

BEFORE THE COMMISSIONER
OF THE
BUREAU OF LABOR AND INDUSTRIES

839-021-0070

Hours of Employment for Minors Under 16 Years of Age

(1) Except as otherwise provided in this rule, employment of minors under 16 years of age must be confined to the following periods:

- (a) Outside school hours;
- (b) Not more than 40 hours in any one week when school is not in session;
- (c) Not more than 18 hours in any one week when school is in session;
- (d) Not more than eight hours in any one day when school is not in session;
- (e) Not more than three hours in any one day when school is in session;
- (f) Between 7 a.m. and 7 p.m., except that during the summer (June 1 through Labor Day), the minor may work until 9:00 p.m.

(2) In the case of enrollees in work training programs conducted under Part B of Title I of the Economic Opportunity Act of 1964, there is an exception to the requirement of subsection (1)(a) of this rule if the employer has on file with the records kept pursuant to OAR 839-021-0170 an unrevoked written statement of the Regional Manpower Administrator of the U.S. Department of Labor or representative setting out the periods which the minor will work and certifying that the minor's employment confined to such periods will not interfere with the minor's health and well-being, countersigned by the principal of the school which the minor is attending with the principal's certificate that such employment will not interfere with the minor's schooling.

(3) In the case of students enrolled in a career exploration or other work experience program, there is an exception to subsection (1)(a) of this rule when:

- (a) The minor is employed as a student learner pursuant to ORS 653.070; or
- (b) The minor is enrolled in a school-supervised and school-administered work experience and career exploration program meeting the educational standards established and approved by the Oregon Department of Education.

(4) This rule does not apply when Title 29, CFR, Part 570, Subpart C, Section 570.35a would otherwise apply.

(5) Employment of minors enrolled in a program pursuant to sections (2), (3), and (4) of this rule must be confined to not more than 23 hours in any one week when school is in session and not more than three hours in any day when school is in session, any portion of which may be during school hours. Insofar as these provisions are inconsistent with the provisions of section (1) of this rule, this section will be controlling.

(6) The employment of a minor enrolled in a program pursuant to sections (2), (3), and (4) of this rule must not have the effect of displacing a worker employed in the establishment of the employer.

(7) The Wage and Hour Commission may waive the provisions of section (1)(f) of this rule and OAR 839-021-0246(4)(d) and authorize minors under 16 years of age employed by their parent(s) or person(s) standing in the place of their parent(s) to work as late as 9:00 p.m. when the commission determines that such hours of work will not be detrimental to the health, safety or education of the children so employed and the minor is supervised by the minor's parent(s) or

person(s) standing in the place of their parent(s) during the extended hours employed. No minor may be employed to work in violation of the provisions of (1)(a), (b), (c), (d), and (e) of this rule or, in the case of minors under 14 years of age, in violation of OAR 839-021-0246(4)(a), (b), and (c).

(8) Pursuant to section (7) of this rule, a parent/employer desiring to employ a minor under 16 years of age later than the times permitted in section (1)(f) of this rule or OAR 839-021-0246(4)(d) may apply in writing to the Wage and Hour Commission, c/o the Administrator of the Wage and Hour Division, Bureau of Labor and Industries, 800 N.E. Oregon St., Suite 1045, Portland, OR, 97232. The commission will investigate the employment and the facts and circumstances set out in the application. If the commission determines that the employment is suitable and will not adversely affect the well-being of the minor(s), the commission will issue a special permit to the parent/employer, setting out the terms and conditions of the permit.

839-021-0280

Operation or Assisting in the Operation of Power-Driven Farm Machinery

(1) As used in this rule, "assist(ing) in the operation of power-driven farm machinery," includes starting, stopping, adjusting, feeding or any other activity involving physical contact associated with the operation of the machinery.

(2) Minors may not be employed to operate or assist in the operation of power-driven farm machinery unless:

(a) An Employment Certificate has been issued pursuant to OAR 839-021-0220; and

(b) The minor(s) has obtained a "Certificate of Training" on tractor operation or tractor and machinery operation issued by a 4-H Extension Service Program, or an approved secondary vocational agriculture program.

(A) The employer must obtain proof that the minor has a "Certificate of Training" on the operation of tractors or tractors and machinery operation; and

(B) The employer must retain a copy of such proof for two years from the date the minor was employed.

