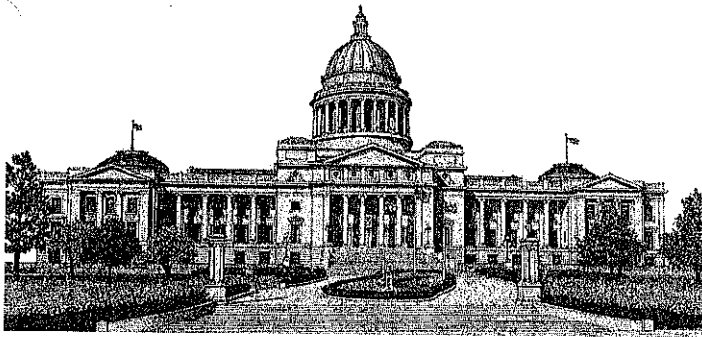


# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Department of Labor

Department Labor Standards Division

Contact Denise P. Oxley E-mail denise.oxley@arkansas.gov Phone (501)682-4502

Statutory Authority for Promulgating Rules Ark- Code Ann. 11-6-107(b)(1) and 11-6-111(b)(2).

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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Denise P. Oxley denise.oxley@arkansas.gov

Dec. 19, 2019

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

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Phone Number

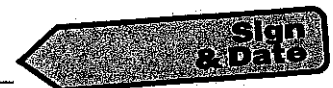
E-mail Address

Director of Labor, State of Arkansas

Title

December 19, 2019

Date



**ADMINISTRATIVE RULES RELATING TO CHILD LABOR  
LABOR STANDARDS DIVISION,  
ARKANSAS DEPARTMENT OF LABOR**

Rules effective as of  
January 1, 2019

**Arkansas Department of Labor  
Labor Standards Division  
10421 W. Markham Street  
Little Rock, Arkansas 72205  
(501) 682-4534  
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## **010.14-300 Child Labor Administrative Rules**

### **GENERAL**

#### **010.14-300 Definitions**

1. "Child" or "children" means any person under the age of seventeen (17) years, unless more narrowly defined within the context of a specific rule.
2. "Department" means the Arkansas Department of Labor.
3. "Director" means the Director of the Arkansas Department of Labor.
4. "Division" means the Labor Standards Division of the Arkansas Department of Labor.
5. "Employ" includes to suffer or permit to work.
6. "FLSA" means the federal Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq.
7. "Non-School Days" means days that school is not in session in the district where a child resides.
8. "Remunerative Occupation" means any occupation in which compensation for services is made, anticipated, or required by contract or by the FLSA or Ark. Code Ann. §§ 11-4-201 et seq.
9. "School Vacation" means any period, other than a weekend, in which school is not in session in the district where a child resides. This includes summer break, Christmas break, and spring break.

#### **010.14-301 Minimum Age Standards**

(a) No child sixteen (16) years of age shall be subject to these rules if:

- (1) The child is a graduate of any high school, vocational school or technical school;
- or
- (2) The child is married or is a parent.

(b) No child under the age of fourteen (14) years shall be employed or permitted to work in any remunerative occupation, except as follows:

- (1) During school vacation, children under fourteen (14) years may be employed by their parents or guardians in occupations owned or controlled by them;
- (2)(A) A child under the age of fourteen (14) years may be employed or may enter into contracts upon written approval of the parent or guardian of the minor to buy, sell, and deliver and to collect for newspapers during the school term or during vacation, if the child is attending school, as required by law, and does not engage in the employment or activity except at times when his presence is not required at school.

(B) The provisions of Rule 010.14-301(a)(2)(A) shall be applicable only where the provision is made by the employer or newspaper company contractor to provide insurance or indemnity for injury to or death of the minor arising out of bodily injury caused by an accident

when the accident hazard arises while the minor is on the business of the employer or performing the activities set out in the contract.

