

Chapter Ind 70

CHILD LABOR

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History: Chapter Ind 70 as it existed on February 28, 1974 was repealed and a new chapter Ind 70 was created, Register, February, 1974, effective March 1, 1974.

Ind 70.001 Child labor permits. Section 103.71, Stats., permits the issuance of permits to minors 14 years of age and over, minors 12 and over in school lunch programs, in street trades, caddies on golf courses and under the direct supervision of the minor's parent or guardian in connection with the parent's or guardian's business, trade or profession.

History: Cr. Register, February, 1974, No. 218, eff. 3-1-74; am. (intro.) and r. (1) and (2), Register, September, 1980, No. 297, eff. 10-1-80; am. Register, December, 1991, No. 432, eff. 1-1-92.

Ind 70.002 Requirements to obtain a child labor permit. (1) Child labor permits may be obtained from any authorized permit officer throughout the state when the following is presented to the permit officer:

(1) Proof of age as provided in s. Ind 70.02.

(2) Letter from the employer stating the intent to employ the minor along with the job duties, hours of work and time of day the minor will be working.

(3) Letter from the minor's parent, guardian or court-ordered foster parent while the minor is under their care and supervision consenting to the employment. As an alternative, the parent, guardian or foster parent may countersign the employer's letter.

(4) The minor's social security card.

(5) Payment from the employer of the permit fee. If the minor advances the fee, the employer shall reimburse the minor not later than the first pay check.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92.

Ind 70.003 Child labor permit form. (1) The permits shall be issued upon blanks furnished by the department and copies shall be distributed as follows:

(a) Original to the employer.

(b) Copy 2 to the minor.

(c) Copy 3 to the department.

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(d) Copy 4 retained by the permit officer.

(e) Copy 5 to the school district the minor attends.

(2) At the end of each month, the issuing office shall forward a copy of each permit issued to the public school district the minor attends or to the private or parochial school the minor attends. This requirement shall not apply for summer employment or for out-of-state students.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92.

Ind 70.01 Age certificate. (1) **AGE LIMIT.** Age certificates may be issued to persons 18 years of age and over.

(2) **CHILD LABOR PERMIT.** Every child labor permit issued under the authority of s. 103.70, Stats., shall, also, constitute a certificate of age under s. 103.75, Stats., as long as the child named in such permit continues in the employ of the employer named on the permit.

(3) **APPRENTICES.** An apprenticeship indenture which has been approved by the department of industry, labor and human relations shall constitute, under s. 103.75, Stats., a certificate of age of the minor signing the contract.

(4) **PROOF OF AGE.** Persons designated by the department of industry, labor and human relations to issue age certificates under the authority of the statutes shall require the applicant to present proof of age as provided in s. Ind 70.02.

(5) **METHOD OF ISSUING.** (a) Age certificates shall be filled out in ink or by typewriter on blanks furnished by the department of industry, labor and human relations and shall be signed by the person issuing same.

(b) The applicant shall be required to affix their signature in ink to the age certificate and copies thereof in the presence of the person issuing the certificate.

(c) The age certificate shall be made out in triplicate. The original copy shall be delivered to the applicant. One copy shall be attached to the record of age and filed with the issuing officer, and one copy shall be sent to the department of industry, labor and human relations at Madison.

History: Cr. Register, February, 1974, No. 218, eff. 3-1-74.

Ind 70.02 Age proof for labor permits and age certificates. The department will accept the items in the order herein designated as evidence of age under the child labor law, s. 103.73 (1) (a), Stats., street trades law, s. 103.25, Stats., and the certificate of age law, s. 103.75, Stats.

(1) **BIRTH CERTIFICATE.** A birth certificate issued by a registrar of vital statistics or other officer charged with the duty of recording births or a certified record of birth from the hospital in which the birth occurred.

(2) **BAPTISMAL CERTIFICATE.** Record must give the minor's name, date of birth, date and place of baptism, name of church and signature of officiating or issuing clergyman. This record may be taken in lieu of a birth record providing the minor was baptized 10 or more years ago. If birth is not recorded, a baptismal certificate of any date will be accepted.

