work permit to work in that occupation for more than 4 hours on a school day. [EC 49116, LC 1391]

Note however, that the duties of the personal attendant are sharply limited to ‘supervising, feeding or dressing’ a person, and that any significant duties in addition to these void the classification and its accompanying exemptions.

Minors employed in household occupations may be issued a permit to be employed for more than 8 hours in a day, but are still subject to the weekly maximum for their age group. [LC 1392] Minors may not be employed in all the household occupations; they are still prohibited from underage employment in any occupation prohibited to them by statute. For example, the occupation of chauffeur is a household occupation, but minors are prohibited from being employed to drive motor vehicles. Special exemptions for parent or guardian employers of their own minor children in domestic labor are explained in Chapter 10 of this digest.

The state’s categories for household occupations do not precisely coincide with federal categories and standards, but there is an approximate equivalence. Under federal law, “domestic service employment,” that is, duties performed in or about the private home of the employer [29 CFR 552.101] are exempt from the FLSA child labor provisions (like work hour restrictions, for example) [29 CFR 552.108], but not from federal minimum wage and overtime requirements. [29 CFR 552.99] Nevertheless, babysitters are exempt from federal wage requirements if their duties are performed on a casual basis. [29 CFR 552.104] “Casual” means that the work may not exceed 20 hours per week on a regular basis. Hours may occasionally exceed this maximum if performed for irregular or intermittent periods. [29 CFR 552.104] Sitters may accompany a family on a vacation for up to six weeks and still be exempt from federal wage requirements. [29 CFR 552.104] The 20 hours per week limitation does not apply to “companionship services,” which includes the care of the aged and mentally or physically infirm. [29 CFR 552.6] Contact the local office of the Wage and Hour Division of the U.S. Department of Labor for further information regarding federal requirements for domestic service employment.

## **Immoral Places and Activities**

Any person, whether as parent, guardian, employer or otherwise and any firm or corporation who as employer or otherwise, sends, directs or causes to be sent or directed to any saloon, gambling house, house of prostitution or other immoral place **any minor under 18** is guilty of a misdemeanor. [PC 273 (f)].

Farm labor contractors who knowingly send **any minor** to any house of ill fame, gambling house or to any place where alcohol is sold to be consumed on the premises has committed a misdemeanor and may have their license suspended. [LC 1698.4, 1698.5, 1697 and 1690].

**Minors under 18** may not be exhibited, used or employed or in any manner under any pretense, sold, apprenticed, given away, let out or disposed of to another person who causes, procures or encourages the minor to engage in any obscene, indecent or immoral purpose, exhibition or practice whatsoever. [LC 1308 (a) (3) and 1309].

## **8. PROHIBITED OCCUPATIONS**

The prohibitions discussed in this chapter are strict and the penalties severe. Allowing underage minors to work in prohibited occupations in a Class A child labor violation carrying civil penalties that range from \$5000 on the first offense to a maximum of \$10,000. [LC 1288] Criminal misdemeanor penalties also apply. [LC 1303 and 1308] Moreover, responsible persons may not permit a minor to perform these work activities under any circumstances even if the minor is not technically his or her employee. Penalties are discussed in detail in Chapter 11 of this digest.

**Note:** When the state adopted these federal standards it also retained existing state standards for minors under 16. In some cases these two standards overlap and may appear to contradict. In all such instances, the more protective standard always applies. For example, Labor Code Section 1293 prohibits minors under 16 from working with band and circular saws, but minors under 18 are also prohibited from working with these saws. [LC 1294.1 (b), 29 CFR 570.65 (H.O. 14)] An employer who hires a 17 year old to operate a circular saw cannot use his or her compliance with Labor Code Section 1293 to justify noncompliance with the higher standard for that same occupation that is established in Labor Code Section 1294.1 (b) for minors under 18.

### **Minors under 18**

The state of California has adopted by inclusion all federal standards for hazardous occupations for minors under 18 as they appear in the Code of Federal Regulation. The adoption of federal standards by inclusion automatically incorporates into state law any

changes that may be made in federal regulations in the future. [LC 1294.1, 29 CFR Part 570 Subpart E]\*

Under federal law, high school graduates under 18 are subject to all these prohibitions unless they have also completed an approved training program in the occupation in which they are to be employed. [29 CFR 570.50]

Restrictions, exceptions and detailed descriptions of the occupations declared hazardous in federal regulation to minors under 18 are complex and lengthy. The following is only a brief summary of those hazardous occupations. A complete text of the regulations in pamphlet is entitled *Child Labor Requirements in Nonagricultural Occupations*.

**Minors under 18** MAY NOT *be employed or permitted to work* in the following occupations declared hazardous in federal regulation and adopted by inclusion by the state of California [LC 1294.1, 29 CFR 570 Subpart E]:

- Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components, including for example: small arms ammunition [29 CFR 570.51 (H.O. 1)];
- Occupations of motor vehicle driver and outside helper [29 CFR 570.52 (H.O. 2)] (See Chapter 7 of this digest);
- Coal mine occupations [29 CFR 570.53 (H.O. 3)];
- Occupations in connection with mining other than coal mining [29 CFR 570.60 (H.O. 9)];

\*These federal regulations are also referred to as the “Hazardous Occupation Orders.” References to them are often abbreviated as H.O. and numbered 1, 2, etc.; this digest includes that identification as well as the legal citation.

- Logging, sawmill, lath mill, shingle mill or cooperage mill Occupations [29 CFR 570.54 (H.O. 4)];
- Occupations involved in the operation of power-driven Wood-working machines [29 CFR 570.55 (H.O. 5)];
- Occupations involved in the operations of circular saws, band saws and guillotine shears [29 CFR 570.65 (H.O. 14)];
- Occupations involving the operation of power-driven hoisting apparatuses, including, for example: operating or assisting to operate certain elevators, cranes, derricks, hoists, riggers or high lift trucks [29 CFR 570.58 (H.O. 7)];

- Occupations involved in the operations of power-driven metal forming, punching and shearing machines [29 CFR 570.59 (H.O. 8)];
- Occupations in the operation of power-driven meat processing machines and occupations involving slaughtering, meat packing or processing or rendering [29 CFR 570.61 (H.O. 10)];
- Occupations involved in the operation of bakery machines [29 CFR 570.52 (H.O. 11)];
- Occupations involved in the operation of paper products machines [29 CFR 570.62 (H.O. 12)];
- Occupations involved in the manufacture of brick, tile and kindred products [29 CFR 570.64 (H.O. 13)];
- Occupations involved in wrecking, demolition and ship-breaking operations [29 CFR 570.66 (H.O. 15)];
- Occupations in roofing operations [29 CFR 570.67 (H.O. 16)];
- Occupations in excavation operations [29 CFR 570.68 (H.O. 17)];
- Occupations involving exposure to radioactive substances and to ionizing radiations. [29 CFR 570.57 (H.O. 6)]

### **Minors under 16**

#### **Food Service, Retail and Gasoline Service Establishments**

**Minors under 16** MAY NOT *be employed or permitted to work* in the following occupations in retail, food service and gasoline service establishments as provided in federal regulation and adopted by inclusion by the state of California [LC 1294.1, 29 CFR 570.34 (b)]:

- Work performed in or about boiler or engine rooms;
- Work in connection with maintenance or repair of the establishment, machines or equipment;
- All work requiring the use of ladders, scaffolds or their substitutes, including outside window washing that involves working from sills;

- Cooking (except at soda fountains, lunch counters, snack bars or cafeteria serving counters where such cooking is performed in plain sight of customers and is not the minor's only duty);
- Baking;
- Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power driven food slicers, grinders, food choppers, cutters, and bakery type mixers;
- Work in freezers and meat coolers and all work in the preparation of meat for sale. Wrapping, sealing, labeling, weighing, pricing and stocking goods are permitted but only if these duties are performed in areas physically separate from freezers and meat coolers.
- Loading and unloading goods to and from trucks, railroad cars or conveyors;
- All occupations in warehouses except office and clerical work.

**Note:** The state of California has adopted higher standards than federal standards for minors employed in gasoline service establishments, but the prohibitions in this list apply to this age group under both federal and state law. (See Chapter 7 of this digest).

### **Federal Prohibitions Adopted by California**

**Minors under 16** MAY NOT *be employed or permitted to work* in the following occupations prohibited by federal regulation and adopted by inclusion by the state of California [LC 1294.1, 29 CFR 570.33]:

- Manufacturing, mining or processing occupations, including duties of any kind in workrooms or workplaces where goods are manufactured, mined or processed.
- Occupations that involve the operation or tending of a hoisting apparatus or of any power driven machinery other than office machines.
- The operation of motor vehicles or service as helpers on such vehicles.
- Public messenger service.

- Occupations in connection with:
  - Transportation of persons or property by rail, highway, air, water, pipeline or other means;
  - Warehousing and storage;
  - Communications and public utilities;
  - Construction, including demolition and repair.

**Note: Fourteen and fifteen year olds** may work in these industries in the occupations generally permitted to them (and listed in Chapter 7 of this digest), but only if their duties are not performed on any media of transportation or at the actual site of construction. [LC 1294.1, 29 CFR 570.33 (e)]

#### **Additional State Prohibitions**

**Minors under 16** MAY NOT *be employed or permitted to work* **in any capacity** in [LC 1292]:

- Adjusting any belt to any machinery;
- Sewing or lacing machine belts in any workshop or factory;
- Oiling, wiping or cleaning machinery or assisting therein.

**Minors under 16** MAY NOT *be employed or permitted to work* **in any capacity** in operating or assisting in operating any of the following machines [LC 1293]:

- Circular or band saws: wood shapers, wood jointers, planers, sandpaper or wood polishing machinery, wood turning or boring machinery.
- Picker machines or machines used in picking wool, cotton, hair or other material; carding machines, leather burnishing machines, and laundry machinery.
- Printing presses of all kinds; boring or drill presses, stamping machines used in sheet metal and tinnier, in paper and leather manufacturing or in washer and nut factories, metal or paper cutting machines and paper lace machines.

- Corner-staying machines in paper box factories; corrugating rolls, such as are used in corrugated paper, roofing or washboard factories.
- Dough brakes or cracker machinery of any description.
- Wire or iron straightening or drawing machinery, rolling mill machinery, power punches or shears, washing, grinding or mixing machinery, calendar rolls in paper and rubber manufacturing, steam boilers; in proximity to any hazardous or unguarded belts, machinery or gearing.

**Minors under 16** MAY NOT *be employed or permitted to work in any capacity* [LC 1294]:

- Upon any railroad, whether steam, electric or hydraulic.
- Upon any vessel or boat engaged in navigation or commerce within the jurisdiction of this state.
- In, about, or in connection with any processes in which dangerous or poisonous acids are used in the manufacture or packing of paints, colors, white or red lead or in soldering.
- In occupations causing dust in injurious quantities, in the manufacture or use of dangerous or poisonous dyes, in the manufacture or preparation of compositions with dangerous or poisonous gases or in the manufacture or use of compositions of lye in which the quantity thereof is injurious to health.
- On scaffolding in heavy work in the building trades, in any tunnel or excavation or in, about, or in connect with any mine, coal breaker, coke oven or quarry.
- In assorting, manufacturing or packing tobacco.
- In operating any automobile, motor car or truck.
- In any occupation dangerous to the life or limb or injurious to the health or morals of the minor.



