

Youth Employment: Expanded protections for youth working in cooking, roofing, and driving

On December 16, 2004, The Department of Labor's Employment Standards Administration's Wage and Hour Division published in the Federal Register final regulations implementing changes to employment rules for youth. The final rules, which became effective on February 14, 2005, expand protections for youth working in restaurant cooking, roofing, driving and other areas.

Publication of this rule marks another step in the Department's ongoing effort to promote positive, safe work experiences for young workers. It also improves the nation's youth employment provisions in ways that balance the benefits of employment opportunities for youth with the necessary and most effective safety protections.

This rule incorporates two statutory amendments enacted by Congress in 1996 and 1998:

- I. The Compactors and Balers Safety Standards Modernization Act
- II. The Drive for Teen Employment Act

The first amendment establishes a limited exception permitting 16- and 17-year-olds to load, but not operate or unload, certain waste-material baling and compacting equipment under the following conditions:

- The employer must ensure that the equipment meets, and continues to meet, certain American National Institute (ANSI) standards;
- Prior to permitting minors under age 18 to load materials into balers and compactors, the employer must post a notice on each piece of equipment containing certain information;
- The baler or compactor must include an on-off switch incorporating a key-lock or other system, and the control of the system must be maintained in the custody of employees who are 18 years of age or older;
- The on-off switch of the equipment must be maintained in an off position when equipment is not being operated; and
- The equipment cannot be operated while it is being loaded.

The second amendment also establishes a limited exception permitting 17-year-olds under certain conditions to perform on-the-job driving under the following conditions:

- The driving is limited to daylight hours;
- The 17-year-old holds a state license valid for the type of driving involved in the job performed;
- The 17-year-old has successfully completed a state approved driver education course and has no record of any moving violations at the time of hire;
- The automobile or truck does not exceed 6,000 pounds gross vehicle weight;
- The automobile or truck is equipped with a seat belt for the driver and any passengers and the employer has instructed the youth that the seat belts must be used when driving the vehicle; and
- The driving is only occasional and incidental to the 17-year-olds's employment. This means that the youth may spend no more than one-third of his or her workday and no more than 20 percent of his or her work time in any workweek driving.

This rule also modernizes the youth employment provisions regarding the types of cooking 14- and 15-year-olds are permitted to perform. The old rule failed to provide adequate safety protections for young workers or compliance guidance for employers, as the snack bars and soda fountains of the 1950s – for which the rule was designed – have been replaced by various quick service/fast food establishments in the last twenty years.

This rule prohibits 14- and 15-year-olds from cooking *except*:

- Cooking with electric or gas grilles which does not involve cooking over an open flame.
- Operating deep fat fryers which are equipped with and utilize, during the frying process, devices which automatically raise and lower the baskets.

This rule also permits 14- and 15-year-olds to clean, maintain (including the changing, cleaning, and disposing of oil or grease and oil or grease filters) and repair cooking devices (other than power-driven equipment) when the surface temperatures (equipment or liquids) do not exceed 100° F.

This rule continues to prohibit 14- and 15-year-olds from performing any baking. It also incorporates long-standing departmental positions which permit these minors to use, dispense, and serve food from warmers, steam tables, and other warming devices and to operate microwave ovens that are used only to warm prepared food and do not have the capacity to warm above 140° F. Further, the rule preserves the current provision allowing these minors to perform kitchen work and other work to prepare and serve food and beverages, including operating certain machines used in the performance of such work such as dish-washers, toasters, popcorn poppers, milk shake blenders, and coffee grinders.

This rule also expands the current prohibition against youth under age 18 working in roofing occupations to encompass all work on or about a roof. The term on or about a roof includes all work performed upon or in close proximity to a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and coating of existing roofs; the construction of the sheathing or base of roofs (wood or metal), including roof trusses or joists; and gutter and downspout work, the installation and servicing of television and communication equipment such as cable and satellite dishes; the installation and servicing of heating, ventilation and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed on or about roofs.

- For more information regarding the FLSA youth employment provisions, visit the *YouthRules!* Web Site at www.youthrules.dol.gov.
- For more information regarding the Fair Labor Standards Act, visit the Wage and Hour Division Web site at www.wagehour.dol.gov or call our toll-free help line, available 8 a.m. to 5 p.m. in your time zone at 1-866-4US-WAGE (1-866-487-9243).
- When state youth employment laws differ from the federal provisions, an employer must comply with the higher standard. Links to your state labor department can be found at http://www.dol.gov/esa/contacts/state_of.htm.