(3) **OTHER PROOF.** Only in cases where the above proofs of age are not obtainable, may the following be used:

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(a) *Government record and insurance policy.* Other evidence satisfactory to the department of industry, labor and human relations such as government passport of certificate of arrival in the United States issued by the United States immigration officers, showing age of minor or a life insurance policy, provided such insurance policy has been in existence at least one year prior to the time it was offered in evidence and is supported by a school record of age.

(b) *Other proofs of age.* School age preferably from the first school attended, with a parent's, guardian's or custodian's statement of age and physician's statement of physical age.

(c) *Proof of age through court.* When none of the above proofs of age are obtainable, proof of age may be established through county court as provided in s. 889.28, Stats.

(4) **PROOF OF IDENTITY IF NAME CHANGE.** A marriage license or other certificate or legal document shall be required in addition to the proof of age used.

History: Cr. Register, February, 1974, No. 218, eff. 3-1-74.

Ind 70.03 Exemptions. Prohibited employment restrictions shall not apply to minors 14 through 17 years of age who are apprentices, high school graduates, and student learners, when employed under the following conditions:

(1) **APPRENTICES.** Minors indentured under the provisions of s. 106.01, Stats., shall not be subject to the law or rules concerning prohibited employment for minors insofar as such minors at the time of injury are performing service within the provisions of contracts of apprentice indenture approved by the department of industry, labor and human relations.

(2) **HIGH SCHOOL GRADUATES.** High school graduates shall not be subject to the law or rules concerning prohibited employment for minors except where other federal, state, or local regulations apply. This rule does not exempt high school graduates from the work permit requirements.

(3) **STUDENT LEARNERS.** Student learners shall not be subject to the law or rules concerning prohibited employments for minors except as listed in par. (e) insofar as student learners at the time of injury are performing service within a bona fide school-work training program sponsored by an accredited school and authorized and approved by the state department of public instruction, technical college system board or the departments youth apprenticeship program.

(a) For the purpose of this order, a student learner is defined as a student of an accredited school who is employed on a part-time basis, under a bona fide written school-work training program agreement, to obtain both scholastic credit and employment training.

(b) Each school-work training agreement shall contain the name of the student learner, be signed by the parent, employer, and the school principal, shall be kept on file by both the school and the employer and must provide among other things:

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1. That the work of the student learner in the occupations declared hazardous are incidental to his training, and shall be intermittent and only for short periods of time.

2. That such work shall be under the direct and close supervision of a qualified and experienced person.

3. That safety instructions will be given by the school and correlated by the employer with on-the-job training.

4. A schedule of organized and progressive work processes to be performed on the job.

(c) Child labor permits must be obtained for each student learner.

(d) This exemption for the employment of student learners may be revoked by the department in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder.

(e) Student learners may be employed in the prohibited occupations as provided in s. Ind 70.06 except the following:

1. Ind 70.06 (2) Bakery machines
2. Ind 70.06 (3) Brick, tile and kindred products
3. Ind 70.06 (4) Coal mine
4. Ind 70.06 (6) Explosives
5. Ind 70.06 (7) Hoists and hoisting apparatus
6. Ind 70.06 (10) Logging, sawmill, lath mill, shingle mill or cooperage stock mill
7. Ind 70.06 (12) Mining other than coal
8. Ind 70.07 (13) Motor vehicle driver and outside helper
9. Ind 70.06 (15) Radioactive substances and ionizing radiations
10. Ind 70.06 (19) Strikes and lockouts
11. Ind 70.06 (21) Wrecking, demolition and shipbreaking
12. Ind 70.06 (25) Gun clubs; as skeet and trap loaders
13. Ind 70.06 (27) Manufacturing, mining, or processing occupations

History: Cr. Register, February, 1974, No. 218, eff. 3-1-74; am. (intro.) and (3) (intro.), r. (3) (e) 1, 7, 14 and 17, renum. (3) (e) 2 to 6, 8 to 13, 15 and 16 to be (3) (e) 1 to 13; Register, September, 1980, No. 297, eff. 10-1-80; am. (3) (intro.) and (e) 13, Register, April, 1995, No. 472, eff. 5-1-95.