**Minors under 16** MAY NOT *be employed or permitted to work* in the following occupations declared hazardous in state regulation [LC 1296]:

- All occupations where the minors come in close proximity to moving machinery. [8 CCR 11701]
- All building or construction work of any kind. [8 CCR 11701]
- Delivering goods, merchandise, commodities, papers or packages from motor vehicles. [8 CCR 11701] **Exception:** Newspaper industry as detailed in Chapter 7 of this digest.
- All occupations in or about any plant manufacturing explosives or articles containing explosive components and all occupations in the transportation and sale of explosives or articles containing explosive components. [8 CCR 11703]
- Working in close proximity to explosives or the functioning parts of unguarded and dangerous moving equipment, aircraft or vessels or of functioning blades or propellers. [8 CCR 11707]
- Door-to-door sales unless certain requirements are met. (See Chapters 7 and 10 of this digest).

**Minors under 16** MAY NOT be exhibited, used or employed or in any manner or under any pretense, sold, apprenticed, given away, let out or disposed of by a parent, relative, guardian, employer or person otherwise having the care, custody or control of the minor to another person who causes, procures or encourages the minor to engage in any of the following. [LC 1308]:

- Any business, exhibition or vocation injurious to the health or dangerous to the life or limb of the minor.
- The vocation, occupation, service or purpose of singing or playing on musical instruments, except in a school or church or with an entertainment work permit issued by the Labor Commissioner; rope or wire walking, dancing, begging, peddling or as a gymnast, acrobat, contortionist or rider in any place whatsoever.
- Any mendicant or wandering business.
- Any rough stock rodeo event, circus or race involving animals competing on the same course. The prohibitions DO NOT apply to minors who participate in horseback riding exhibitions or contests

or to minors who lead livestock in nonprofit fairs, stock parades, livestock shows or exhibitions. "Rough stock rodeo event" means any rodeo event operated for profit or operated by other than a nonprofit organization in which unbroken, little trained or imperfectly trained animals are ridden or handled by the participant and shall include, but not be limited to saddle bronc riding, bareback riding and bull riding." "Race" means any speed contest between two or more animals that are on a course at the same time and that is operated for profit or operated other than by a nonprofit organization."

**Note:** Entertainment activities are permitted under valid and current permits to work and employ issued by the Labor Commissioner. (See Chapter 9 of this digest).

### **Federal Agricultural Prohibitions Adopted by California**

**Minors under 16** MAY NOT be employed or permitted to work in any of the following agricultural occupations declared hazardous in federal regulation and adopted by inclusion by the state of California.

[LC 1294.1 (a), 29 CFR 570.71]:

- 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.
- Operating or assisting to operate, including starting, stopping, adjusting, feeding or any other activity involving physical contact associated with the operation of any of the following machines:
  - Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger or mobile pea viner.
  - Power post-hole digger, power post driver or none walking type rotary tiller.
- Operating or assisting to operate, including starting, stopping adjusting, feeding or any other activity involving physical contact associated with the operation of any of the following machines:
  - Trencher or earth-moving equipment,
  - Forklift

- Potato combine or
  - Power-driven circular, band or chain saw.
- Working on a farm in a yard, pen or stall occupied by a:
  - Bull, boar or stud horse maintained for breeding purposes or
  - Sow with suckling pigs or cow with newborn calf with umbilical cord present.
- Working from a ladder or scaffold; painting, repairing or building structures, pruning trees, picking fruit, etc. from a height of over 20 feet.
- Driving a bus, truck or automobile when transporting passengers or riding on a tractor as a passenger or helper.
- Working inside:
  - A fruit forage or grain storage designed to retain 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 a tractor for packing purposes.
- Handling or applying, including cleaning or decontaminating equipment, disposal or return of empty containers or serving as a flag-man for aircraft applying agricultural chemicals under Federal Insecticide, Fungicide and Rodenticide Act [7 USC 135 et seq.] as Category I of toxicity identified by the word “poison” and the “skull and crossbones” on the label or Category II of toxicity identified by the word “warning” on the label.
- Handling or using a blasting agent including but not limited to dynamite black powder, sensitized ammonium nitrate, blasting caps and primer cord or
- Transporting, transferring or applying anhydrous ammonia.

**Note:** The terms describing machinery, equipment or facilities in these agricultural occupations are defined in the current edition of *Agricultural Engineering*, a dictionary and handbook published by Interstate Printers and Publishers; Danville, Illinois. Copies are available for examination in the Regional Offices of the Wage and Hour Division of the U.S. Department of Labor. [29 CFR 570.71 (b)] Exception: Parents and guardians have a special exemption when employing their children in agricultural occupations that is explained in Chapter 10 of this digest.

### **Minors under 12 Agricultural Zone of Danger**

**Minors under 12** MAY NOT *be employed or permitted to work or accompany or be permitted to accompany* an employed parent or guardian in an agricultural zone of danger. “Agricultural zone of danger” means any of the following [LC 1293.1]:

- On or about moving equipment.
- In or about unprotected chemicals.
- In or about any protected water hazard.
- In any of the occupations declared hazardous for employment of minors under 16 in agriculture in Section 570.71 of Title 29 of the Code of Federal Regulations (See preceding list).
- Other hazards that constitute a zone of danger as may be determined in the future by the California Department of Industrial Relations.

**Exception:** Minors of any age employed in agriculture, horticulture, viticulture or domestic labor by their parents or guardian upon or in connection with premises the parent or guardian owns, operates or controls are exempt from these restrictions. [LC 1394]

### **Training for Prohibited and Restricted Occupations**

With restrictions specified in federal regulation, **student learners and apprentices**, who must be at least **16**, MAY BE TRAINED ONLY in the following occupations declared hazardous by federal regulation [LC 1294.1, 29 CFR 570 Subpart E]:

- Occupations involved in the operation of power-driven woodworking machines [29 CFR 570.55 (H.O. 5)].
- Occupations involved in the operations of circular saws, band saws and guillotine shears [29 CFR 570.65 (H.O. 14)].

- Occupations involved in the operations of power-driven metal forming, punching and shearing machines [29 CFR 570.59 (H.O. 8)].
- Occupations in the operation of power-driven meat processing machines and occupations involving slaughtering, meat packing or processing or rendering [29 CFR 570.61 (H.O. 10)].
- Occupations involved in the operation of paper products machines [29 CFR 570.63 (H.O. 12)].
- Occupations in roofing operations [29 CFR 570.67 (H.O. 16)].
- Occupations in excavation operations [29 CFR 570.68 (H.O. 17)].

Student learners must be enrolled in an approved cooperative vocational training program operated by state or local authorities. The student learner must be employed under a written agreement that provides: (1) the work of the student learner in the hazardous occupation is incidental to the training; (2) the work must be intermittent, brief and closely supervised by a qualified and experienced person; (3) safety instructions must be given by the school and correlated by the employer with on the job training; (4) a schedule of organized and progressive work processes to be performed on the job must be prepared, (5) the written agreement must contain the name of the student learner and the signatures of the employer and the school coordinator or principal, and (6) copies of the agreement must be kept on file by both the school and the employer. [29CFR 570.50 (c) and Part 520] Contact your local school district or the Wage and Hour Division of the U. S. Department of Labor for information regarding programs for student learners.

Apprentices must be in an approved apprenticeship program of a recognized apprentice trade. The work of the apprentice in the hazardous occupation must be incidental to the training. The work must also be intermittent and for short periods of time under the direct and close supervision of a journeyman level employee as a necessary part of the training. Laws governing apprentices appear in Chapter 4 of Division 3 of the Labor Code commencing at Section 3070. Apprenticeship programs are governed by the Division of Apprenticeship Standards, a part of the California Department of Industrial Relations. [LC 3070-3098, EC 51766, 29 CFR Parts 521 and 570.50 (b)]

**Minors under 16** MAY work in occupations otherwise prohibited by Labor Code Sections 1292, 1293, 1294 (listed above in this chapter) and 1294.5 gas station employment, but only in the following circumstances [LC 1295]:

- Courses of training in vocational or manual training schools or in state institutions.

- Training in an apprenticeship program established pursuant to Chapter 4 of Division 3 of the Labor Code, commencing at Section 3070.
- Work Experience Education programs conducted pursuant to the requirements of the Education Code [EC 51760, et seq.] if (1) the Work Experience teacher or coordinator determines that the students have been sufficiently trained in the employment or work otherwise prohibited by these sections, (2) parents approve and (3) the student's principal or counselor determines that the progress of the student toward graduation will not be impaired.

**Minors under 16 employed in agriculture** MAY work in occupations declared hazardous in federal regulation for minors under 16 in agriculture, but only in the following circumstances [LC 1295, 29 CFR 570.72 (a)]:

- Student learners in a bona fide vocational agriculture program working in the hazardous occupation under a written agreement that provides that the work is incidental to training and intermittent for short periods of time and under close supervision of a qualified person and includes all of the following:
  - Safety instructions given by the school and correlated with the student learner's on the job training.
  - A schedule of organized and progressive work processes for the student learner.
  - The name of the student learner and;
  - The signature of the employer and a school authority, each of whom must keep copies of the agreement.

**Fourteen and fifteen year olds** who hold certificates of completion of either a tractor operation or a machine operation program of the United States Office of Education Vocational Agriculture Training Program and are working in the occupations for which they have been trained. These certificates are valid only for the agricultural hazardous occupations. Farmers employing minors who have completed this program must keep a copy of the certificate of completion on file with the minors records.