(C) The schedule of benefits under this program of insurance or indemnity shall provide at least ten thousand dollars (\$10,000) for accidental death of the minor, and the sum shall be reasonably and equitably prorated for dismemberment of the minor. The insurance of indemnity shall further provide blanket medical coverage for all hospital and medical expenses up to five thousand dollars (\$5,000) resulting from an accident. This hospital and medical expense protection shall be excess insurance coverage or indemnity over and above any other collectable insurance.

(3)(A) A child under the age of fourteen (14) years may be employed or may enter into contracts, upon written approval of the parent or guardian of the minor, to serve as and perform the duties of a "batboy" or "batgirl", for a professional baseball club, during the school term, or during vacation, if the child is attending school, as required by law, and does not engage in the employment or activity except at times when his presence is not required at school.

(B) The provisions of 010.14-301(a)(3)(A) shall be applicable only where the provision is made by the employer or professional baseball club to provide insurance or indemnity for injury to or death of the minor arising out of bodily injury caused by an accident when the accident hazard arises while the minor is on the business of the employer or performing the activities set out in the contract.

(C) No child shall be employed or permitted to work pursuant to the provisions of Rule 010.14-301(a)(3)(A) for more than ten (10) hours in any day or after 11:00 p.m. on nights preceding school days or after 1:00 a.m. on nights preceding non-school days.

(4) A child under the age of fourteen (14) years may be employed in the entertainment industry provided such employment is in compliance with the provisions of Ark. Code Ann. §§ 11-12-101 through -105 and Rules 010.14-311-through 010.14-316 herein.

(c) No child under the age of sixteen (16) years shall be employed or permitted to work in certain enumerated occupations prohibited by Ark. Code Ann. §§ 11-6-105 and 107 or determined to be hazardous by the Director. *See* Rules 010.14-306 through 010.14-309 herein.

(d) No child under the age of sixteen (16) years shall be employed or permitted to work without an employment certificate or entertainment work permit issued and maintained pursuant to the provisions of Ark. Code Ann. §§11-6-109, and 11-12-104 and Rules 010.14-302-010.14-305 and 010.14-312 herein, except:

- (1) A child employed as a newspaper carrier pursuant to Rule 010.14-301 (a)(2); and
- (2) A child employed as a "batboy" or "batgirl" pursuant to Rule 010.14-301(a)(3).

(e) No person under the age of twenty-one (21) years shall operate any taxicab or bus service for hire, or otherwise, in a city of the first class or to drive a bus or taxicab, as an employee, partner, or otherwise, for another. Ark. Code Ann. § 14-57-402.

## **EMPLOYMENT CERTIFICATES**

### **010.14-302 General**

(a) No child under sixteen (16) years shall be employed or permitted to work unless the child first obtains an employment certificate issued by the Director. For children employed in the entertainment industry, see Rules 010.14-311 through 010.14-316 herein.

(b) A child who resides in homes for dependent children may perform domestic activities without being considered an employee. Such activities include personal care, maintenance of living quarters, work around the residence or its farms and other activities normally performed by children when living at home and under direct parental control.

(c) All children employed in interstate commerce or in the production of good for interstate commerce, or employed in any enterprise engaged in interstate commerce or the production of goods for interstate commerce, are subject to the child labor provisions of the federal Fair Labor Standards Act, (FLSA) 29 U.S.C. §§ 201 et seq. Establishments or individuals so covered by the FLSA are subject to all the rules this chapter relating to child labor, including the issuance, maintenance, and revocation of employment certificates.

(d) An employment certificate is valid only for the employer specified on the certificate. A new certificate must be obtained for each new employer. A certificate remains valid for a child who terminates employment but then resumes work at the same place of employment.

(e) The provisions of rules 010.14-302 through 010.14-305 do not apply to children employed or permitted to work as newspaper carriers pursuant to Rule 010.14-301(a)(2) or as "batboys" or "batgirls" pursuant to Rule 010.14-301(a)(3).

### **010.14-303 Application for Employment Certificate**

(a) Application for an employment certificate shall be made on a form provided and approved by the Department.