Ind 70.04 Minimum ages in various employments. Section 103.67, Stats., is modified as provided under s. 103.66, Stats., regulating minimum ages of minors for various employments. The following minimum ages shall be deemed necessary for the protection of the minor from employments dangerous or prejudicial to their life, health, safety, or welfare.

(1) **GENERAL EMPLOYMENT.** No minor shall be employed or permitted to work in any gainful occupation during the hours he is required to attend school as defined in s. 118.15, Stats., except for those students par- Register, April, 1995, No. 472

ticipating in an approved high school or vocational school work training or work experience program for which proper scholastic credit is given.

(2) **SPECIAL EMPLOYMENTS.** No minor under 14 years of age shall be employed, or permitted to work in any gainful occupation at any time; except:

(a) *Agricultural pursuits.* Minors 12 years of age or over may be employed in agricultural pursuits as provided in s. 103.67, Stats.

(b) *Domestic employment.* Minors 12 years of age or over may be employed in or around a home in work usual to the home of the employer, and not in connection with or a part of the business, trade, or profession of the employer; such as caring for children, mowing lawns, raking leaves, shoveling snow or other similar odd jobs. No work permit is required.

(c) *Public exhibitions.* Minors under 18 years of age may be employed in public exhibition as provided in s. 103.78, Stats.

(d) *Street trades.* Minors 12 years of age or over may be employed in street trades as provided in ss. 103.21 to 103.31, Stats.

(e) *Caddies on golf courses.* Minors 12 years of age and over may be employed as caddies on golf courses.

(f) *School lunch programs.* Minors 12 years of age and over may be employed in the school lunch programs of the schools which they attend.

(g) *Parents or guardians employing their own children.* Minors 12 years of age or older may be employed under the direct supervision of the minor's parent or guardian in connection with the parent's or guardian's business, trade or profession, provided they can legally be employed at age 14 in the same job.

History: Cr. Register, February, 1974, No. 218, eff. 3-1-74; cr. (2) (g), Register, April, 1985, No. 352, eff. 5-1-85.

Ind 70.05 Hours of labor of minors. Section 103.68, Stats., is modified as provided under s. 103.66, Stats., regulating the hours of employment of minors in gainful occupations other than domestic service. The following schedule of hours shall be deemed to be necessary to protect minors from employment dangerous or prejudicial to their life, health, safety, or welfare.

(1) **HOURS OF LABOR.** (a) Minors 12 and 13 years of age may be employed in agricultural pursuits, domestic employment, school lunch programs, caddies on a golf course and for parent or guardian employing their own children not more than 6 days per week, except in street trades; 4 hours per day, except 8 hours per day on the last school day of the week and other non-school days, 18 hours per calendar week, while their respective school is in session, or 24 hours per calendar week while their respective school is in session less than 5 days per week, 8 hours per day or 40 hours per calendar week during the weeks they are not required to attend school on any day of the calendar week.

(b) Minors 14 and 15 years of age may be employed not more than 6 days per week, except in street trades and agriculture; 4 hours per day except 8 hours per day on the last school day of the week and other non-school days, 18 hours per calendar week, while their respective school is

in session, or 24 hours per calendar week while their respective school is in session less than 5 days per week, 8 hours per day or 40 hours per calendar week during the weeks they are not required to attend school on any day of the calendar week.

(c) Minors 16 and 17 years of age may be employed not more than 6 days per week, except in street trades, agriculture, and canning and freezing establishments, and as station captains or delivery clerk incidental to street trades; 5 hours per day except 8 hours per day on the last school day of the week and other non-school days, 26 hours per calendar week while their respective school is in session, or 32 hours per calendar week while their respective school is in session less than 5 days per week.

