SUMMARY OF THE
TEXAS CHILD LABOR LAW

CHAPTER 51 - TEXAS LABOR CODE

General

The purpose of the Texas Child Labor Law is to ensure that a child is not employed in an occupation or manner that is detrimental to the child's safety, health, or well-being.

Except as specifically authorized by the statute, it is illegal to employ a child under 14 years of age. One of the principal exemptions in the statute allows the Texas Workforce Commission (Commission) to adopt rules which authorize the employment of children under 14 years of age as performers in a motion picture or a theatrical, radio, or television production. Pursuant to that authority, the Commission has adopted Texas Commission Rules Section §817.31, §817.32 and §817.33 which set out the procedures for authorization of work by a child actor. These rules also contain provisions designed to ensure that employment does not interfere with a child's education and does not pose a threat to the child's health, safety, or general well-being.

The Commission or its designee may, during working hours, inspect a place of business where there is good reason to believe a child is or has been employed within the last two years and collect information about the employment of children there. Knowingly or intentionally hindering such an investigation is a violation of the law.

Definitions

In this chapter:

1. "Child" means an individual under 18 years of age.
2. "Commission" means the Texas Workforce Commission
3. "Delivery of newspapers" means the distribution of newspapers on or the maintenance of a newspaper route. The term does not include direct sales of newspapers to the general public.

General Exemptions

This chapter does not apply to employment of a child:

1. employed:
   a. in a non-hazardous occupation;
   b. under the direct supervision of the child's parent or an adult having custody of the child; and
   c. in a business or enterprise owned or operated by the parent or custodian.
2. 11 years or older engaged in delivery of newspapers to the consumer;
3. participating in a school-supervised and school-administered work-study program approved by the Commission;
4. employed in agriculture during a period when the child is not legally required to be attending school;
5. employed through a rehabilitation program supervised by a county judge;
6. engaged in non-hazardous casual employment that will not endanger the safety, health, or well-being of the child and to which the parent or adult having custody of the child has consented; or

7. 16 years or older engaged in the direct sale of newspapers to the general public.

In this section, "employment in agriculture" means engaged in producing crops or livestock and includes:

1. cultivating and tilling the soil;
2. producing, cultivating, growing, and harvesting an agricultural or horticultural commodity;
3. dairying; and
4. raising livestock, bees, fur-bearing animals, or poultry.

For the purposes of general exemption No. 6, the Commission by rule may define non-hazardous casual employment that the Commission determines is dangerous to the safety, health, or well-being of a child.

Effective September 1, 2007, the state child labor law was amended by adding general exemption No. 7, which permits minors 16 or older to sell newspapers directly to the general public.

**Hours of Employment under State and Federal Law**

**Texas State Law:**
A child 14 or 15 years of age may not work more than eight hours in one day or more than 48 hours in one week. A child who is 14 or 15 years of age and is enrolled in a term of a public or private school may not work between the hours of 10 p.m. and 5 a.m. on a day that is followed by a school day or between the hours of midnight and 5 a.m. on a day that is not followed by a school day. A child who is 14 or 15 years of age and is not enrolled in summer school may not work between the hours of midnight and 5 a.m. on any day that school is recessed for the summer.

**Federal Law:**
Under the Fair Labor Standards Act (FLSA) a child 14 or 15 years of age may not work during school hours, may not work more than three hours on a school day or 18 hours during a school week, and may not work more than eight hours on a non-school day or 40 hours during a non-school week. Furthermore, a child 14 or 15 years of age may work only between 7 a.m. and 7 p.m. during the school year. Between June 1 and Labor Day, a child may work between the hours of 7 a.m. and 9 p.m.

A child 16 or 17 years of age have no restrictions on the number of hours or times of day they may work.

**Hardship Exemption**

The Commission may adopt rules for determining whether hardships exist. If, on the application of a child, the Commission determines that a hardship exists for that child, the hours restrictions do not apply to that child. Commission Rule Section §817.22 provides the procedure which must be followed in seeking a hardship waiver of the hour restrictions for a child 14- and 15-years of age.
Penalties

An offense under this Act is a Class B misdemeanor with the exception of the offense of employing a child to sell or solicit, which is a Class A misdemeanor. It is a defense to prosecution of a person employing a child who does not meet the minimum age requirement for a type of employment, that the person relied in good faith on an apparently valid certificate of age presented by the child that showed the child to meet the age requirement for that type of employment. In addition to the criminal penalty noted above, if an employer violates the provisions of this Act, the Commission may assess an administrative penalty against that employer in an amount not to exceed $10,000.

Appeals

Any violation or assessment of a penalty under this provision of the Child Labor Act may be appealed to a hearings examiner of the Texas Workforce Commission. No later than 30 days after a Commission order assessing a penalty becomes final, the employer may file a petition for judicial review of the order.

Injunctive Relief

The Attorney General may seek injunctive relief in district court against an employer who repeatedly violates the requirements established by this Act relating to the employment of children.