(b) The applicant for an employment certificate must provide proof of age by means of one of the following:

- (1) A birth certificate;
- (2) Record of Baptism or Confirmation;
- (3) Bible record;
- (4) Passport or Certificate of Arrival in the United States;
- (5) Insurance policy at least one (1) year old;
- (6) School records; or
- (7) Any state driver's license or learner's permit.

(c) The application for an employment certificate will require submission of the

following information:

- (1) Child's name, address, telephone number, sex, age and birthdate;
- (2) Employer's name, address and telephone number;
- (3) A signed statement from the employer verifying the intention to employ, describing the work to be performed, and listing the daily and weekly hours of employment; and
- (4) The signature of a parent or guardian consenting to the issuance of the employment certificate.

#### **010.14-304 Review, Issuance and Maintenance of Certificates**

(a) The Labor Standards Division shall review each application for an employment certificate and shall refuse to issue a certificate for cause.

(1) No certificate shall be issued where the proposed employment does not comply with all statutory requirements and prohibitions, and all rules promulgated thereunder.

(2) No certificate shall be issued to a youth or an establishment required to comply with or subject to regulation of child labor under the FLSA if the proposed employment will be in violation of the FLSA and all rules promulgated thereunder.

(b) The Labor Standards Division shall issue each employment certificate in duplicate. One copy shall be maintained by the Department for a period of three (3) years. One copy shall be mailed or delivered to the employer.

(c) No employer shall employ a child until the employer has received his copy of the employment certificate. The employer shall maintain the certificate on record where it is readily accessible to the Arkansas Department of Labor, the Arkansas Department of Education, and local school officials. The employer shall maintain the certificate on record so long as the child is employed thereunder and for a period of three (3) years after the employment terminates.

(d) If the Labor Standards Division refuses to issue or denies an employment certificate, it shall notify the child and employer of the reason(s) for such a refusal in writing. The employer or child may request an administrative hearing on such refusal or denial within fifteen (15) days of receipt of such notice. Procedures for such administrative reviews shall conform to those for hearings in contested cases involving civil money penalties pursuant to Rule 010.14-324.

#### **010.14-305 Revocation**

(a) The Labor Standards Division may revoke an employment certificate for cause. The Division shall notify the child and the employer that the certificate is being revoked and shall specify the reasons for the revocation.

(b) If a certificate is revoked, the employer shall cease to employ the child and return the certificate to the Department.

(c) The employer or child may obtain an administrative review of the revocation by making a written request for a hearing in the same manner as provided in Rule 010.14-304(d) herein. Even if a request for a hearing is filed, the certificate must be returned and the employment must cease pursuant to paragraph (b) of this Rule.

## **HAZARDOUS OCCUPATIONS**

### **010.14-306 Occupations**

(a) Ark. Code Ann. §§ 11-6-105 and 11-6-107 provide that children under sixteen (16) years shall not be employed and shall not be permitted to work in certain enumerated occupations found by the General Assembly to be hazardous, specifically:

- (1) Adjusting any belt to any machinery;
- (2) Sewing or lacing machine belts in any workshop or factory;
- (3) Oiling, wiping, or cleaning machinery or assisting therein;
- (4) Operating or assisting in operating any of the following machines:
  - (A) Circular or band saws;
  - (B) Wood shapers;
  - (C) Wood jointers;
  - (D) Planers;
  - (E) Sandpaper of wood polishing machinery;
  - (F) Wood turning or boring machinery;
  - (G) Picker machines or machines used in picking wool;
  - (H) Carding machines;
  - (I) Job or cylinder printing presses operated by power other than foot power;
  - (J) Boring or drill presses;
  - (K) Stamping machines used in metal or in paper or leather manufacturing;
  - (L) Metal or paper cutting machines;
  - (M) Corner staying machines in paper box factories;
  - (N) Steam boilers;
  - (O) Dough brakes or cracker machinery of any description;
  - (P) Wire or iron straightening or drawing machinery;
  - (Q) Rolling mill machinery;
  - (R) Washing, grinding, or mixing machinery;
  - (S) Laundering machinery;
- (5) In proximity to any hazardous or unguarded belt, machinery, or gearing;
- (6) Upon any railroad, whether steam, electric, or hydraulic; or,
- (7) In any saloon, resort, or bar where intoxicating liquor of any kind is sold or dispensed.