(d) Minors 16 and 17 may be employed in excess of the permitted hours of labor per day and per week in weeks when they are not required to attend school provided the employer pays overtime as provided under the employer's pay plan to other workers, but in no case shall the payment be less than time and one-half their regular rate of pay for all overtime hours worked over 10 hours per day or over 40 hours per week whichever is greater, but in no case may minors 16 and 17 years of age be employed more than 50 hours per week. This exception shall not be interpreted to permit a minor to work more than 8 hours per day on Saturday, Sunday or other days during the week when the minor is required to attend school on any day of that week.

(e) Florists may employ minors 16 and 17 years of age in excess of the permitted hours of labor per day and per week on a voluntary basis during the 3-day period prior to Valentine's Day, Easter, Mother's Day, Memorial Day, and Christmas. During these peak periods, time and one-half the regular rate of pay must be paid for all overtime hours worked per day or per week whichever is greater as follows:

1. To minors 16 and 17 years of age working over 8 hours a day, 40 hours a week during the hours they are not required to attend school when their respective school is in session.

2. This does not exempt florists employing minors under this order from complying with the time-of-day restriction specified in sub. (2).

(f) Minors 14 through 17 years of age may be employed in agricultural pursuits in excess of the permitted hours of labor per week during peak periods. During these peak periods, time and one-half the regular rate of pay must be paid for all over-time hours worked over 50 hours per week. Minors 14 through 17 years of age may work over the permitted hours of labor of 50 hours a week during the hours they are not required to attend school when their school is in session.

(g) In court ordered restitution or community services programs, minors 12 or 13 years of age may be employed or perform any duties under circumstances in which a minor 14 or 15 years of age is permitted to be employed or permitted to work as provided under ss. Ind 70.05 and 70.06.

Note: See ss. 48.34 (5), (6) and (9) (a), Stats.

(h) Hours worked as part of a work experience program during school hours will not count as part of the total permitted hours of work per day or per week.

(2) **TIME OF DAY RESTRICTIONS.** (a) Minors 12 and 13 years of age may be employed in agricultural pursuits, domestic employment, school lunch programs, caddies on a golf course and for parents or guardians employing their own children not before 7:00 a.m. on any day, nor after 8:00 p.m. on days preceding school days and not later than 9:30 p.m. on days not preceding school days. Except in agriculture, they may start at 5:00 a.m.

(b) Minors 14 through 15 years of age may not be employed before 7:00 a.m. on any day, nor after 8:00 p.m. on days preceding school days and not later than 11:00 p.m. on days not preceding school days, except in agriculture they may start at 5:00 a.m.

(c) Minors 16 and 17 years of age may not be employed before 7:00 a.m. on school days nor before 5:00 a.m. on non-school days, nor after 11:00 p.m. on days preceding school days, nor after 12:30 a.m. on days not preceding school days except that in agriculture they may start at 5:00 a.m. During non-school weeks, the time of day is not regulated except between the hours of 12:30 a.m. and 5:00 a.m. they shall be under direct supervision and they shall receive at least 8 consecutive hours of rest between the ending of work and the beginning of work the next day, except in agriculture adult supervision is not required. This paragraph shall not apply to minors employed in street trades nor as station captains or delivery clerks incidental to street trades.

(d) Minors may not be employed during the hours they are required to attend school as defined in s. 118.15, Stats., nor contrary to local curfew ordinances establishing an earlier restriction.

(3) **MEAL PERIODS.** At least 30 minutes shall be allowed for each meal period reasonably close to the usual meal period time, namely 6:00 a.m.; 12:00 noon; 6:00 p.m.; 12:00 midnight or at such other times as deemed reasonable by the department. In no case shall a minor be employed or permitted to work more than 6 consecutive hours without a meal period.