## **9. ENTERTAINMENT INDUSTRY**

### **Defined**

The entertainment industry is defined in state regulations as “...any organization, or individual, using the services of any minor in: motion pictures of any type (film, videotape, etc.), using any format (theatrical, film, commercial documentary, television program, etc.), by any medium (theater, television, videocassette, etc.); photography; recording; modeling; theatrical productions; publicity; rodeos; circuses; musical performances; and any other performances; and any other performances where minors perform to entertain the public.” [8 CCR 11751]

### **Permits to Work and Permits to Employ**

Minors aged 15 days\* to 18 years employed in the entertainment industry (as defined above) must have a permit to work and employers must have a permit to employ issued by the Division of Labor Standards Enforcement. [LC 1308.5, 8 CCR 11751 (b), 11752, 11753 and 11754] These permits are also required for minors making phonographic recordings or who are employed as advertising or photographic models. [LC 1308.5 (a) (6) and (7)] Permits are required even when the entertainment is non-commercial in nature. [LC 1308.5 (a) (5)]

Permits to work or employ will not be issued if the environment is improper for the minor, the employment conditions are detrimental to the minor’s health, or if the minor’s education is hampered. [LC 1308.6] The Labor Commissioner may require school officials to investigate these employment conditions. [LC 1308.6]

The Division of Labor Standards Enforcement issues four types of entertainment work permits: Ten-day individual temporary permits, six-month individual permits, permits to employ minors, and blanket permits. A six-month individual permit is issued to the minor specifically named in the application and must be renewed in the same manner and under the same conditions as the original permit. [8 CCR 11753 (b)]

\*No infant under the age of one month may be employed on any motion picture set or location unless a licensed physician who is board certified in pediatrics provides written certification that the infant is at least 15 days old and in his or her medical opinion, the infant was carried to full term, was normal birth weight, is physically capable of handling the stress of filmmaking, and the infant’s lungs, eyes, heart and immune system are sufficiently developed to with-stand the potential risks. [LC 1308.8 (a)]

## PROCEDURE FOR OBTAINING AN ENTERTAINMENT WORK PERMIT

- Obtain the “Application for Permission to Work in the Entertainment Industry” from any Division of Labor Standards Enforcement office or online.
- The minor’s parent or legal guardian must complete **all** of the requested information on the application, and print and sign her or his name.
- If the minor is of **school age** (first grade and above), an authorized school official (i.e., principal, vice principal, dean, headmistress, headmaster, counselor or the minor’s teacher) must complete the “School Record” portion of the application, sign his or her name and print his or her title or position, and affix the school’s seal or stamp. (See “School Age Children” section below for details).
- If the minor is **not of school age** (15 days through kindergarten) the minor’s parent or legal guardian must provide **one** of the following:
  - A certified copy of the minor’s birth certificate;
  - The minor’s baptismal certificate;
  - A letter on the hospital’s letterhead from the hospital where the minor was born attesting to the birth of the minor; or
  - The minor’s passport.
- The completed application with original signatures and the school’s seal or stamp affixed thereto must either be mailed or presented in person to any Division of Labor Standards Enforcement office for issuance of the minor’s entertainment work permit. Faxed copies cannot be accepted.

## SCHOOL AGE CHILDREN

Although school officials may not issue work permits for employment in the entertainment industry, written verification from the minor’s school demonstrating a satisfactory academic and attendance record must accompany the application for an individual permit. The verification must come from an authorized school official. Minors who attend a charter school must obtain the written verification from either the minor’s school or the authority that granted the school’s charter. Minors who are schooled in a setting other than a public school classroom must obtain the written verification from either the local school district or the county office of education where the minor lives.



**Exception:**

(1) Minors who attend a private full-time day school [EC 48222] must obtain the written verification from the principal or other person having charge of the private school.

(2) Minor's who are instructed by a private tutor pursuant to EC 48224 must obtain the written verification from either the local school district or the county office of education where the minor lives.

(3) Minors who participate in independent study through the local public school system [EC 51745, et seq.] must obtain the written verification from either the minor's school, the local school district or the county office of education where the minor lives. If school is not in session (i.e., school break, vacation, holiday, etc.), either the minor's most recent report card or a letter on school letterhead from the principal or other person having charge of the minor's school or a letter on district letterhead from an official of the local school district where the minor lives or a letter on the county board of education's letterhead from an official of that agency, indicating that the minor's scholastic record, attendance and health are all satisfactory or better, is required. An entertainment work permit based on the minor's report card or any of the aforementioned letters will be effective only for the particular period during which the minor's school is not in session. If a minor is from out of state, either the minor's most recent report card or a letter on school letterhead from the principal or other person having charge of the minor's school indicating that the minor's scholastic record, attendance and health are all satisfactory or better, is required.

The Division of Labor Standards Enforcement may also require a physical examination to ensure that the minor is physically able to perform the duties required. [8 CCR 11753]

Blanket permits are issued for groups of minors hired for special events or particular productions lasting a limited time. [8 CCR 11754] Employers obtain these permits after demonstrating proof of workers' compensation coverage and that a parent or guardian will accompany each group of 20 minors or fraction thereof. [8 CCR 11754] The Division of Labor Standards Enforcement requires that school verification and parental consent forms for each minor accompany the application. Minors are not individually named on the permit, but a list of the minors' names submitted by the employer is attached. Appropriate numbers of studio teachers must be supplied. [8 CCR 11754] Special arrangements must be made for groups of 100 minors or more. [8 CCR 11754] These permits expire at the end of the special event for which they are issued.

Employers in the entertainment industry must possess a Permit to Employer Minors in the Entertainment Industry issued by the Division of Labor Standards Enforcement when employing minor under either an individual or blanket permit. [8 CCR 11751 (b)] Application forms for these permits may be obtained from any Division of Labor Standards office. Employers must demonstrate proof of workers' compensation coverage. The permit is issued for an indefinite period, but the Division of Labor Standards Enforcement's policy requires that any interruption of workers' compensation coverage

requires a new application. Permits to employ may be denied, revoked or suspended for any violation of law or regulation or any discrimination against a studio teacher for performing duties authorized and required by law and regulation for the protection of their minor charges. [8 CCR 11758 and 11758.1]

**Exception:** Minors of any age may appear in the following venues without permits [LC 1310]:

- In any church, public or religious school or community entertainment;
- In any school entertainment or in any entertainment for charity or for children, for which no admission fee is charged;
- In any radio or television broadcasting exhibition, where the minor receives no compensation directly or indirectly therefor and where the engagement of the minor is limited to a single appearance lasting not more than one hour and where no admission fee is charge for the radio broadcasting or television exhibition;
- At any one event during a calendar year, occurring on a day on which school attendance is not required or on the day preceding such a day, lasting four hours or less, where a parent or guardian of the minor is present, for which the minor does not directly or indirectly receive any compensation.
- High school graduates and minors who have been awarded a certificate of proficiency pursuant to EC 48412 (such certificate being equivalent to a high school diploma), also do not require permits. [LC 1286 (c), 8 CCR 11750]

### **Excused School Absences**

A school may excuse the absences of a pupil who holds an entertainment work permit or who participates with a not-for-profit arts organization in a performance for a public school audience. [EC 48225.5] The law limits the number of excused absences for a child holding an entertainment work permit to five absences per school year, each of which may consist of up to five days. A child who is absent due to participation in a non-profit public school performance is limited to five excused absences per school year.

A child who receives an excused absence for participation in a not-for-profit arts organization performance at a public school must be allowed to make-up missed assignments and receive credit for all work satisfactorily completed. A child excused from school attendance because of employment in the entertainment industry must be instructed during the absence by a studio teacher certified by the Labor Commissioner in accordance with Section 11755 of Title 8 of the California Code of Regulations.

## **Hours of Work and Concurrent Requirements**

Minors in the entertainment industry may not work more than eight hours in a day [LC 1308.7 and 1392] or more than 48 hours in a week. [LC 1308.7] They may only work between the hours of 5 a.m. and 10 p.m. (to 12:30 a.m. on days preceding a non-school-day). [LC 1308.7] “School day” means any day that a minor is required to attend school for 240 minutes or more. [LC 1308.7] **Exception:** Upon the Labor Commissioner’s approval following a written request (submitted 48 hours in advance); a minor aged eight to eighteen may continue his or her part past 10 p.m. up to 12 midnight preceding a school-day in a “presentation, play, or drama” which begins before 10:00 p.m. [LC 1308.5 (a) (4)] *This exception may never be construed to allow the minor to be at the place of employment more than the maximum number of hours permitted in law or regulation.* In addition, state regulation establishes minimum work hour standards for individual age groups as described below.

**Infants aged 15 days to 6 months** may be at the place of employment for one period of two consecutive hours, which must occur between 9:30 a.m. and 11:30 a.m. or between 2:30 p.m. and 4:30 p.m. [8 CCR 11764] Actual work may not exceed 20 minutes under any circumstances. [8 CCR 11760] Infants may not be exposed to light exceeding 100 foot-candles for more than 30 seconds at a time. A studio teacher and a nurse must be present for each three or fewer infants aged 15 days to 6 weeks. A studio teacher and a nurse must be present for each 10 or fewer infants aged 6 weeks to 6 months. [8 CCR 11755.2 and 11760] A parent or guardian must always be present. [8 CCR 11757]

**Minors aged 6 months to 2 years** may be at the place of employment for up to four hours and may work up to two hours. The remaining time must be reserved for the minor’s rest and recreation. [8 CCR 11760]

**Minors aged 2 years to 6 years** may be at the place of employment for up to six hours and may work up to three hours. The remaining time must be reserved for the minor’s rest and recreation. [8 CCR 11760]

**Minors aged 6 years to 9 years** when school is in session may be at the place of employment for up to eight hours, the sum of four hours work, three hours schooling and one hour of rest and recreation. When school is not in session, work time may be increased up to six hours, with one hour of rest and recreation. [8 CCR 11760]

**Minors aged 9 years to 16 years** when school is in session may be at the place of employment for up to nine hours, the sum of five hours work, three hours schooling and one hour of rest and recreation. When school is not in session, work time may be increased up to seven hours, with one hour of rest and recreation. [8 CCR 11760]

**All minors aged 6 months to 16 years** must be provided with one studio teacher for each group of ten or fewer minors when school is in session and for each group of twenty

or fewer minors on Saturdays, Sundays, holidays or during school vacations. [8 CCR 11755.1] In addition to the studio teacher, a par or guardian must always be present. [8 CCR 11757] **Exception: Minors under 16** do not require the presence of a studio teacher for up to one hour for wardrobe, make-up, hair-dressing, promotional publicity, personal appearances or audio recording if these activities are not on the set, if school is not in session *and* if the parent or guardian is present. [8 CCR 11762]

**Minors aged 16 years to 18 years** when school is in session may be at the place of employment for up to ten hours, the sum of six hours work, three hours schooling and one hour of rest and recreation. When school is not in session, work time may be increased up to eight hours, with one hour of rest and recreation. [8 CCR 11760] Studio teachers need only be present for the minors' schooling, if schooling is still required. [8 CCR 11760] A parent or guardian need not be present.

The time minors may be permitted at the place of employment may be extended by no more than one-half hour for a duty-free meal period. [8 CCR 11761]

All travel time between the studio and a location counts as work time. Up to forty-five minutes travel from on-location overnight lodging to a worksite is generally considered work time. Travel between school, home and the studio is not work time. [8 CCR 11759]

All time spent in make-up or hair-dressing in the minor's home, with the assistance of studio personnel, is considered work time. No make-up person or hair-dresser may work on a minor in the minor's home before 8:30 a.m. Twelve hours must lapse between the time the minor is dismissed on one day and the time make-up or hair-dressing begins on the following day. [8 CCR 11763]

Twelve hours must elapse between the minor's time of dismissal and call time on the following day. If the minor's regular school starts less than twelve hours after his or her dismissal time, the minor must be schooled the following day at the employer's place of business. [8 CCR 11760 (i)]

Minors who attend regular school may not work in the entertainment industry for the same number of hours as minors tutored by studio teachers. Minors tutored by studio teachers need only be instructed for three hours a day [EC 48224; 8CCR 11760] while minors in regular school are generally required to attend school for a much longer time. Clearly, minors who attend regular school cannot assume the same work hour burden as tutored minors. Consequently, the Division of Labor Standards Enforcement adopted an enforcement policy for minors who attend regular school by subtracting six hours from the maximum number of hours that tutored minors are permitted on set when school is in session. For example, tutored minors 9 to 16 years of age are permitted to be on set for up to nine hours, therefore minors who attend regular school on a work day would be permitted to be on set for up to three hours. Such work days for minors attending regular school do not require a one hour rest and recreation period, but they may be extended one-half hour by a meal period. Finally, the Division of Labor Standards Enforcement

policy *always* assumes that the minor who attends regular school *always* attend for at least six hours. Thus, in an effort to safeguard the minor's educational interest, an artificially shortened regular school day is never allowed to result in an employer benefit of extended work hours.