(b) The following occupations are determined by the Director to be sufficiently dangerous to the life or limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom:

(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 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 paragraphs (5)(A),(B),(C), and (D) of this Rule 010.14-306(b), 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;

(6) Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components except where such work is performed in a "nonexplosive area" as defined in Rule 010.14-306(b)(6)(C).

(A) The term "plant or establishment manufacturing or storing explosives or articles containing explosive component" means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(B) The terms "explosives" and "articles containing explosive components" means and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the federal Department of Transportation regulations 49 C.F.R. Parts 171 to 180 as they exist on the effective date of this Rule.

(C) The term "nonexplosive area" shall mean an area which meets all the following criteria:

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) The area is separated from the explosives area by a distance not less than



that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under 16 years of age within the area from entering any area in or about the plant which does not meet criteria of 010.14-306(b)(6)(C)(i) through (iv);

(7) Occupations in logging and in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill; and

(8) Occupations in or about slaughtering and meat packing establishments, or rendering plants and

(9) Occupations in proximity to pin-setting machinery or gearing in bowling alleys.

**010.14-307 Occupations in Retail, Food Service, and Gasoline Service Establishments.**

(a) The following occupations are permissible for the employment of children age 14 and 15 years, provided there is compliance with employment certificate requirements (Rule 010.14-302 through 010.14-305), and hour restrictions (Rule 010.14-317).

(1) Office and clerical work, including the 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) Clean up 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 (*See* Rule 010.14-307(b)(5) for the prohibition on cooking and baking);

(8) Work in connection with cars and trucks if confined to the following: Dispensing gasoline and oil; courtesy service; car cleaning, washing and polishing; and other occupations

permitted by this Rule 010.14-307(a), 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 those where the work described in paragraph (b)(7) of this Rule is performed;

(b) Paragraph (a) of this Rule shall not be construed to permit the application of this Rule to any of the following occupations in retail, food service, and gasoline service establishments:

(1) All occupations listed in Rule 010.14-306 except occupations involving processing, operation of machines and work in rooms where processing the manufacturing take place which are permitted by paragraph (a) of this Rule;

(2) Work performed in or about boiler or engine rooms;

(3) Work in connection with maintenance or repair of the establishment, machines or equipment;

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

(5) Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria service counters) and baking;

(6) 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;

(7) Work in freezers and meat coolers and all work in the preparation of meats for sale except as described in paragraph (a)(9) of this Rule;

(8) Loading and unloading goods to and from trucks, railroad cars, or conveyors;

(9) All occupations in warehouses except office and clerical work.

(c) This Rule 010.14-307, shall not prohibit the employment of a child below the age of sixteen (16) by his parent or guardian in an occupation owned or controlled by such parent or guardian.

#### **010.14-308 Occupations in Agriculture**

(a) The following occupations in agriculture are particularly hazardous for the employment of children below the age of 16:

(1) Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

(2) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(ii) Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or

(iii) Power post-hole digger, power post driver, or nonwalking type rotary tiller.

(3) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Trencher or earthmoving equipment;

(ii) Fork lift;

(iii) Potato combine; or

(iv) Power-driven circular, band, or chain saw.

(4) Working on a farm in a yard, pen, or stall occupied by a:

(i) Bull, boar, or stud horse maintained for breeding purposes; or

(ii) Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

(5) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.

(6) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

(7) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

(8) Working inside:

(i) A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

(ii) An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;

- (iii) A manure pit; or
- (iv) A horizontal silo while operating a tractor for packing purposes.

(9) Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified by the federal Environmental Protection Agency as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label (*See* 40 C.F.R. 156);

(10) Handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or

(11) Transporting, transferring, or applying anhydrous ammonia.

(b) Exemptions.