(4) **HIGH SCHOOL GRADUATES OR OTHER MINORS WHO ARE EMANCIPATED, LIVING INDEPENDENTLY, HEAD OF HOUSEHOLD, ENROLLED IN A GENERAL EQUIVALENT DIPLOMA PROGRAM AT A VOCATIONAL OR TECHNICAL COLLEGE OR ENROLLED IN HOME SCHOOL.** (a) Minors 16 and 17 years of age, who are high school graduates may be employed the same daily and weekly hours and time of day as adults.

(b) Minors 16 and 17 years of age, who are emancipated, living independently, head of household or enrolled in a general equivalent diploma program at a vocational or technical college may work up to 40 hours per week during the weeks public schools are in session and up to 50 hours per week during non-school weeks. The daily hour limits and time of day restrictions do not apply.

(c) Minors 16 and 17 years of age, who are enrolled in home school may work up to 26 hours per calendar week during the weeks the public schools are in session or 32 hours per calendar week if the public schools are in session less than 5 days per week and up to 50 hours per calendar week during non-school weeks. The daily hour limits and time of day restrictions do not apply.

(5) "Day" means a calendar day.

(6) "Week" means a calendar week or a regular reoccurring period of 168 hours in the form of 7 consecutive calendar days.

History: Cr. Register, February, 1974, No. 218, eff. 3-1-74; am. (1) (c) and (2) (a) and (b), r. (1) (e) 3. a. to e., renum. (1) (e) 3. f. to j. to be 3. a. to e., Register, September, 1980, No. 297, eff. 10-1-80; am. (1) (a) and (b), cr. (5) and (6), Register, April, 1983, No. 328, eff. 5-1-83; am. (1) (e), Register, April, 1986, No. 352, eff. 5-1-85; r. (1) (a) and (b), renum. (1) (c) to (e), (2) (a) to (c) to be (1) (d) to (f), (2) (b) to (d) and am. (1) (d), (f) and (2) (b) and (c), cr. (1) (a) to (c), (g) and (h), (2) (a), am. (5) and (6), Register, December, 1991, No. 432, eff. 1-1-92; am. (1) (a), (b), (c), (e) 1., (2) (c) and (4) and cr. (4) (b) and (c), Register, April, 1995, No. 472, eff. 5-1-95.

Ind 70.06 Minimum age for hazardous employment. The employments and places of employment designated herein shall be deemed to be dangerous or prejudicial to the life, health, safety, and/or welfare of minors under the ages specified, and their employment may be dangerous or prejudicial to the life, health, safety and/or welfare of other employes or frequenters and no employer shall employ or permit such minors to work in such employments.

Note: It is the intention of the department that the occupations in subs. (1) to (21) are prohibited to all minors.

(1) **ADULT BOOKSTORES.** (a) *Finding and declaration of fact.* All occupations in an adult bookstore are hazardous for employment or detrimental to their health or well-being.

(1g) **AMUSEMENT PARKS, SKI HILLS, STREET CARNIVALS AND TRAVELING SHOWS.** (a) *Finding and declaration of fact.* The following occupations involved in the operation of amusement parks, ski hills, street carnivals and traveling shows are particularly hazardous.

1. The occupations involving the operating, assisting to operate, erection or dismantling, setting up, adjusting, repairing, oiling or cleaning of any rides or machinery, and the loading or unloading of passengers.

(1r) **ASBESTOS, CHRYSOTILE, CROCIDOLITE, AMOSITE, TREMOLITE, ANTHOPHYLLITE AND ACTINOLITE.** (a) *Finding and declaration of fact.* All occupations or duties relating to exposure to asbestos, chrysotile, crocidolite, amosite, tremolite, anthophyllite and actinolite.

Note: See chs. ILHR 32, HSS 155 and 159.

(2) **BAKERY MACHINES.** (Also see Federal Hazardous Occupations Order No. 11 Section 1500.62.) (a) *Finding and declaration of fact.* The following occupations involved in the operation of power-driven bakery machines are particularly hazardous:

1. The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; doughbrake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

2. The occupation of setting up or adjusting a cookie or cracker machine.

(2m) **BINGO.** (a) *Finding and declaration of fact.* All occupations involving conducting or assisting in the operation of the bingo game.