Nothing in the Division of Labor Standards Enforcement policy for minors who attend regular school may be construed to allow those minors to work during regular school hours. The Division of Labor Standards Enforcement policy is specifically designed to dissuade any interruption of a minor's regular school attendance requirements. There is only one exception. A minor 14 years of age or older who attends regular school may work up to eight hours during regular school hours for each of two consecutive days upon the written permission of the minor's school. [8 CCR 11760 (h)]

No law exempts minors employed in the entertainment industry from any of the prohibited occupations listed in Chapters 7 and 8 of this digest, except those entertainment activities cited in Labor Code Section 1308.

*Neither studio teachers nor the Labor Commissioner are empowered to waive, at any time or under any circumstances, any minimum labor standard established in law or regulation. **Exception:*** The special exemption described above allowing minors aged 8 to 18 to work past 10 p.m. up to 12 midnight on a school night.

## **Wages**

As set forth in the IWC Orders (Section 1 (B) of Orders 11 and 12), **professional actors** are exempt from the minimum wages and overtime pay requirements of the California Industrial Welfare Commission. Minors employed in the entertainment industry who are not professional actors must be paid at least the minimum wage and overtime after eight hours in a work day and forty hours in a workweek.

## **Out of State Locations**

California employers who are bound by contractual arrangements made in California to employ minors residing within the state to work on location outside of the state, must comply with all California regulations, including the use of studio teachers. [8 CCR 11756]

## **Studio Teachers**

Studio teachers tutor minors whose employment responsibilities in this special industry does not allow them to attend full-time regular school. Excerpts of the California Code of Regulations, Title 8 that apply to studio teachers are reproduced below:

## **8 CCR Section 11755. Studio Teacher; Definition and Certification**

(a) A studio teacher within the meaning of these regulations must be a certificated teacher who holds one California teaching credential listed in paragraphs (1) through (4) of subsection (d) of this section and one California teaching credential listed in (5) or (6) of subsection (d) of this section must be in one of the following subject areas: English, Math, Social Science or Foreign Language.

(b) Certification by the Labor Commissioner shall be for a maximum three year period, not to exceed the earliest expiration date of any one of the qualifying teaching credentials submitted in support of certification. A written examination will be required of the studio teacher by the Labor Commissioner at the time of certification or renewal. Such examination shall be designed to ascertain the studio teacher's knowledge of the labor laws and regulations of the State of California as they apply to the employment of minors in the entertainment industry. In addition, each studio teacher applicant will be required to successfully complete a twelve hour course of instruction designed by the Labor Commissioner to instruct the applicant in the duties and responsibilities of the studio teacher. Every studio teacher, as a condition of renewal of certification by the Labor Commissioner must complete three hours of instruction in a class designed by the Labor Commissioner to ensure that the studio teacher remains abreast of any changes in the laws and regulations and duties and responsibilities of the studio teacher.

(c) For the purpose of this section:

- (1) "English" means composition, creative writing, debate, forensics, humanities, journalism, language arts, literature, public speaking, speech (oral communication), writing, and other subjects with consent related to English.
- (2) "Math" means algebra, calculus, geometry, mathematical analysis, number systems, probability and statistics, trigonometry and other subjects with content related to mathematics.
- (3) "Social Science" means American government and politics, anthropology, comparative government, economics, ethnic studies, European history, geography, government, history, humanities/cultural studies, international politics, psychology, sociology, United States history, world history and other subjects with content related to social science.
- (4) "Science" means astronomy, biology, botany, chemistry, conservation, general science, geology, physics, physiology, zoology and other subjects with content related to science.
- (5) "Foreign Language" means any language other than English.

(d) The California teaching credentials that satisfy subsection (a) are as follows:

- (1) A Multiple Subject credential issued under the provisions of the Teacher Credentialing Law of 1988 [EC 44200] *et seq.*, as amended (commonly known as the Bergeson Act) or issued under the provisions of the Teacher Preparation and Licensing Act of 1970 [EC 44200] *et. seq.*, (commonly known as the Ryan Act) as amended;
- (2) An Elementary credential issued under the provisions of the Education Code in effect prior to the enactment of the Ryan Act (former EC 13101 *et seq.*, commonly known as the Fisher Act; a co-called “Standard Credential”);
- (3) An Early Childhood Education credential issued under the provisions of the Education Code in effect prior to the enactment of the Ryan Act (former EC 13101 *et. seq.*, as amended; a so-called “Standard Credential”);
- (4) An Elementary credential issued under the provisions of the Education Code in effect prior to the enactment of the Fisher Act (former EC 12025 *et. seq.*, as amended; a so-called “General Credential”);
- (5) A Single Subject credential issued under the provisions of the Teacher Credentialing Law of 1988 [EC 44200] *et. seq.*, as amended (commonly known as the Bergeson Act), or issued under the provisions of the Teacher Preparation and Licensing Act of 1970, [EC 44200] *et. seq.*, (commonly known as the Ryan Act) as amended, in one of the following subject areas: English, Math, Social Science, Science or Foreign Language;
- (6) A Secondary credential issued under the provisions of the Education Code in effect prior to the enactment of the Ryan Act (former EC 13101 *et. seq.*, commonly known as the Fisher Act; a so-called “Standard Credential”), in one of the following subject areas: English, Math, Social Science, Science or Foreign Language;
- (7) A General Secondary Teaching credential or a Special Secondary Teaching Credential in Speech Arts issued under the provisions of the Education Code in effect prior to the enactment of the Fisher Act (former EC 12025 *et. seq.*, as amended; a so-called “ General Credential”).

(e) A studio teacher who already possesses a certification by the Labor Commissioner and who possesses only one of the credentials listed in subsections (1) through (7) of subsection (d) above may continue to be

certified by the Labor commissioner, provided that the applicant is currently in the process of obtaining a second credential to meet the requirements of subsection (a) above and such credential is obtained by the applicant no later than December 31, 2000. After December 31, 2000 no person shall be permitted to continue to be certified as a studio teacher who has not obtained two credentials of a type provided for in subsections (d) (1), (2), (3) or (4) and subsection (d) (5), (6) or (7) of this section.

- (f) The Labor Commissioner may issue a special certificate as a studio teacher for a limited purpose where it is shown that a particular child actor may benefit from a particular applicant who may hold credentials of a special nature in order to meet the particular needs of that child actor. Studio teachers holding special certificates do not count toward satisfying the studio teacher to minor ratios specified in section. [8 CCR 11755.2]

### **8 CCR Section 11755.2      Use of Studio Teachers**

Employers shall provide a studio teacher on each call for minors from age 15 days to their sixteenth birthday and for minors from age 16 to 18 years when required for the education of the minor. One studio teacher must be provided for each group of 10 minors or fraction thereof. With respect to minor's age 15 days to 16 years, one studio teacher must be provided for each group of 20 minors or fraction thereof on Saturdays, Sundays, holidays or during school vacations.

### **8 CCR Section 11755.3      Studio Teacher's Authority**

The studio teacher, in addition to teaching, shall also have the responsibility for caring and attending to the health, safety and morals of minors under 16 years of age for whom they have been provided by the employer, while such minors are engaged or employed in any activity pertaining to the entertainment industry and subject to these regulations. In the discharge of these responsibilities, the studio teacher shall take cognizance of such factors as working conditions, physical surroundings, signs of the minor's mental and physical fatigue and the demands placed upon the minor in relation to the minor's age, agility, strength and stamina. The studio teacher may refuse to allow the engagement of a minor on a set or location and may remove the minor there-from, if in the judgment of the studio teacher, conditions are such as to present a danger to the health, safety or morals of the minor. Any such action by the studio teacher may be immediately appealed to the Labor Commissioner who may affirm or counter-mend such action.

### **8 CCR Section 11755.4      Studio Teacher's Remuneration**

The remuneration of the studio teacher shall be paid by the employer.



## ENTERTAINMENT INDUSTRY - SUMMARY CHART

AGE	WORK TIME SCHOOL <u>IN</u> <u>SESSION</u>	WORK TIME SCHOOL <u>NOT</u> <u>IN SESSION</u>	CONCURRENT REQUIREMENTS
<b>15 days to 6 months</b>		20 minutes work activity  2 hrs. max at employment site	Permits to work and employ required. [8 CCR 11751]  Parent or guardian must be present. [8 CCR 11757]  1 studio teacher and 1 nurse must be present for each 3 or fewer infants 15 days to 6 weeks old. [8 CCR 11760, 11755.2]  1 studio teacher and 1 nurse must be present for each 10 or fewer infants 6 weeks to 6 months old. [8 CCR 11760, 11755.2]  May not be exposed to light exceeding 100 footcandles for more than 30 seconds. [8 CCR 11760]
	May only be employed between 9:30 a.m. and 11:30 a.m. or between 2:30 p.m. and 4:30 p.m. [8 CCR 11764].		
<b>6 months to 2 years</b>		2 hours work activity  4 hours max at employment site  Balance for rest and recreation	Permits to work and employ required unless the minor is a high school graduate or equivalent. [8 CCR 11751] High School graduates may be employed as adults.
	May only be employed between 5 a.m. and 12:30 a.m. [LC 1308.7]		Parent or guardian must be present. [8 CCR 11757]
<b>2 years to 6 years</b>		3 hours work activity  6 hours max at employment site  Balance for rest and recreation	Studio teacher must be present. [8 CCR 11751.1]  1 studio teacher required per 10 minors. [8 CCR 11755.1]
	May only be employed between 5 a.m. and 12:30 a.m. [LC 1308.7]		1 studio teacher per 20 minors on weekends, holidays, and school breaks and vacations. [8 CCR 11755.1]
<b>6 years to 9 years</b>	4 hours work activity  3 hours school  1 hour rest and recreation	6 hours work activity  1 hour rest and recreation	Studio teachers are responsible for the health, safety, and morals of the minor. [8CCR 11755.2]