(1) This Rule 010.14-308 shall not apply to the employment of a child below the age of sixteen (16) by his parent or guardian on a farm owned or controlled by such parent or guardian;

(2) Student-learners. The prohibitions in 010.14-308(a) shall not apply to the employment of any child as vocational agriculture student-learner in any of the occupations described in paragraph (1), (2), (3), (4), (5), or (6) of 010.14-308(a) when each of the following requirements are met:

(A) The student-learner is enrolled in a vocational education training program in agriculture under a recognized State or local educational authority, or in a substantially similar program conducted by a private school:

(B) Such student-learner is employed under a written agreement which provides:

- (i) that the work of the student-learner is incidental to his training;
- (ii) that such work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person;
- (iii) that safety instruction shall be given by the school and correlated by the employer with on-the-job training; and
- (iv) that a schedule of organized and progressive work processes to be performed on the job have been prepared;

(C) Such written agreement contains the name of the student-learner, and is signed by the employer and by a person authorized to represent the educational authority or school; and

(D) Copies of each such agreement are kept on file by both the educational

authority or school and by the employer.

(3) Federal Extension Service. The prohibitions in Rule 010.14-308(a) shall not apply to the employment of a child under 16 years of age in those occupations in which he has successfully completed one or more training programs described in 010.14-308(b)(3)(A), (B), or (C) provided he has been instructed by his employer on safe and proper operation of the specific equipment he is to use; is continuously and closely supervised by the employer where feasible; or, where not feasible, in work such as cultivating, his safety is checked by the employer at least at midmorning, noon, and midafternoon.

(A) 4-H tractor operation program. The child is qualified to be employed in an occupation described in 010.14-308(a)(1) provided:

- (i) He is a 4-H member;
- (ii) He is 14 years of age, or older;
- (iii) He is familiar with the normal working hazards in agriculture;
- (iv) He has completed a 10-hour training program which includes the following units from the manuals of the 4-H tractor program conducted by, or in accordance with the requirements of the Cooperative Extension Service of a land grant university:

(a) First Year Manual:

- Unit 1 - Learning How to be Safe;
- Unit 4 - The Instrument Panel;
- Unit 5 - Controls for Your Tractor;
- Unit 6 - Daily Maintenance and Safety Check; and
- Unit 7 - Starting and Stopping Your Tractor;

(b) Second Year Manual:

- Unit 1 - Tractor Safety on the Farm:

(c) Third Year Manual:

- Unit 1 - Tractor Safety on the Highway;
- Unit 3 - Hitches, Power Take-off, and Hydraulic Controls;

(v) He has passed a written examination on tractor safety and has demonstrated his ability to operate a tractor safely with a two-wheeled trailed implement on a course similar to one of the 4-H Tractor Operator's Contest Courses; and

(vi) His employer has on file with the child's records kept pursuant to Rule 010.14-319 (basically, name, address, and date of birth) a copy of certificate acceptable by the Labor Standards Division, signed by the leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university to the effect that the child has completed all the requirements specified in 010.14-308(b)(3)(A)(i) through (v).

(B) 4-H machine operation program. The child is qualified to be employed in an occupation described in 010.14-308(a)(2) providing:

- (i) He completed the Tractor Operation Program specified in paragraphs (b)(3)(A)(i) through (v) of this Rule;

(ii) He has completed an additional 10-hour training program on farm machinery safety, including 4-H Fourth Year Manual, Unit 1, Safe Use of Farm Machinery;

(iii) He has passed a written and practical examination on safe machinery operation; and

(iv) His employer has on file with the child's records kept pursuant to Rule 010.14-319 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Division, signed by the leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university, to the effect that the child has completed all of the requirements specified in 010.14-308(b)(3)(B)(i) through (iii).

(C) Tractor and machine operation program. The child is qualified to be employed in an occupation described in Rule 010.14-308(a)(1) and (2) providing:

(i) He is 14 years of age, or older;

(ii) He has completed a 4-hour orientation course familiarizing him with the normal working hazards in agriculture;

(iii) He has completed a 20-hour training program on safe operation of tractors and farm machinery, which covers all material specified in Rule 010.14-308(b)(3)(A)(iv) and (B)(ii).