(3) In the event that neither a 4-H Extension Service nor vocational agricultural safety training program for the "Certificate of Training," as required in section (2)(b) of this rule, is available within 35 miles of a minor's residence, a 16 or 17 year-old minor may be employed to operate or assist in the operation of power-driven farm machinery otherwise prohibited if all of the following conditions are met:

(a) The minor is 16 or 17 years of age and the employer has verified the minor's age;

(b) The employer has completed an Employment Certificate application, pursuant to OAR 839-021-0220; and

(c) The minor, the minor's parent or guardian, and the employer of the minor sign a statement on a form prescribed by the commission certifying to all of the following:

(A) The training is not available within 35 miles of the minor's residence;

(B) The employer has provided to the minor not less than eight hours of instruction, four hours of which must be "hands-on" training under the supervision of an adult experienced in the safe and proper operation of the specific equipment the minor is to use before the minor begins work including, but not limited to, training related to the normal working hazards in agriculture, the equipment's instrument panel, equipment controls, daily maintenance and safety checks, starting

and stopping the equipment, control of the equipment on different terrain, and the safe operation of hitches, power take-off and hydraulic controls, where applicable; and

(C) The employer agrees to supervise the minor continuously and closely while the minor operates the power-driven farm machinery, or, where such supervision is not feasible, agrees to check on the safety of the minor at intervals of no more than two hours during the operation of the equipment by the minor.

(4) The requirements for obtaining an Employment Certificate and a Certificate of Training do not apply to a minor employed by their parent(s) or person standing in the place of their parent as provided by OAR 839-021-0297.

839-021-0290

Hours of Work of Minors Under 16 Years of Age in Agriculture

(1) Minors under 16 years of age may not be employed to work in agriculture while the school they attend is in session. As used in this rule, school is in session during the hours set by the school district in which the minor resides while employed in agriculture in accordance with the official school calendar of the district. A school week is any week in which school is in session for at least three days.

(2) The hours of work by minors in agriculture under 16 years of age may not exceed:

(a) Three hours a day on school days;

(b) Ten hours a day on non-school days;

(c) 25 hours a week during school weeks;

(d) From the last day of the most recently completed school year of the school district in which the minor resides while employed in agriculture to the first day of the school year immediately following the most recently completed school year of the district in which the minor resides while employed in agriculture:

(A) Ten hours per day; and

(B) 60 hours per week.

(e) Six days in any week at any time.

(3) Notwithstanding section (2) of this rule, when a minor under 16 years of age is employed in agriculture to operate or assist in the operation of power-driven farm machinery or when such minor is employed to ride in or on power-driven farm machinery as provided in OAR 839-021-0276 to 839-021-0285, the maximum number of hours the minor may work may not exceed:

(a) Three hours a day on school days;

(b) Eight hours a day on non-school days;

(c) Eighteen hours a week during school weeks;

(d) From the last day of the most recently completed school year of the school district in which the minor resides while employed in agriculture to the first day of the school year immediately following the most recently completed school year of the district in which the minor resides while employed in agriculture:

(A) Ten hours per day, 60 hours a week during the harvest season;

(B) Ten hours per day, 44 hours per week outside the harvest season;

(C) A greater number of weekly hours may be permitted when worked outside the harvest season pursuant to a Special Emergency Overtime Permit issued by the commission. However, even though a permit may be issued, the maximum number of hours worked in a week may not exceed 60.

(e) Six days in any week at any time.

(4) Notwithstanding sections (2) and (3) of this rule, the Commissioner may issue special permits to employers for the employment of minors under 16 years of age in agriculture for more than the maximum number of hours provided in this rule when the commissioner determines that such hours of work will not be detrimental to the health and safety of the children so employed.

(a) An employer desiring to employ a minor in agriculture for more than the maximum number of hours provided in this rule may apply in writing to the Administrator of the Wage and Hour Division, Bureau of Labor and Industries, 800 N.E. Oregon St., Suite 1045, Portland, OR, 97232.

(b) The administrator will investigate the employment and the facts and circumstances set out in the application. If the administrator determines that the character of the employment is suitable and that the employment will not adversely affect the physical and moral well-being of the minor(s), the administrator will issue a Special Emergency Overtime Permit to the employer, setting out the terms and conditions of the permit and the period of time for which it will be effective.

(5) Nothing in this rule should be construed to regulate the daily starting and quitting times on minors under 16 who are employed in agriculture.

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