	8 hrs. max at employment site		
	May only be employed between 5 a.m. and 12:30 a.m. (to 10 p.m. preceding schooldays $\geq 4$ hours).[LC 1308.7]		Minors in grades one through six must be tutored between the hours of 7 a.m. and 4 p.m. Minors in grades seven through twelve must be tutored between the hours of 7 a.m. and 7 p.m. [EC 48225.5]
<b>9 years to 16 years</b>	5 hours work activity 3 hours school 1 hour rest and recreation 9 hrs. max at employment site	7 hours work activity 1 hour rest and recreation	Permits to work and employ required unless a high school graduate or equivalent. High school graduates may be employed as adults.
	May only be employed between 5 a.m. and 12:30 a.m. (to 10 p.m. preceding schooldays $\geq 4$ hours).[LC 1308.7]		
<b>16 years to 18 years</b>	6 hours work activity 3 hours school 1 hour rest and recreation 10 hrs. max at employment site	8 hours work activity 1 hour rest and recreation	Studio teacher need only be present for minors' schooling  if minor still required to attend school.
	May only be employed between 5 a.m. and 12:30 a.m. (to 10 p.m. preceding schooldays $\geq 4$ hours).[LC 1308.7]		
<b>Regular School Attendance and Work Hours</b>	Compute work hours for each age group by subtracting 6 hours from the max time at employment site for tutored minors when school in session. The difference is the maximum work hours for these minors. Thus, 9 to 16 year-olds who attend regular school may only work up to 3 hours on a schoolday. The 1 hour of rest and recreation is not required, but the workday may be extended one-half hour by a meal period. No work permitted during regular school hours. <b>Exception:</b> Minors 14 and over may work up to 8 hours during regular school hours for each of 2 consecutive days if excused with the school's written permission. [8 CCR 11760]		
<b>Max Day/Week</b>	No minor may be employed over 8 hours in a day. [LC 1308.7, 1392] or over 48 hours in a week. [LC 1308.7] <b>No exceptions.</b>		
<b>Meal Periods</b>	Meal periods are not work time. Workdays extended up to one-half hour for a meal period. [8 CCR 11761] Meals must be within 6 hours of call time and/or previous meal period. Teachers may require an earlier meal period.		
<b>Travel Time</b>	Travel between studio and location is work time. Up to 45 minutes travel from on-location, overnight lodging to work site is not generally considered work time. Travel between school or home and studio is not work time. [8 CCR 11759]		
<b>Day's End</b>	12 hours must elapse between dismissal and next day's call time. <b>No exceptions.</b> [8 CCR 11760]		
<b>Make-up</b>	Make-up in minor's home by persons employed on the same project is work time, and may not begin before 8:30		

<b>Off Set</b>	a m. 12 hours must elapse between dismissal and the beginning of the next day's make-up/hairdressing. [8 CCR 11763]
<b>Out of State</b>	California employers who employ resident minors outside of California under contractual arrangements made within California, must comply with all California child labor laws and regulations. [8 CCR 11756].

Note: Daily work and school hour schedules for tutored minors of all age groups are provided in 8 CCR 11760.

## 10. EMPLOYER REQUIREMENTS

### Recordkeeping

Employers must keep on file all Permits to Employ and Work. Records must be open at all times for inspection by school authorities and officers of the Division of Labor Standards Enforcement. [LC 1299, EC 49161, EC 49164 and EC 49181] Failure to produce Permits to Employ and Work is *prima facie* evidence of the illegal employment of minors and subjects the employer to a \$500 fine on the first offense. [LC 1304, LC 1288 and EC 49181]

Employers of minors must keep for three years a record showing the names, ages (*dates of birth*) and addresses of all minors employed as well as time and payroll records required by the applicable Industrial Welfare Commission Order. Employers must furnish this information when requested. [LC 1174 and LC 1175]

Permits to Employ and Work issued during the school year expire five days after the opening of the next succeeding school year and must be renewed [EC 49118]. **Exception:** Entertainment Work Permits issued by the Labor Commissioner have different expiration dates (See Chapter 9 of this digest).

An employer who employ student learners must keep a copy of the written agreement with the minor's other employment records. [LC 1295] (See Chapter 8 of this digest)

All employers must furnish each of his or her employees, at the time the wages are paid, a separate or detachable itemized statement of deductions. [LC 226]

### Worker's Compensation Coverage

Every employer in California except the state must either carry workers' compensation insurance or have the consent of the Director of the Department of Industrial Relations to self-insure by furnishing proof that he, she or the employer has the ability to self-insure and to pay any compensation that may become due to his, her or its employees. [LC 3700] Failure on the part of an employer to secure the payment of compensation to his,

her or its employees is a very serious violation with severe consequences.\* Where an employer has failed to secure the payment of compensation, the Division of Labor Standards Enforcement (The Labor Commissioner's office) will issue a "stop order" prohibiting that employer from using employees until he, she or it complies with Labor Code Section 3700. Concurrently with the issuance and service of the stop order, a penalty will be assessed against the employer in the sum of \$1,500 per employee at the time the order is issued and served. [LC 3722] When a stop order is issued, any employee affected by the work stoppage will be paid by the employer for such work time loss, up to and including ten days. [LC 3710.1]

All employers must have a *written* Injury and Illness Prevention Program (IIPP). [8 CCR 3203] The program and associated records must be presented to Cal/OSHA inspectors upon request. Cal/OSHA provides information pamphlets, work books and consultation services to help employers comply with this requirement and develop an effective IIPP.

### **Required Postings**

Employers are required to post many types of notices, some specific to certain industries. The following are some of the postings required by the state of California (*this list is not all inclusive*):

### **DLSE and IWC Required Postings**

- The Industrial Welfare Commission Order for the industry or occupation in which the minor is employed. [LC 1183] IWC Orders are available from any Division of Labor Standards Enforcement office, the Industrial Welfare Commission or may be downloaded and printed off the Internet at <http://www.dir.ca.gov/IWC/iwc.html>.
- A Minimum Wage poster available from any Division office or the Industrial Welfare Commission.
- A Pay Day Notice specifying the regular pay days and the time and place of payment for employees. [LC 207] Employers may make their own notice. A sample notice can be obtained from any Division of Labor Standards Enforcement office.

### **Other Required Postings**

- A Cal/OSHA Safety Rules and Regulations notice available from the Division of Occupational Safety and Health. [LC 6328]
- A Workers' Compensation Insurance Coverage notice available from the employer's workers' compensation insurance carrier. [LC 3550]

- A Discrimination in Employment is Prohibited by Law notice available from the Department of Fair Employment and Housing. [GC 12950]
- Every owner, tenant or operator of a farm employing parents having minor children in their immediate care and custody must conspicuously post a notice, where it may be easily read by employees, stating that minor children are not allowed to work unless permits to work have been secured. Notices must be printed in both English and Spanish. [EC 49140] Employers must furnish their own notices.
- State Disability and Unemployment Insurance Notice available from the Employment Development Department.

### **Parent or Guardian Employers**

Generally, when parents or guardians employ their minor children they must meet all the child labor requirements imposed upon other employers. Parents or guardians who employ their minor children in “manufacturing, mercantile or similar commercial enterprises” must obtain permits to work and employ. [EC 49141] The phrase “or similar commercial enterprises” is broadly construed to mean any business in which parents or guardians employ their children.

The only parent or guardian employers who are exempt from California child labor laws are those who employ their minor children in agriculture, horticulture, viticulture or domestic labor on or in connection with premises that the parent or guardian owns, operates or controls. [LC 1394]

\*The willful failure to secure the payment of compensation is a misdemeanor, punishable by either a fine of up to \$10,000 or imprisonment in the county jail for up to one year or both [LC 3700.5].

These parent or guardian employers are uniquely exempt from work permit requirements, most work hour restrictions and hazardous occupation prohibitions. Minors may not be employed by their parent(s) or guardian(s) in these exempted occupations during school hours even if the minor is under school age. [LC 1394] Under federal law, minors employed on a farm owned or operated by his or her parent or person standing in place of the parent are exempt from the FLSA’s child labor provisions, including hazardous occupations, but they may not be employed in any mining or manufacturing occupation on the farm. [29 USC 213 (c) (1) and (2), 29 CFR 570.123 (c)]

The “domestic labor” exemption should not be construed to mean the employment in the parent or guardian’s home of a minor in an occupation otherwise prohibited. Domestic labor refers to the type of duties performed, that is, household duties, not the location where labor is performed. For example, minors may not be freely employed to manufacture goods in their parents’ home; they must be at least 16 and possess a home

worker permit issued by the Labor Commissioner in addition to possessing a work permit issued by the minor's school. [LC 2659 and LC 2661]

Similarly under federal law, parents do not have carte blanche when they employ their own children. Parents or guardians may not employ their minor children under 16 in mining or manufacturing; nor may they employ their children in the occupations declared hazardous for persons under 18 in federal regulations. (See Chapter 8 of this digest) [29 USC 203 91) (1) and (2), 29 CFR 570 Subpart E] Under federal law, parents or guardians may employ their children under 16 in any other occupation. However, where state law imposes a more protective occupational standard, that standard applies to parent employers. State law does not permit parents or guardians to employ their underage children in prohibited occupations, except in agriculture on premises the parent or guardian owns, operates or controls. [LC 1394]

Parent or guardian employers are entirely exempt from both state and federal minimum wage and overtime pay requirements. Parents or guardians need not pay their employee children any wages at all. [IWC Orders Section 1, USC 203 (s) (2)]

Finally, parents or guardians have special liability for violations of certain child labor laws even when they are not the employer. (See Chapter 11 of this digest).

### **Registration for Employers, Transporters and Supervisors of Minors Engaged in Door-to-Door Sales**

Employers, transporters and supervisors of minors engaged in door-to-door sales are required to register with the Labor Commissioner. The following definitions apply to the registration:

“Door-to-door sales” is defined in accordance with Labor Code Section 1286 (e) and Section 11706.1 of the California Code of Regulations. [8 CCR 13760]

A “door-to-door sales operation” is broadly construed to mean any activity directly or indirectly associated with the door-to-door sales activity including, but not limited to, a person's business activities, recruitment or any activity directly or indirectly involving a minor employed or used in door-to-door sales. [8 CCR 13670]

“Persons” means an individual, corporation, partnership, limited liability company, association or other legal entity. [8 CCR 13670]

“Employer” means a person subject to Labor Code Section 1308.3 and Subchapter 10 of Title 8 of the California Code of Regulations who exercises control, direction or supervision, either directly, of minors engaged in door-to-door sales operations. [8 CCR 13670]

“Transporter” and/or “Supervisor” mean *an individual* subject to Labor Code Section 1308.2 and Subchapter 10 of Title 8 of the California Code of Regulations, who is at least 18 years of age and who does one or more of the following: (1) recruits, (2) solicits, (3) hires, (4) directs, or (5) controls, directly or indirectly any activity that facilitates a minor’s participation in door-to-door sales operations. A “Transporter” and/or “Supervisor” also includes *any employer* who does one or more of the following: (1) recruits, (2) solicits, (3) hires, (4) directs, or (5) controls, directly or indirectly, any activity that facilitates a minor’s participation in door-to-door sales operations. [8 CCR 13670]

Registration requirements for minors’ door-to-door sales are construed to apply to employers who employ minors to deliver newspapers to consumers. [LC 1286 (e)]

**Exceptions:** Registration requirements do not apply to the parent or guardian of the minor; persons acting on behalf of a bona fide trustee of charitable assets or on behalf of a charitable organization; government agencies (including schools); any religious corporation or organization which holds property for religious purposes or any officer, director or trustee thereof who holds property for like purposes; a bona fide cemetery corporation; a bona fide political committee; or a bona fide charitable corporation organized and operated primarily as a religious organization, educational institution, hospital or licensed health care service plan. [LC 1308.2 and LC 1308.3; GC 12582, GC 12582.1 and GC 12583]

Applications for registration as an employer, transporter or supervisor of minors engaged in door-to-door sales are available from the Division of Labor Standards Enforcement’s Licensing and Registration Unit.