(iv) He has passed a written examination on tractor and farm machinery safety, and has demonstrated his ability to operate a tractor with a two-wheeled trailed implement on a course similar to a 4-H Tractor Operator's Contest course, and to operate farm machinery safely.

(v) His employer has on file with the child's records kept pursuant to Rule 010.14-319 (basically, name, address and date of birth) a copy of a certificate acceptable by the Labor Standards Division, signed by the volunteer leader who conducted the training program and by an Extension Agent of the Cooperative Extension Service of a land grant university, to the effect that all of the requirements of Rule 010.14-308(b)(3)(B)(i) through (iv) have been met.

(4) Vocational agriculture training. The findings and declarations of fact in Rule 010.14-308(a) shall not apply to the employment of a vocational agriculture student under 16 years of age in those occupations in which he has successfully completed one or more training programs described in Rule 010.14-308(b)(4)(A) or (B) and who has been instructed by his employer in the safe and proper operation of the specific equipment he is to use, who is continuously and closely supervised by this employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, and who also satisfies whichever of the following program requirements are pertinent:

(A) Tractor operation program. The student is qualified to be employed in an

occupation described in Rule 010.14-308(a)(1) provided:

(i) He is 14 years of age, or older;

(ii) He is familiar with the normal working hazards in agriculture;

(iii) He has completed a 15-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and acceptable by the U.S. Department of Labor. The training program is outlined in Special Paper No. 8, April 1969, prepared at Michigan State University, East Lansing, Mich., for the Office of Education. Copies of this training program outline may be obtained from the Office of Education, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20202.

(iv) He has passed both a written test and a practical test on tractor safety including a demonstration of his ability to operate safely a tractor with a two wheeled trailed implement on a test course similar to that described in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare; and

(v) His employer has on file with the child's records kept pursuant to Rule 010.14-319 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Division, signed by the Vocational Agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in Rule 010.14-308(b)(4)(A)(i) through (iv).

(B) Machinery operation program. The student is qualified to be employed in an occupation described in Rule 010.14-308(a)(2) provided he has completed the Tractor Operation Program described in Rule 010.14-308(b)(4)(A) and:

(i) He has completed an additional 10-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education, and Welfare and approved by the U.S. Department of Labor;

(ii) He has passed both a written test and a practical test on safe machinery operation similar to that described in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, U.S. Department of Health, Education and Welfare; and

(iii) His employer has on file with the child's records kept pursuant to Rule 010.14-319 (basically, name, address and date of birth) a copy of a certificate acceptable by the Labor Standards Division, signed by the Vocational Agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in Rule 010.14-308(b)(4)(B)(i) and (ii).

#### **010.14-309 Work Experience and Career Exploration Programs**

(a) This Rule creates an exception to the application of some provisions of this Hazardous Occupations\_section (010.14-306 - 010.14-310) to the employment of children under sixteen (16) years of age who are enrolled in and employed pursuant to a school-supervised and school-administered work-experience and career exploration program which meets the requirements of paragraph (b) of this Rule in the occupations permitted under paragraph (c) of this Rule and for the periods and under the conditions specified in paragraph (d) of this Rule. With these safeguards, such employment is found not to interfere with the schooling of the child or with their health and well-being and therefore is not deemed to be hazardous.

(b) A school-supervised and school-administered work-experience and career exploration program shall meet the standards of and be approved by the Arkansas Department of Education and the U.S. Department of Labor as provided in 29 C.F.R. § 570.35a.

(c) Employment of children enrolled in a program approved pursuant to the requirements of this Rule shall be permitted only in the following occupations:

(1) occupations in retail, food service, and gasoline service establishments covered by Rule 010.14-307; and

(2) occupations in agriculture covered by Rule 010.14-308.

