

Wage and Hour Division, Labor

§ 570.121

hearing and advice from committees composed of representatives of employers and employees of the industry and the public and in accordance with procedure established in Child Labor Regulations No. 5 published in subpart D of this part. The effect of these orders is to raise the minimum age for employment to 18 years in the occupations covered. Seventeen orders, published in subpart E of this part, have thus far been issued under the Act and are now in effect. In general, they cover:

No. 1. Occupations in or about plants manufacturing explosives or articles containing explosive components.

No. 2. Occupations of motor-vehicle driver and helper.

No. 3. Coal-mine occupations.

No. 4. Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill.

No. 5. Occupations involved in the operation of power-driven woodworking machines.

No. 6. Occupations involving exposure to radioactive substances.

No. 7. Occupations involved in the operation of power-driven hoisting apparatus.

No. 8. Occupations involved in the operation of power-driven metal forming, punching, and shearing machines.

No. 9. Occupations in connection with mining, other than coal.

No. 10. Occupations in or about slaughtering and meat packing establishments and rendering plants.

No. 11. Occupations involved in the operation of bakery machines.

No. 12. Occupations involved in the operations of paper products machines.

No. 13. Occupations involved in the manufacture of brick, tile, and kindred products.

No. 14. Occupations involved in the operation of circular saws, bandsaws, and guillotine shears.

No. 15. Occupations in wrecking, demolition, and shipbreaking operations.

No. 16. Occupations in roofing operations.

No. 17. Occupations in excavation operations.

[36 FR 25158, Dec. 29, 1971]

EFFECTIVE DATE NOTE: At 75 FR 28458, May 20, 2010, § 570.120 was revised, effective July 19, 2010. For the convenience of the user, the revised text is set forth as follows:

§ 570.120 Eighteen-year minimum.

To protect young workers from hazardous employment, the FLSA provides for a minimum age of 18 years in occupations found and declared by the Secretary to be particularly hazardous or detrimental to the health or well-being for minors 16 and 17 years of

age. Hazardous occupations orders are the means through which occupations are declared to be particularly hazardous for minors. Since 1995, the promulgation and amendment of the hazardous occupations orders have been effectuated under the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.* The effect of these orders is to raise the minimum age for employment to 18 years in the occupations covered. Seventeen orders, published in subpart E of this part, have thus far been issued under the FLSA and are now in effect.

§ 570.121 Age certificates.

(a) To protect an employer from unwitting violation of the minimum age standards, it is provided in section 3(1)(2) of the Act that “oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child labor age.” An age certificate is a statement of a minor’s age issued under regulations of the Secretary (Child Labor Regulation No. 1),³¹ based on the best available documentary evidence of age, and carrying the signatures of the minor and the issuing officer. Its purpose is to furnish an employer with reliable proof of the age of a minor employee in order that he may, as specifically provided by the act, protect himself against unintentional violation of the child labor provisions. Pursuant to the regulations of the Secretary, State employment or age certificates are accepted as proof of age in 45 States, the District of Columbia, and Puerto Rico, and Federal certificates of age in Idaho, Mississippi, South Carolina and Texas. If there is a possibility that the minor whom he intends to employ is below the applicable age minimum for the occupation in which he is to be employed, the employer should obtain an age certificate for him.

(b) It should be noted that the age certificate furnishes protection to the employer as provided by the act only if it shows the minor to be above the minimum age applicable thereunder to

³¹ Subpart A of this part.

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the occupation in which he is employed. Thus, a State certificate which shows a minor's age to be above the minimum required by State law for the occupation in which he is employed does not protect his employer for purposes of the Fair Labor Standards Act unless the age shown on such certificate is also above the minimum provided under that act for such occupation.

EXEMPTIONS

§ 570.122 General.

Specific exemptions from the child labor requirements of the Act are provided for:

(a) Employment of children in agriculture outside of school hours for the school district where they live while so employed;

(b) Employment of employees engaged in the delivery of newspapers to the consumer;

(c) Employment of children as actors or performers in motion pictures or in theatrical, radio, or television productions; and

(d) Employment by a parent or a person standing in a parent's place of his own child or a child in his custody under the age of sixteen years in any occupation other than the following:

(1) Manufacturing,

(2) Mining,

(3) An occupation found by the Secretary to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being.

In his interpretations of these provisions, the Secretary will be guided by the principle that such exemptions should be narrowly construed and their application limited to those employees who are plainly and unmistakably within their terms. Thus, the fact that a child's occupation involves the performance of work which is considered exempt from the child labor provisions will not relieve his employer from the requirements of section 12(c) or the producer, manufacturer, or dealer from the requirements of section 12(a) if, during the course of his employment, the child spends any part of his time

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doing work which is covered but not so exempt.

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§ 570.122 General.

(a) Specific exemptions from the child labor requirements of the Act are provided for:

(1) Employment of children in agriculture outside of school hours for the school district where they live while so employed;

(2) Employment of employees engaged in the delivery of newspapers to the consumer;

(3) Employment of children as actors or performers in motion pictures or in theatrical, radio, or television productions;

(4) Employment by a parent or a person standing in a parent's place of his own child or a child in his custody under the age of sixteen years in any occupation other than manufacturing, mining, or an occupation found by the Secretary to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being.

(5) Employment of homeworkers engaged in the making of evergreen wreaths, including the harvesting of the evergreens or other forest products used in making such wreaths.

(6) Employment of 16- and 17-year-olds to load, but not operate or unload, certain scrap paper balers and paper box compactors under specified conditions.

(7) Employment of 17-year-olds to perform limited driving of cars and trucks during daylight hours under specified conditions.

(8) Employment of youths between the ages of 14 and 18 years who, by statute or judicial order, are excused from compulsory school attendance beyond the eighth grade, under specified conditions, in places of business that use power-driven machinery to process wood products.

(b) When interpreting these provisions, the Secretary will be guided by the principle that such exemptions should be narrowly construed and their application limited to those employees who are plainly and unmistakably within their terms. Thus, the fact that a child's occupation involves the performance of work which is considered exempt from the child labor provisions will not relieve his employer from the requirements of section 12(c) or the producer, manufacturer, or dealer from the requirements of section 12(a) if, during the course of his employment, the child spends any part of his time doing work which is covered but not so exempt.