The Commission has adopted, by rule (TWC §817.21), the federal regulations governing the employment of 14- and 15-year olds in occupations prohibited by the U.S. Department of Labor.

Permitted Occupations for 14- and 15-Year Olds

A child who is 14 or 15 years of age may be employed in the following occupations in retail, food service, and gasoline service establishments:

1. Office and clerical work (including operation of office machines).
2. Cashiering, selling, modeling, art work, work in advertising departments, window trimming and comparative shopping.
3. Price marking and tagging by hand or by machine. Assembling orders, packing and shelving.
4. Bagging and carrying out customers' orders.
5. Errand and delivery work by foot, bicycle, and public transportation.
6. Cleanup 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.
7. 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 such work such as, but not limited to, dishwashers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders.
8. Work in connection with cars and trucks if confined to the following:
   Dispensing gasoline and oil
   Courtesy service on premises of gasoline service station
   Car cleaning, washing and polishing
   Other occupations permitted by this section
But not including work:
Involving the use of pits, racks or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.

9. 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.

**Prohibited Occupations for 14- and 15-Year Olds**

A child who is 14 or 15 years of age may NOT be employed in:

1. Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

2. Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

3. The operation of motor vehicles or service as helpers on such vehicles;

4. Public messenger service;

5. Occupations which the Secretary of Labor may, pursuant to Section 3(l) of the Fair Labor Standards Act and Reorganization Plan No. 2, issued pursuant to the Reorganization Act of 1945, find and declare to be hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being;

6. Occupations in connection with:
   (a) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;
   (b) Warehousing and storage;
   (c) Communications and public utilities;
   (d) Construction (including demolition and repair);

   Except such office (including ticket office) work, or sales work, in connection with paragraph 6(a)(b)(c) and (d) of this section as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations.

7. Work performed in or about boiler or engine rooms;

8. Work in connection with maintenance or repair of the establishment or equipment;

9. Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes;

10. Cooking:
   (a) Including the use of electric and gas grilles that entail cooking over an open flame;
   (b) Including the use of deep fryers that are not equipped with and utilize devices that automatically lower and raise the baskets into and out of oil or grease.
   (c) Including the cleaning of kitchen surfaces and non-power driven kitchen equipment - including the filtering, transporting, and dispensing of oil and grease - but only when the temperature of the surfaces, equipment, oil and grease exceeds 100 F.
11. Baking;
12. Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers, and cutters, and bakery-type mixers;
13. Work in freezers and meat coolers and all work in the preparation of meats for sale;
14. Loading or unloading goods to and from trucks, railroad cars, or conveyors;
15. All occupations in warehouses except office and clerical work

The Commission has adopted, by rule (TWC §817.23), the federal regulations governing the employment of a child 16- and 17-years of age in occupations declared hazardous by the U.S. Department of Labor.

Prohibited Occupations for 16- and 17-Year Olds
(Also prohibited for 14- and 15-year olds)

These occupations are commonly referred to as "Hazardous Occupation Orders" and include work:

1. In or about plants or establishments manufacturing or storing explosives
2. Involving the driving of motor vehicles and outside helpers
   a. on any public road or highway
   b. in or about any place where logging or sawmill operations are in progress, or
   c. in excavations
   (Under certain conditions, driving a motor vehicle for a commercial purpose is NOT considered a hazardous occupation under state or federal law.)
3. Connected with coal mining
4. Involving logging operations and sawmill operations
5. Operating or assisting to operate power-driven woodworking machines
6. Involving exposure to radioactive substances and to ionizing radiations
7. Operating or assisting to operate power-driven hoisting apparatus such as elevators, cranes, derricks, hoists, and high-lift trucks
*8. Operating or assisting to operate power-driven metal forming, punching, and shearing machines
9. In connection with mining, other than coal
*10. Operating or assisting to operate power-driven meat processing machines
11. Operating or assisting to operate power-driven bakery machines
*12. Involving the operating of power-driven paper-products machines, scrap paper balers and paper box compactors
   (Under certain conditions, loading a baler or box compactor is NOT considered a hazardous occupation under state or federal law.)
13. Manufacturing brick, tile and kindred products
*14. Operating or assisting to operate power-driven circular saws, band saws and guillotine shears

15. Wrecking, demolition and ship-breaking operations

*16. Roofing operations and work on or about a roof

*17. Connected with excavation operations

The hazardous occupation orders denoted with an asterisk (*) have apprentice or student-learner exemptions.

**Apprentice and Student Learner Exemptions**

1. Apprentice:
   a. employed in a recognized apprenticeable trade;
   b. work is incidental to training;
   c. intermittent, short, and under close journeyman supervision; and registered or under written agreement about work standards.

2. Student-learner:
   a. enrolled in authorized cooperative vocational training program; and employed under a written agreement providing that:
      1. (1) work is incidental to training;
      2. (2) work is intermittent, short, and under close supervision;
      3. (3) safety instructions are given by school and employer; and a schedule of organized and progressive work is prepared.