#### **010.14-310 Administrative Responsibility**

(a) The Director shall be assisted by the Labor Standards Division in making studies and investigation to discover the occupations which are sufficiently dangerous to the life and limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom. All interested persons and organizations are invited to cooperate with the Director and the Division by making suggestions and requests and providing pertinent information to the Division concerning employment hazards to children. Submissions should be mailed to the Administrator, Labor Standards Division, Arkansas Department of Labor, 10421 West Markham, Little Rock, Arkansas 72205. In addition, the Administrator of the Labor Standards Division shall have authority to obtain information by holding conferences to which he may invite various persons who have had experience or expert knowledge concerning occupational hazards to children.

(b) The Administrator of the Labor Standards Division shall from time to time prepare and submit to the Director of Labor reports of investigations with respect to any occupations or group of occupations which he/she has reason to believe should be added to, or deleted from, the list of those found and declared to be particularly hazardous for the employment of children under 16 years of age or detrimental to their health or well-being. Each such report shall contain an explanation of the hazards involved and the reasons why children below the age of 16 are, or are not, particularly susceptible to them. Copies of such reports shall be made available to the public at the offices of Labor Standards Division.



(c) The Director, on recommendation of the Division or on his own motion shall initiate proceedings to make, amend, or revoke a determination regarding a hazardous occupation in these rules ~~and regulations~~. Notice of such proceedings as well as any rule-making shall comply with the Administrative Procedure Act, Ark. Code Ann. §§ 25-15-201 *et seq.*

(d) Any person may at any time file with the Administrator of the Labor Standards Division a written application, petition or other requests in connection with any proceeding to make, amend, or revoke a hazardous occupation determination. In the event his petition is denied, he will be advised promptly with a simple statement of reasons.

(e) Any person adversely affected or aggrieved by the procedure provided in Rule 010.14-310 may file a petition for a change with the Labor Standards Division, Arkansas Department of Labor, 10421 West Markham, Little Rock, AR 72205, expressing the change desired with supporting reasons.

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## **HOURS OF EMPLOYMENT**

### **010.14-317 Children Under Sixteen (16)**

No child under the age of sixteen (16) years shall be employed, permitted, or suffered to work:

- (1) more than six (6) days in any week;
- (2) more than forty-eight (48) hours in any week;
- (3) more than eight (8) hours in any day; or
- (4) before 6:00 a.m. or after 7:00 p.m., except that on nights preceding nonschool days children under sixteen (16) years may be employed until 9:00 p.m.

### **010.14-318 Children Under Seventeen (17)**

(a) No child under the age of Seventeen (17) shall be employed, permitted or suffered to work:

- (1) more than six (6) days in any week;
- (2) more than fifty-four (54) hours in any week;
- (3) more than ten (10) consecutive hours in any day;
- (4) more than ten (10) hours in a twenty-four hour period; or
- (5) before 6:00 a.m. or after 11:00 p.m., except that children ages sixteen (16) years may be employed until 12:00 midnight on nights preceding non-school days.

(b) Children ages sixteen (16) years of age may be employed between the hours of 12:00 midnight and 6:00 a.m. on nights preceding non-school days, except in the occupations or circumstances listed below and provided the work is not otherwise prohibited by state or federal law:

- (1) in any convenience or retail store of less than 4500 square feet;
- (2) in any restaurant, except that a sixteen (16) year old may work in a locked restaurant or fast-food restaurant if only the drive-through window is open to the general public;
- (3) in any business where a child would be working without direct supervision by an adult 21 years of age or older;
- (4) in any business which serves alcohol;
- (5) in any business which provides adult entertainment, including nude or topless entertainment;
- (6) at any truck stop or service station;
- (7) at any race track or gambling establishment;
- (8) as a security guard;
- (9) as a delivery person; or
- (10) in violation of any local curfew ordinance.

(d) Effective October 1, 2018, Rule 010.14-300; -318; and -319 were amended to remove reference to 17 year olds pursuant to Act 162 of 2015. Rule 010.14-313 was amended regarding hours and rest time for children in the entertainment industry. Additionally, the child labor rules were re-numbered and some references updated.