## **11. PENALTIES FOR VIOLATING CHILD LABOR LAWS**

### **Civil Penalties**

The state of California provides two types of civil penalties for violations of Child labor laws, Class A and Class B. [LC 1288]\*

Class A violations are the more severe, generally involving underage employment in hazardous occupations. Class A violations include violations of Labor Code Sections 1290 (manufacturing and underage employment); 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1308 (hazardous occupations); 1308.1 (door-to-door sales); 1392 (eight hour day); Title 8 California Code of Regulations Sections 11701, 11703, 11707 (hazardous activities), 11706 (door-to-door sales); and any other violations that the Director of Industrial Relations present an imminent danger to minor employees or a substantial probability that death or serious physical harm would result there-from. [LC 1288; 8 CCR 11780] The violation of Labor Code Section 1391 (work hours) for the third or subsequent occasions also constitutes a Class A violation. [LC 1288]

Class A violations incur penalties of not less than \$5,000 and up to \$10,000 for each and every violation. [LC 1288; 8CCR 11779 and 11779.1]

Class B violations include violations of Labor Code Sections 1299 (work permits), 1308.5 (entertainment industry) and such other violations that the Director of Industrial Relations determines have a direct or immediate relationship to the health, safety or security of minor employees other than Class A violations. [LC 1288, 8 CCR 11782] The violation of Labor Code Section 1391 (work hours) is a \$500 Class B violation upon the first violation and a \$1,000 Class B violation on the second violation. [LC 1288]

Class B violations carry civil penalties of not less than \$500 and up to \$1000 for each and every violation. [LC 1288 (b), 8 CCR 11781 and 11781.1]

In addition, any employer may be liable for civil penalties for:

- Failure to pay the applicable minimum wage. [LC 1197.1]
- Failure to carry workers' compensation insurance. [LC 3722]
- Failure to provide a written deduction statement. [LC 226]

### **Criminal Penalties**

Criminal violations of child labor laws are misdemeanors punishable by fines ranging up to \$10,000 or by confinement in the county jail for periods up to 6 months or both fine and imprisonment. [LC 1175, 1199, 1303, 1308, 1308.2, 1308.3, 1308.5, 1308.7, 1309, 1309.5, 1391 and 1392; EC 48454, 49182 and 49183]

In essence, almost all the child labor laws, as well as the compulsory education laws have some misdemeanor penalty attached to them.

### **Liability for Child Labor Penalties**

The employer, never the minor is liable for child labor violations.

All statutes governing prohibited occupations (listed in Chapter 8 of this digest) make liable any person who employs *or permits* underage minors to work in the prohibited occupation. This means that any person, even if they are not the employer who permits and underage minor to perform a hazardous duty no matter how voluntary the act is on the part of the minor is liable for Class A penalties. Even minors who regard themselves as self-employed may not engage in these prohibited activities. A client who permits such a minor to engage in the prohibited activity would be liable for Class A penalties. This type of liability also extends to underage employment in any of the federally regulated occupations adopted by the state of California. For example, minors under 16 may not be employed or *permitted to* work in occupations involving mining, manufacturing, processing, or perform any duties in related work-rooms. [LC 1294.1 and



LC 1290] Moreover, minors under 14, for example, may not be employed or permitted to work in clerical or food service occupations since a minor must be at least 14 to engage in these activities. [LC 1294.1]

Owners of real property who knowingly benefit from child labor violations are subject to all applicable civil penalties, whether or not the person is the minor's employer. [LC 1301]

“Any person...who as parent, guardian, relative, employer, or otherwise having control of any minor, exhibits, uses, or employs, or in any manner or under any pretense for or who uses, procures, or encourages the minor to engage in...[a]ny business, exhibition, or vocation injurious to the health or dangerous to the life or limb of the minor” or in any of the activities specified in Labor Code 1308 are liable for any civil and criminal penalties which arise from its violation. [LC 1308] Occupations prohibited in Labor Code 1308 are listed in Chapter 8 of this digest.

\*Civil penalties for statutes listed are effective as of January 1, 1996. Until that date, Labor Code Section 1290 is a Class B violation, while Labor Code Section 1294.5 and 1308.1 have only a misdemeanor penalty attached to their violation. All other listed statutes currently carry the penalties as described and those penalties will continue unchanged after January 1, 1996.

Parents or guardians (in addition to employers, agents, managers, etc.) who permit the minor to be employed unlawfully in the entertainment industry (which includes any violation of state regulations governing minors in the entertainment industry are liable for any civil and criminal penalties that arise from the violation. [LC 1308.5]

Garment manufacturers who within a two year period commit a second violation involving child labor, minimum wage, or maximum hours of labor, in any combination of violations, may be required by the Labor Commissioner to post a surety bond. Upon a third or subsequent violation within a two year period, the Labor Commissioner may suspend a garment manufacturer's registration for up to one year and confiscate any partially or fully assembled garments. [LC 2679(b)]

### **Filing a Complaint**

Complaints for violations of state child labor standards and wage laws may be filed with the nearest Division of Labor Standards Enforcement office. The Division of Labor Standards Enforcement will accept anonymous and confidential complaints. Employees are urged to keep their own records to substantiate their claims, especially with regard to hours and wages. It is unlawful for employers to discharge or discriminate against any employee who files or threatens to file a bona fide complaint or claim with the Labor Commissioner. [LC 98.6] Employers may not adopt policies or retaliate against employees who disclose information to a government agency with the reasonable belief that the information reveals a violation of state or federal law. [LC 1102.5]

Safety and health hazards that are not specifically part of the child labor protections outlined in this booklet should be reported to the nearest office of the California Division of Occupational Safety and Health (Cal/OSHA). Employees may not be discriminated or retaliated against for filing health and safety complaints with Cal/OSHA. [LC 6310 and LC 6311]

Complaints regarding federal child labor standards as well as federal wage and hour standards may be filed with the nearest office of the Wage and Hour Division of the U.S. Department of Labor.

## **12. FEDERAL FAIR LABOR STANDARDS ACT**

In addition to being governed by the California child labor laws, most employees are governed by the federal Fair Labor Standards Act (FLSA). Generally, employees are covered by the FLSA if their activities meet either one or both of two tests, the employee test or the enterprise test. Under the employee test, employees must be engaged in commerce or in the production of goods for commerce or in activities closely related and directly essential to commerce. [29 CFR 776] “Commerce” means interstate or foreign trade, commerce, transportation, transmission, or communication and has the broadest interpretation. For example, “transactions” need not be commercial, “transportation” includes person and things, and “transmission” may refer to tangibles or intangibles. The employee need not directly affect commerce, but merely be engaged “in the channels of commerce.” [29 CFR 776.8]

Under the enterprise test, employees of specified enterprises (which include related activities performed through a unified operation or common control by any person(s) for a common business purpose) are covered by the FLSA if they merely work on goods or materials that have been moved in or produced for commerce. [29 USC 203(r) and (s)] Thus, enterprises specified in the FLSA that use anything (even, for example, paper and pencils) that has crossed a state line or national border places all employees of the enterprise under the FLSA regardless of their individual duties. Those specified enterprises include [29 USC 203(s) (1)]:

- Enterprises whose annual gross volume of sales or business done is at least \$500,000 (exclusive of excise taxes at the retail level that are separately stated);
- Enterprises engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education, whether or not such institutions are public, private, for profit, or not for profit.

- State and local agencies.

The annual dollar volume of \$500,000 for enterprise coverage became effective after March 31, 1990. Enterprises that qualified for coverage under the previous dollar \$362,500 remain covered by all the FLSA standards in effect at that time, including the child labor provisions. Extensive discussion of FLSA coverage may be found in 29 CFR 570.112, et seq. and 29 CFR Parts 776 and 779. The Department of Labor also publishes a pamphlet which discusses coverage titled, *Employment Relationship under the Fair Labor Standards Act*.

The FLSA establishes sixteen as the minimum age for general employment. Minors sixteen and above may work in any occupation except for occupations declared hazardous in federal regulation for persons under eighteen. (See Chapter 8 of this digest). Fourteen and fifteen year olds are allowed to work only in limited, specified occupations. (See Chapter 7 of this digest). Minors under fourteen may not work in firms subject to the FLSA, except in agriculture. The state of California has adopted federal hazardous occupation standards for minors under eighteen and many of the standards for fourteen and fifteen year olds.

The FLSA's child labor provisions (1) prohibit the shipment in interstate commerce or in foreign commerce of goods produced in or about establishments in the United States in which oppressive child labor has been employed within 30 days prior to the removal of goods; and (2) prohibit the employment of oppressive child labor in interstate or foreign commerce or in the production of goods for such commerce. "Oppressive child labor" means the employment of minors in violation of the child labor provisions of the FLSA or its attendant regulations.

Exemptions from federal child labor standards [29 USC 203, 213] include:

- Minors under sixteen employed by parents in occupations other than manufacturing or mining. However, parents may not employ their minor children of any age in occupations declared hazardous in federal regulation for minors under eighteen.
- Minors employed as actors or performers in motion pictures, theatrical, radio, or television productions;
- Minors engaged in the delivery of newspapers to consumers;
- Minors employed as home workers in the making of wreaths, composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths).

- Minors employed on a farm owned or operated by his or her parent or person standing in place of the parent are exempt but may not be employed in any mining or manufacturing occupation on the farm. [29 USC 213 (c) (1) and (2), 29 CFR 570.123 (c)] The federal Hazardous Occupation Orders for minors under eighteen do not apply to minors employed in agriculture. [29 CFR 570.123 (d)] Only the occupations declared hazardous to minors under sixteen employed in agriculture apply. All these occupations are listed in Chapter 8 of this digest.
- Minors employed in domestic service occupations are also exempt from the child labor provisions of the FLSA, and these exemptions are explained in “Household Occupations” in Chapter 7 of this digest.

If the federal and state laws conflict, the more protective standard always prevails. Before employing minors, an employer should consult with the Wage and Hour Division of the U.S. Department of Labor, in order to determine the applicability of the federal wage and hour and child labor laws. *Consult your telephone directory for the office location and telephone number.*

The Fair Labor Standards Act may be found in Title 29 of the United States Code commencing at section 201. Most accompanying child labor regulations may be found in Part 570 of Title 29 of the Code of Federal Regulation.

## **13. SUMMARY CHARTS**

The summary charts comparing California and federal child labor laws by age groups appearing on the following pages are merely summaries. Special rules or provisions, which may be important to you, may not be included in these summaries. Special circumstances may be included in the text of this digest, but where doubt remains, readers should consult the Division of Labor Standards (Labor Commissioners office) for details on California laws or the Wage and Hour Division of the U.S. Department of Labor for details on federal laws.