Note: See s. 163.5 1 (13) (B) ss.

(3) **BRICK, TILE AND KINDRED PRODUCTS** (Also see Federal Hazardous Occupations Order No. 13 Section 1500.64.) (a) *Finding and declaration of fact.* Register, April, 1995, No. 472

of fact. The following occupations involved in the manufacture of clay construction products and of silica refractory products are particularly hazardous.

1. All work in or about establishments in which clay construction products are manufactured, except work in storage and shipping; work in offices, laboratories, and storerooms; and work in the drying departments of plants manufacturing sewer pipe.

2. All work in or about establishments in which silica brick or other silica refractories are manufactured, except work in offices.

3. Nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other hazardous occupations section.

(b) *Definitions.* 1. The term "clay construction products" shall mean the following clay products: Brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney

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tion. If the department determines that compliance with this section is unjust or unreasonable based on existing circumstances, a waiver or modification may be granted if it is not dangerous or prejudicial to the life, health, safety or welfare of the employees.

History: Cr. Register, February, 1974, No. 218, eff. 3-1-74; emerg. am. (1), (2) and (6), eff. 7-7-80; emerg. am. (1), eff. 7-26-80; am. (1) (a) and (2), r. (1) (b), renum. (1) (c) to be (1) (b) and cr. (6), Register, September, 1980, No. 297, eff. 10-1-80.

Ind 70.13 Higher standards. Nothing in ss. Ind 70.01 to 70.13 shall authorize noncompliance with any federal or state law, regulation, or municipal ordinance establishing a higher standard. If more than one standard within this Administrative Code applies to a single activity, the higher standard shall be applicable.

History: Cr. Register, February, 1974, No. 218, eff. 3-1-74.

Ind 70.14 Permanent records to be kept by the employer. (1) Every employer shall make and keep for at least 3 years payroll or other records for each of their employees which contain:

- (a) Name and address.
 - (b) Date of birth.
 - (c) Date of entering and leaving employment.
 - (d) Time of beginning and ending of work each day.
 - (e) Time of beginning and ending of meal periods. When employe's meal periods are required or when such meal periods are to be deducted from work time, this requirement shall not apply when work is of such a nature that production or business activity ceases on a regularly scheduled basis.
 - (f) Total number of hours worked per day and per week.
 - (g) Rate of pay and wages paid each payroll period.
 - (h) The amount of and reason for each deduction from the wages earned.
 - (i) Output of employe, if paid on other than time basis.
- (2) The required records or a duplicate copy thereof shall be kept safe and accessible at the place of employment or business at which the employe is employed, or at one or more established central record keeping offices in the state of Wisconsin.
- (3) The required records shall be made available for inspection and transcription by a duly authorized deputy of the department during the business hours generally observed by the office at which they are kept or in the community generally.

History: Cr. Register, April, 1983, No. 328, eff. 5-1-83.

Ind 70.15 Posting of order. A summary of the provisions of this chapter shall be posted in a conspicuous place in all places of employment where minors are employed or permitted to work, except domestic and agricultural employments, on a form prescribed by the department.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92.

Ind 70.16 Revocation or suspension of permits. (1) The department may revoke or suspend any permit whenever the permit has been improperly or illegally issued, or the physical, moral welfare or the best interests of the minor would be served by revocation or suspension.

(2) The department may revoke or suspend any permit if requested in writing by the school principal or the minor's parent or guardian who has legal custody of the minor or the court-ordered foster parent while the minor is under their care and supervision. The requesting party shall demonstrate some attempt has taken place to resolve the work problem between the minor, school, parent or guardian and employer before the request for revocation or suspension is made to the department.

History: Cr. Register, December, 1991, No. 432, eff. 1-1-92; am. (1) and (2), Register, April, 1995, No. 472, eff. 5-1-95.