**Federal Child Labor Law Amendments**

There have been some important changes to the Child Labor Laws affecting Hazardous Occupation Orders No. 2, No. 12 and No. 16.

**Changes to Hazardous Occupation Order No. 2:**

No employee 16-years-old (including 14 & 15 year olds) may drive on public roadways as part of their employment.

Seventeen-year-olds may drive on public roadways as part of their employment, but **ONLY** if all the following requirements are met:

- 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 violation at the time of hire;
- 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 automobile or truck does not exceed 6,000 lbs. gross vehicle weight;
The driving may **NOT** involve:

- Towing vehicles;
- Route deliveries or sales;
- Transportation for hire of property, goods, or passengers;
- Urgent, time sensitive deliveries, such as pizza or floral delivery;
- Transporting more than three passengers, including employees of the employer;
- Driving beyond a 30-mile radius from the youth's place of employment;
- More than two trips away from the primary place of employment in any single day to deliver the employer's goods to a customer (other than urgent, time-sensitive deliveries which are prohibited);
- More than two trips away from the primary place of employment in any single day to transport passengers, other than employees of the employer; and,
- Such driving is only occasional and incidental to the 17-year-old's employment. This means that the youth may spend no more than 1/3 of the work time in any workday and no more than 20% of the work time in any workweek driving.

These requirements apply whether the youth is driving a personal or employer-owned vehicle. Employers can guard against violations of the new requirements by securing documentation from 17-year-old employees who drive as part of their job. Such documentation would include evidence of the employee's age, completion of a driver education course, clean driving record and appropriate State driver's license.

**Changes to Hazardous Occupation Order No. 12:**

Minors 16 years of age or older are permitted to load - **but not operate or unload** - certain power-driven balers and compactors, but **ONLY** if all the following requirements are met:

- The employer must ensure that the equipment meets, and continues to meet, the American National Standards Institute (ANSI) standards. ANZI Z245.5-1997 for scrap paper balers or Standard ANSI Z245.2-1997 for paper box compactors
- Prior to permitting minors 16- and 17-years of age to load materials into balers and compactors, the employer must provide a notice and post a notice on each piece of equipment that:
  1. identifies the specific ANSI standard listed above that the employer is stating that the equipment to be loaded by the young workers meets; and
  2. states that 16- and 17-year olds may only load this piece of equipment, and;
  3. states that no one under age 18 may not operate or unload this piece of equipment.
    - The equipment 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 the equipment is not in operation.
    - The equipment cannot be operated while it is being loaded.

It is the responsibility of the employer to make the initial determination that the equipment to be loaded by 16- and 17-year olds meet the appropriate ANSI standards. It is also the employer's responsibility to provide the notice and post it on each piece of equipment which is loaded by 16- or 17-year old workers.
Changes to Hazardous Occupation Order No. 16:
This order prohibits the employment of minors under 18 years of age from performing roofing occupations and on or about a roof. This includes:

- Work performed on the ground;
- Work in connection of installation, alteration, maintenance, repair or painting of a roof;
- Work in close proximity to a roof;
- Installation of telecommunications equipment, gutters, flashing, and HVAC equipment on a roof;
- Work from scaffolding or ladders in close proximity to a roof;
- The use of the roof to access other work places;
- Work in the construction of the bases of roofs, installation of roof trusses, sheathing of roofs, or erecting roofs on metal buildings.

Texas Child Labor Law Amendments
Texas state law prohibits 1) the employment of anyone under 14 years of age and unaccompanied by a parent to sell or solicit goods or services for any person other than an exempt organization or a business owned or operated by a parent, and 2) the employment of a child to sell or solicit goods or services for any person other than an exempt organization unless parental permission is granted on a form prescribed by the Commission at least seven days before employment begins.

Texas state law was amended to allow the driving of a motor-vehicle for a commercial purpose under certain conditions. Under state, but not federal law, a person may employ a child to operate a motor vehicle for a commercial purpose if the child:

1. has a valid driver's license;
2. does not need a commercial license to perform the job;
3. operates a vehicle with no more than two axles and not in excess of 15,000 pounds gross vehicle weight; and
4. performs the job:
   a. under the direct supervision of the child's parent; and
   b. for a business owned or operated by the child's parent.

Texas state law was amended to prohibit employment of a child in a sexually oriented business and to require a sexually oriented business to maintain certain photographic identification records and provides for a criminal penalty.

When both Federal and State laws apply, the law setting the more stringent standard should be observed. For information regarding the Federal child labor standards, contact your local office of the US Department of Labor Wage and Hour Division.

It should be noted that this summary is not the complete text of the Texas Child Labor Law, nor is it written in the exact language of that law. It is intended as an informal educational tool for the benefit of employers and employees in Texas.

For answers for specific questions about this law, Please contact TWC Labor Law Section at:

1-800-832-WAGE (9243); TDD 1-800-735-2989 or
Visit our website
www.twc.state.tx.us/ui/lablaw/lablaw.html