## MINORS UNDER AGE 12

<i>California Law</i>	<i>Federal Law</i>
<b>School Attendance</b>	
Must attend school full-time	State law applies.
<b>Permit to Work and to Employ</b>	
Not Permitted to Work except in the entertainment industry on permits issued by the Labor Commissioner.	Certificate of age required. (State permit suffices.)
<b>Hours of Work</b>	
<b>Maximum Hours</b> Daily: 8 hours. Weekly: 40 hours. <b>Spread of Hours</b> 7am - 7pm (- 9pm June 1 through Labor Day).  See text and separate table for entertainment industry employment.	May not be employed in firms subject to the Fair Labor Standards Act, except certain agricultural firms.
<b>Wages</b>	
Must be paid at least wage rates required by the Industrial Welfare Commission. <b>Exceptions:</b> Parents and personal attendants (which includes babysitting and companionship services) are exempt from minimum wage and overtime requirements.	Must be paid at least the wage rates required by the FLSA. <b>Exceptions:</b> Casual babysitting (under 20 hours per week) and companionship services. Subminimum rates available only under a special federal certificate and must comply with state child labor standards.
<b>Exemptions</b>	
<p><b>NO PERMITS REQUIRED FOR:</b></p> <p>Any self-employed minor; news carriers self-employed on a regular route to deliver newspapers to consumers (news carriers must be at least 12 years of age); casual work in private homes such as babysitting, lawnmowing, leaf raking, etc.; Employment by parent/guardian in domestic labor on or in connection with premises the parent/guardian owns, operates or controls.</p> <p><b>NOTE:</b> Parent/guardians may not employ their minor children in manufacturing, mercantile or other enterprises without work permits. Except as noted, parent employers are subject to all occupational restrictions.</p>	<p>FLSA's child labor provisions do not apply to 1) child actors or performers in motion pictures, theatrical, radio or television productions; 2) news carriers; 3) children employed as homeworkers for production of holly and evergreen wreaths, including harvesting of forest products for such wreaths; and 4) most domestic service.</p> <p><b>NOTE:</b> Parent/guardians may employ their minor children under 16 in any occupation except mining or manufacturing, or in occupations declared hazardous in federal regulation for minors under 18 (See chart for 16- and 17-year-olds.)</p>
<b>Agriculture</b>	
<p>May only work for parent/guardian on or in connection with premises the parent owns, operates, or controls. No permit is required and no occupational restrictions apply except that the minor may not work during schoolhours, even if under schoolage.</p> <p>May not be employed in or accompany parent/guardian or guardian into an "agricultural zone of danger," which includes water hazards, chemicals, moving equipment or any agricultural occupation prohibited to minors under 16 unless activities are on or in connection with premises the parent/guardian owns, operates, or controls.</p>	<p>May be employed on farms owned or operated by the parent or person standing in place of the parent. Must be employed outside the school district's regular school hours.</p> <p>May not be employed in occupations declared hazardous in federal regulation for minors under 16 in agriculture (See chart for 14- and 15-year-olds).</p>

## 12- & 13-Year Olds

<i>California Law</i>	<i>Federal Law</i>
<b>School Attendance</b>	
Must attend school full-time unless a high school graduate or equivalent.	State law applies.
<b>Permits to Work and to Employ</b>	
Required unless a high school graduate or equivalent. Permits may be more restrictive than minimum statutory standards.	Certificate of age required. (State permit suffices.)
<b>Hours of Work</b>	
<p>May be employed only on non-school days.</p> <p><b>Maximum Hours</b> Daily: 8 hours. Weekly: 40 hours. Maximum daily and weekly work hours during school year are not expressed in statute. See text.</p> <p><b>Spread of Hours</b> 7am - 7pm (- 9pm June 1 through Labor Day).</p> <p>High school graduates may work the same hours as adults.</p> <p>See text for entertainment industry employment.</p>	<p>May not be employed in firms subject to the Fair Labor Standards Act, except certain agricultural firms.</p>
<b>Wages</b>	
Must be paid at least wage rates required by the Industrial Welfare Commission. <b>Exceptions:</b> Parents and personal attendants (which includes baby-sitting and companionship services) are exempt from minimum wage and overtime requirements.	Must be paid at least the wage rates required by the FLSA. <b>Exceptions:</b> Casual babysitting (under 20 hours per week) and companionship services. Subminimum rates available only under a special federal certificate and must comply with state child labor standards.
<b>Occupational Restrictions</b>	
<p><b>MAY BE EMPLOYED:</b></p> <p>As personal attendants, in household occupations, or as news carriers. In the entertainment industry on permits issued by the Labor Commissioner.</p> <p><b>MAY NOT BE EMPLOYED OR PERMITTED TO WORK:</b></p> <p>In occupations permitted only to minors who are at least 14 years old. (See chart for 14- &amp; 15-year-olds.)</p> <p>In any hazardous occupation prohibited to minors under 16. (See chart for 14- &amp; 15-year-olds.)</p> <p>In any hazardous occupation prohibited to 16- &amp; 17-year-olds. (See chart for 16- &amp; 17-year-olds.)</p> <p>Or enrolled in a Work Experience Education program.</p>	<p>May not be employed in firms subject to the Fair Labor Standards Act, except certain agricultural firms.</p>
<b>Exemptions</b>	
<p><b>NO PERMITS REQUIRED FOR:</b></p> <p>Any self-employed minor; news carriers self-employed on a regular route to deliver newspapers to consumers (news carriers must be at least 12 years of age); irregular odd jobs in private homes such as babysitting or yardwork; employment by parent/guardian in domestic</p>	<p>FLSA's child labor provisions do not apply to 1) child actors or performers in motion pictures, theatrical, radio or television productions; 2) news carriers; 3) children employed as homeworkers for production of holly and evergreen wreaths, including harvesting of forest products for such wreaths; and 4) most domestic</p>

labor on or in connection with premises the parent/guardian owns, operates or controls.  <b>NOTE:</b> Parent/guardians may not employ their minor children in manufacturing, mercantile or other enterprises without work permits. Except as noted, parent employers are subject to all occupational restrictions.	service.  <b>NOTE:</b> Parent/guardians may employ their minor children under 16 in any occupation except mining or manufacturing, or in occupations declared hazardous in federal regulation for minors under 18 (See chart for 16- and 17-year-olds.)
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**Agriculture**

<p>May not be employed in any occupation declared hazardous in federal regulation to minors under 16 in agriculture or in any occupation determined by state law or regulation to be hazardous .</p> <p>Minors' work performed on premises the parent/guardian owns, operates, or controls, requires no permit and has no occupational or work hour limitations, except that work may not be performed during school hours.</p> <p>Must be paid the wage rates provided in the applicable IWC Order. Parents exempt from wage payment requirements.</p> <p>May not be employed in occupations declared hazardous in federal regulation for minors under 16 in agriculture (listed in the chart for 14 and 15-year-olds).</p>	<p>May be employed on farms owned or operated by the parent or person standing in place of the parent. Must be employed outside the school district's regular school hours.</p> <p>May be employed outside school hours with parent/guardian's written consent or on the same farm employing the parent/guardian.</p> <p>May not be employed in occupations declared hazardous in federal regulation for minors under 16 in agriculture (listed in the chart for 14- and 15-year-olds).</p>
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**14- & 15- Year Olds**

California Law	Federal Law
<b>School Attendance</b>	
Must attend school full-time unless a high school graduate or equivalent.	State law applies.
<b>Permits to Work and to Employ</b>	
Required unless a high school graduate or equivalent. Permits may be more restrictive than minimum statutory standards.	Certificate of age required. (State permit suffices.)
<b>Hours of Work</b>	
<p><b>Maximum Work Hours</b>            School NOT in Session: Daily: 8 hours. Weekly : 40 hours.            School IN Session: Daily: 3 hours on a schoolday, 8 hours on a non-schoolday ; Weekly : 18 hours, but all hours must be outside schoolhours .5 hours per day as sports attendant</p> <p>Work Experience Education enrollees may work up to 23 hours per week, any portion of which may be during school hours.  <b>Spread of Hours</b> 7 a.m. – 7 p.m. (- 9 p.m. June 1 through Labor Day).            High school graduates may be employed for same hours as adults.            See text for entertainment industry employment.</p>	
<b>Wages</b>	

Must be paid at least wage rates required by the Industrial Welfare Commission. **Exceptions:** Parents and personal attendants (which includes baby-sitting and companionship services) are exempt from minimum wage and overtime requirements.

Must be paid at least the wage rates required by the FLSA. **Exceptions:** Casual babysitting (under 20 hours per week) and companionship services. Subminimum rates available only under a special federal certificate and must comply with state child labor standards.

### Occupational Restrictions

**MAY BE EMPLOYED:**

In occupations expressly permitted in **retail, food service, and gasoline service establishments:** Office and clerical work; cashiering, selling, modeling, art work, advertising, window dressing, comparative shopping; price marking and tagging, assembling orders, packing and shelving; bagging and carry-out; errands and deliveries by foot, bike, or public transportation; clean-up work (may use vacuums & floor waxers, but not power mowers or cutters); kitchen work for the preparation and serving of food and beverages (may use machines such as dishwashers, toasters, dumbwaiters, popcorn poppers, coffee grinders, milkshake blenders); cleaning, packing, wrapping, labeling, weighing, pricing, and stocking vegetables and fruits. Cooking is prohibited unless performed in plain view of customers and if it is not the sole duty. In office or clerical work in **transportation, warehousing and storage, communications and public utilities, and construction** if such work is not performed on trains, motor vehicles, aircraft, vessels, or any other form of transportation or at a construction site.

In any other occupation not prohibited to this age group by state or federal law or regulation.

**MAY NOT BE EMPLOYED OR PERMITTED TO WORK:**

In any occupation declared hazardous in federal regulation for 16- and 17-year-olds (See chart for that age group); or

In occupations in **mining, manufacturing, or processing** including any duties in related workrooms; or

In occupations involving hoisting apparatuses, power-driven machinery, operation of motor vehicles or as helpers on vehicles, public messenger service; or

In any occupation, except clerical as described above, involving the **transportation** of persons or property by any means,

**warehousing and storage, communications, public utilities, construction (including demolition and repair);** or

In occupations in the **gasoline, retail, or food service** industries involving maintenance or repair of the establishment,

machines, or equipment; work in or about boiler or engine rooms; operating or maintaining food slicers grinders,

choppers, or bakery mixers; outside window washing from window sills or any work on scaffolds, ladders, etc.; cooking

except at lunch counters, snack bars etc.; any work in freezers or meat coolers; or loading or unloading from trucks,

railcars, or conveyors.

Solely under state law, **MAY NOT BE EMPLOYED OR PERMITTED TO WORK:**

In **door-to-door sales** of newspapers or magazine subscriptions, candy, cookies, flowers or other merchandise door-to-door unless:

- Minors work in pairs as a team;
- One adult supervisor for 10 or fewer minors;
- Within sight or sound of the supervisor once every 15 minutes;
- Returned to home or rendezvous point daily;
- Work performed within 50 miles of minor's residence;
- Employer, transporter, supervisor registered with DLSE if work over 10 miles from minors' home.

**In any occupation determined to be hazardous in state law or regulation, including for example:**

Under federal regulation, **MAY BE EMPLOYED:**

In any **gas station** to dispense gas and oil, perform courtesy service, or clean, wash, or polish cars.

