

§ 570.124

should contain the minor's name, the name and address of the school, the date the school closed for the current year, the date the statement was signed, and the title of the school official signing the statement.

(c) Attention is directed to the fact that by virtue of the parental exemption provided in section 3(1) of the Act, children under 16 years of age are permitted to work, for their parents on their parents' farms at any time provided they are not employed in a manufacturing or mining occupation.

(d) The orders (subpart E of this part) declaring certain occupations to be particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being do not apply to employment in agriculture, pending study as to the hazardous or detrimental nature of occupations in agriculture.³³

[16 FR 7008, July 20, 1951, as amended at 23 FR 3062, May 8, 1958. Redesignated at 28 FR 1634, Feb. 21, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971]

§ 570.124 Delivery of newspapers.

Section 13(d) of the Act provides an exemption from the child labor as well as the wage and hours provisions for employees engaged in the delivery of newspapers to the consumer. This provision applies to carriers engaged in making deliveries to the homes of subscribers or other consumers of newspapers (including shopping news). It also includes employees engaged in the street sale or delivery of newspapers to the consumer. However, employees engaged in hauling newspapers to drop stations, distributing centers, newsstands, etc., do not come within the exemption because they do not deliver to the consumer.

§ 570.125 Actors and performers.

Section 13(c) of the Act provides an exemption from the child labor provisions for "any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions." The term "performer" used in this provision is obviously more inclusive than the term "actor." In regulations issued pursuant

³³ See note to subpart E of this part.

29 CFR Ch. V (7-1-10 Edition)

to section 7(d)(3) of the Act, the Administrator of the Wage and Hour Division has defined a "performer" on radio and television programs for purposes of that section.³⁴ The Secretary will follow this definition in determining whether a child is employed as a " * * * performer * * * in radio or television productions" for purposes of this exemption. Moreover, in many situations the definition will be helpful in determining whether a child qualifies as a " * * * performer in motion pictures or theatrical productions * * *" within the meaning of the exemption.

§ 570.126 Parental exemption.

By the parenthetical phrase included in section 3(1)(1) of the Act, a parent or a person standing in place of a parent may employ his own child or a child in his custody under the age of 16 years in any occupation other than the following: (a) Manufacturing; (b) mining; (c) an occupation found by the Secretary to be particularly hazardous or detrimental to health or well-being for children between the ages of 16 and 18 years. This exemption may apply only in those cases where the child is exclusively employed by his parent or a person standing in his parents' place. Thus, where a child assists his father in performing work for the latter's employer and the child is considered to be employed both by his father and his father's employer, the parental exemption would not be applicable. The words "parent" or a "person standing

³⁴ Section 550.2(b) of this title provides:

(b) The term "performer" shall mean a person who performs a distinctive, personalized service as a part of an actual broadcast or telecast including an actor, singer, dancer, musician, comedian, or any person who entertains, affords amusement to, or occupies the interest of a radio or television audience by acting, singing, dancing, reading, narrating, performing feats of skill, or announcing, or describing or relating facts, events and other matters of interest, and who actively participates in such capacity in the actual presentation of a radio or television program. It shall not include such persons as script writers, stand-ins, or directors who are neither seen nor heard by the radio or television audience; nor shall it include persons who participate in the broadcast or telecast purely as technicians such as engineers, electricians and stage hands.

in place of a parent” include natural parents, or any other person, where the relationship between that person and a child is such that the person may be said to stand in place of a parent. For example, one who takes a child into his home and treats it as a member of his own family, educating and supporting the child as if it were his own, is generally said to stand to the child in place of a parent. It should further be noted that occupations found by the Secretary to be hazardous or detrimental to health or well-being for children between 16 and 18 years of age, as well as manufacturing and mining occupations, are specifically excluded from the scope of the exemption.

ENFORCEMENT

§ 570.127 General.

Section 15(a)(4) of the Act makes any violation of the provisions of sections 12(a) or 12(c) unlawful. Any such unlawful act or practice may be enjoined by the United States District Courts under section 17 upon court action, filed by the Secretary pursuant to section 12(b) and, if willful will subject the offender to the criminal penalties provided in section 16(a) of the Act.³⁵

EFFECTIVE DATE NOTE: At 75 FR 28459, May 20, 2010, the undesignated center heading preceding § 570.127 was removed and § 570.127 was revised, effective July 19, 2010. For the convenience of the user, the revised text is set forth as follows:

§ 570.127 Homeworkers engaged in the making of evergreen wreaths.

FLSA section 13(d) provides an exemption from the child labor provisions, as well as the minimum wage and overtime provisions, for homeworkers engaged 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).

³⁵ Section 16(a) provides:

Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

§ 570.128 Good faith defense.

A provision is contained in section 12(a) of the Act relieving any purchaser from liability thereunder who ships or delivers for shipment in commerce goods which he acquired in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with section 12, and which he acquired for value without notice of any violation.³⁶

EFFECTIVE DATE NOTE: At 75 FR 28459, May 20, 2010, § 570.128 was redesignated as § 570.141, and a new § 570.128 was added, effective July 19, 2010. For the convenience of the user, the added text is set forth as follows:

§ 570.128 Loading of certain scrap paper balers and paper box compactors.

(a) Section 13(c)(5) of the FLSA provides for an exemption from the child labor provisions for the employment of 16- and 17-year-olds to load, but not operate or unload, certain power-driven scrap paper balers and paper box compactors under certain conditions. The provisions of this exemption, which are contained in HO 12 (§ 570.63) include that the scrap paper baler or compactor meet an applicable standard established by the American National Standards Institute (ANSI) and identified in the statute, or a more recent ANSI standard that the Secretary of Labor has found, incorporated by reference (see § 570.63), and declared to be as protective of the safety of young workers as the ANSI standard named in the statute.

(b) These standards have been incorporated into these regulations by reference by the FEDERAL REGISTER as discussed in § 570.63. In addition, the scrap paper baler or paper box 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 at least 18 years of age. The on-off switch of the scrap paper baler or paper box compactor must be maintained in an off position when the machine is not in operation. Furthermore, the employer must also post a notice on the scrap paper baler or paper box compactor that conveys certain information, including the identification of the applicable ANSI standard that the equipment meets, that 16- and 17-year-old employees may only load the scrap paper baler or paper box compactor, and that no employee under the age

³⁶ For a complete discussion of this subject see part 789 of this title, General Statement on the Provisions of section 12(a) and section 15(a)(1) of the Fair Labor Standards Act, as amended, relating to Written Assurances.