**NOTE:** Under state law, minors must be at least 16 to perform these activities.

**MAY NOT BE EMPLOYED:**

In any **gas station** in work that involves the use of pits, racks, or lifting apparatuses, or the inflation of any tire mounted on a rim equipped with a removable retainer ring. **NOTE:** Under state law, minors must be at least 18 to perform these activities. (Under both state and federal law, minors must be at least 16 to perform maintenance or repair on machines of any kind, such as automobiles, but does not include any work on with machines prohibited to 16- and 17-year-olds)



Any business, exhibition, or vocation injurious to the health or dangerous to the life or limb of the minor. [LC 1308(a)(1)]

**Construction** work of any kind including work on any scaffolding.

**Delivering goods**, packages, papers (except newspapers), etc. from motor vehicles.

**Gas station** work except duties listed above. See federal list this chart opposite.

**Machine-related duties** including any occupation in close proximity to moving machinery or hazardous or unguarded belts or gearing or in proximity to functioning parts of unguarded or dangerous moving equipment. Minors may not adjust or repair belts or oil, wipe, or clean machinery or assist in these activities.

**Machines-operation or assistance** involving, for example, machines for laundry or washing; mixing or grinding; paper cutting, power punching or shearing, wire or iron straightening; corrugating rolls; calendar rolls in paper and rubber manufacture; paper cutting; leather burnishing; stamping leather, paper, and washer and nut manufacture; steamboilers, metal and woodworking; and drill presses or printing presses of any kind.

**Manufacturing** of any kind, including industrial homework. SEE TEXT.

**Manufacture or use** of dangerous dyes, gases, or use of dangerous acids, or manufacture or packing of paints, colors, tobacco, or lead.

On any **vessel or boat** engaged in navigation or commerce within state's jurisdiction.

In close proximity to vessels or **aircraft** or functioning blades or propellers.

Any wandering, mendicant, or begging business.

In any activity in or on that portion of an establishment primarily designed for on-site consumption of **alcohol**.

To sell alcoholic beverages for off-site consumption unless constantly supervised by a person 21 or older.

To sell **lottery tickets** unless constantly supervised by a person 21 or older.

PARTIAL LIST. See text. Compliance with these standards does not justify noncompliance with any occupational prohibition for 16- and 17-year-olds.

### Exemptions

**NO PERMITS REQUIRED FOR:**

Any self-employed minor; news carriers self-employed on a regular route to deliver newspapers to consumers (news carriers must be at least 12 years of age); irregular odd jobs in private homes such as babysitting, lawn mowing, leaf raking, etc.; employment by parent/guardian in domestic labor on or in connection with premises the parent/guardian owns, operates or controls.

**NOTE:** Parent/guardians may not employ their minor children in manufacturing, mercantile or any other enterprises without work permits. Except as noted, parent employers are subject to all occupational restrictions that affect other employers.

FLSA's child labor provisions do not apply to 1) child actors or performers in motion pictures, theatrical, radio or television productions; 2) news carriers; 3) children employed as homeworkers for production of holly and evergreen wreaths, including harvesting of forest products for such wreaths; and 4) most domestic service.

**NOTE:** Parent/guardians may employ their minor children under 16 in any occupation except mining or manufacturing, or in occupations declared hazardous in federal regulation for minors under 18 (See chart for 16- and 17-year-olds.)

**LIMITED EXEMPTION:** Training in some otherwise restricted occupations (but not in any occupation declared hazardous in federal regulation for minors under 18) permitted in bona fide Work Experience Education programs with a valid permit. Also

see Hours of Work for these training programs.

### **Agriculture**

May be employed with a permit on non-schooldays and on schooldays during non-school hours. Under state law, work hours that apply to 14- and 15-year-olds generally also apply when they are employed in agriculture.

Must be paid at least the minimum wage rates provided in the applicable IWC Order. Parent/guardians exempt from wage payment requirements.

When work is performed on premises owned, operated, or controlled by the parents or guardian, no permit is required and there are no hour limitations during the time public schools are not in session. Minors may not work at such occupations while the public schools are in session.

May not be employed or permitted to work in the occupations declared hazardous for all other minors under 16.

May be employed outside school hours only. Parent permission not required.

#### **MAY NOT BE EMPLOYED OR PERMITTED TO WORK IN AGRICULTURAL OCCUPATIONS DECLARED HAZARDOUS IN FEDERAL REGULATION FOR MINORS UNDER 16:**

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.

Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operations) any of the following machines:

- Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;
- Power post-hole digger, power post driver, or non-walking type rotary tiller.

Operating or assisting to operate (including starting, stopping adjusting, feeding or any other activity involving physical contact associated

with the operation) any of the following machines:

- Trencher or earthmoving equipment;
- Forklift;
- Potato combine; or
- Power-driven circular, band or chain saw.

Working on a farm in a yard, pen, or stall occupied by a:

- Bull, boar, or stud horse maintained for breeding purposes; or
- Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) from a height of over 20 feet.

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

Working inside:

- A fruit, forage, or grain storage designed to retain 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 a tractor for packing purposes.

Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying agricultural chemicals classified under Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 135 et seq.) as Category I of toxicity, identified by the word, "poison," and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word, "warning," on the label;

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

Transporting, transferring, or applying anhydrous ammonia.

LIMITED EXEMPTIONS: Training in some occupations permitted in bona fide training programs. See text.

### Sports Attendants

May be employed in `sports-attending services` at professional baseball games until 10:00 p.m. on any night preceding a schoolday, or until 12:30 a.m. on any night preceding a non-schoolday.

May work up to 5 hours a day, up to 18 hours per week as a sports attendant when school is in session. May work up to 8 hours a day or a maximum of 40 hours per week when school is not in session

## 16- & 17-Year Olds

16 and 17-Year Olds	
California Law	Federal Law
<b>School Attendance</b>	
<p>Not required if a high school graduate or has a certificate of proficiency. If regularly employed and not a high school graduate or does not have a certificate of proficiency, must attend continuation school at least 4 hours per week.</p> <p>When not regularly employed and not a high school graduate or does not have a certificate of proficiency, must attend continuation school 15 hours per week.</p>	<p>State law applies.</p>
<b>Permits to Work and to Employ</b>	
<p>Required unless a high school graduate or equivalent. Permits may be more restrictive than minimum statutory standards.</p>	<p>Certificate of age required. (State permit suffices.)</p>
<b>Hours of Work</b>	
<p>Maximum Work Hours Daily: 8 hours on non-schooldays; 4 hours on a schoolday. "Schoolday" means equal to or greater than 4 hours required attendance.</p>	

<p>5 hours per day as sports attendant Weekly: 48 hours. NOTE: Part-time students may work during the regular school hours of the school district, but such work may not interfere with their part-time schooling requirements. No exceptions to minimum work hour standards may be granted for these minors.</p> <p>Spread of Hours 5 a.m. – 10 p.m. (- 12:30 a.m. on days preceding a non-school day). Exceptions: Work Experience Education enrollees may work until 12:30 a.m. on any day with approval. Messengers: 6 a.m. – 9 p.m. only. High school graduates may be employed for the same hours as an adult. See text for entertainment industry employment.</p>	
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**Wages**

<p>Must be paid at least the minimum wage established by the Industrial Welfare Commission. Must receive any applicable overtime pay. Exceptions: Parents and personal attendants (which includes babysitting and companionship services) are exempt from minimum wage and overtime requirements. Work Experience Education enrollees must be paid at least the adult minimum wage for any work performed between 10 p.m. &amp; 12:30 a.m. High school graduates must be paid commensurate with adults.</p>	<p>Must be paid at least the federal minimum wage. Must be paid overtime after 40 hours in a week. Exceptions: Casual babysitting (under 20 hours per week) and companionship services. Subminimum rates available only under a special federal certificate and must comply with state child labor standards.</p>
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**Occupational Restrictions**

**MAY NOT BE EMPLOYED OR PERMITTED TO WORK IN ANY OCCUPATION DECLARED HAZARDOUS IN FEDERAL REGULATION FOR PERSONS UNDER 18:**

Manufacturing and storing explosives (including small arms ammunition); motor vehicle driving and outside helper; logging and sawmilling; power-driven woodworking machines; power-driven circular saws, band saws, and guillotine shears; power-driven hoisting apparatuses (including forklifts); roofing, excavation; wrecking, demolition, and shipbreaking operations; power-driven metal-forming, punching, and shearing machines; slaughtering, or meat-packing, processing or rendering; power-driven bakery machines; power-driven paper-products machines; manufacturing brick, tile, and kindred products; coal mining; mining other than coal mining; and exposure to radioactive substances.

<p>Solely under state law, <b>MAY NOT BE EMPLOYED:</b> In gas stations, in any work using pits, racks, lifting apparatuses, or inflating any tire mounted on a rim with a removable retaining ring. In or on that portion of an establishment primarily designed for on site consumption of alcohol. To sell alcoholic beverages for off-site consumption unless constantly supervised by a person 21 or older. To sell lottery tickets unless constantly supervised by a person 21 or older.</p>	
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## Exemptions

### NO PERMITS REQUIRED FOR:

Any self-employed minor; news carriers; and irregular odd jobs in private homes such as baby-sitting, yardwork, etc. Employment by parent/guardian in domestic labor on or in connection with premises the parent/guardian owns, operates or controls.

NOTE: Parent/guardians may not employ their minor children in manufacturing, mercantile or other enterprises without work permits. Parent employers subject to all occupational restrictions..

Persons under 18 who are high school graduates and who have completed a bona fide training program in a hazardous occupation may be employed in that occupation.

NOTE: Parent/guardians may not employ their children in occupations declared hazardous in federal regulation for minors under 18.

**LIMITED EXEMPTIONS:** Training in bona fide Work Experience Education and apprenticeship training programs. Student learners and apprentices (who must be at least 16 years of age) may be trained within specified limits in otherwise prohibited occupations involving: Power-driven woodworking machines; power-driven metal-forming, punching, and shearing machines; slaughtering or meat-packing and processing; power-driven paper-products machines; power-driven circular saws, band saws, and guillotine shears; roofing; and excavation. Training not available in any other occupations prohibited to minors under 18.

## Agriculture

Work hours same as all other minors except that minors employed in an agricultural packing plant may work up to 10 hours on any nonschoolday during the peak harvest season under a special extension granted to the employer by the Labor Commissioner.

Minors' work performed on premises the parent/guardian owns, operates, or controls, requires no permit and has no occupational or work hour limitations, except that work may not be performed during school hours.

Must be paid the wage rates provided in the applicable IWC Order. Parents exempt from wage payment requirements.

No work hour or occupational limitations.

## Sports Attendants

May be employed in "sports-attending services" at professional baseball games until 10:00 p.m. on any night preceding a schoolday, or until 12:30 a.m. on any night preceding a non-schoolday.

May work up to 5 hours a day, up to 18 hours per week as a sports attendant when school is in session. May work up to 8 hours a day or a maximum of 48 hours per week when school is not in session.

*Wherever state and federal standards overlap or appear to contradict, the more protective standard always applies.*