(c) For the purpose of determining compliance and assessing penalties, the department shall enforce the prohibition against more than ten (10) hours of work in a 24-hour period provided by Ark. Code Ann. § 11-6-110(4) and this Rule 010.14-318(a)(4), in the following manner:

(1) If a child sixteen (16) years old has a rest break between shifts or period of work of at least ten (10) hours, the department will determine compliance by the hours worked between midnight of one calendar day and midnight of the following calendar day.

(2) If a child sixteen (16) years old does not have a rest break between shifts or periods of work of at least ten (10) hours, the department will determine compliance by the hours worked in any 24-hour period.

## **RECORDKEEPING**

### **010.14-319 Records To Be Maintained**

(a) Every employer of a child under seventeen (17) years of age, whether partially or fully exempted from the Minimum Wage Act, Ark. Code Ann. §§ 11-4-201 through -219, shall maintain complete and accurate records which must contain the following for each employee under age seventeen (17).

- (1) name in full;
- (2) home address, including ZIP code and telephone number;
- (3) date of birth;
- (4) occupation;
- (5) rate of pay;

(6) any employment certificate or entertainment work permit issued pursuant to Rules 010.14-302 - 010.14-305 or 010.14-312 herein;

(7) hours worked each workday, including starting time and ending time; and

(8) total hours worked each workweek.

(b) The records required by Rule 010.14-319(a) are in addition to and not in lieu of other records or writing required by the Minimum Wage Act, Ark. Code Ann. §§11-4-201 through -219, and by other chapters of these rules including but not limited to gross wages, wage deductions, cost of meals and lodging, tip credits, or commissions.

#### **010.14-320 Record Accessibility**

(a) All records required by Rule 010.14-319 shall be open for inspection or transcription by the Director or his authorized representative during normal business hours at the place of employment.

(b) Any employment certificate or entertainment work permit issued pursuant to Rules 010.14-302 - 010.14-305 or 010.14-312 shall be maintained and accessible to any authorized representative of the Arkansas Department of Education or any local school official, in addition to the Department of Labor.

#### **010.14-321 Record Retention**

(a) All records required by Rule 010.14-319 must be retained by employers for a period of three (3) years.

(b) Any employment certificate or entertainment work permit issued pursuant to Rules 010.14-302 - 010.14-305 and 010.14-312 must be retained by employers for a period of three (3) years following the termination of the child's employment.

### **CIVIL MONEY PENALTIES**

#### **010.14-322 Civil Penalties**

(a) Any person, firm, corporation, partnership, association, parent, guardian, or custodian who employs or permits or suffers any child to be employed or to work in violation of Ark. Code Ann. §§ 11-6-103 through -116 or 11-12-101 through -105, or any rules issued thereunder, shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation. Each day the violation continues shall with respect to each child so employed or permitted work constitute a separate offense.

(b) The amount of all civil penalties will be determined in accordance with 010.14-323 of these rules.

(c) In civil penalty cases, the Administrator of the Labor Standards Division shall notify the person, firm, corporation, partnership, or association, charged with the violation(s) by

certified mail of the following:

- (1) the nature of the violation;
- (2) the date(s) of the violation,;
- (3) the name of the child(ren);
- (4) the amount of the civil penalty;
- (5) the civil penalty determination shall be final, unless within fifteen (15) days after receipt of this notice, the person, firm, corporation, partnership or association charged with the violation(s) notifies the Director of the Department of Labor in writing that he/she contests the penalty; and
- (6) the procedure for contesting a civil penalty as provided in 010.14-324 of these.

(d) If the person, firm, corporation, partnership or association charged with the violation has not filed notice that he/she contests the civil penalty within fifteen (15) days after receiving notice in accordance with 010.14-322(c) of this Rule, the penalty assessment by the Labor Standards Division becomes the final determination of the Director of Labor.

(e) Notice of the civil penalty may also be delivered in the same manner as summons in civil cases.

#### **010.14-323 Civil Penalty Assessment**

(a) If upon inspection or investigation, the Labor Standards Division finds that a person, firm, partnership or association has violated any of the provisions of Ark. Code Ann. §§11-6-103 through -116 or 11-12-101 through -105, or any rules issued thereunder, the Administrator of the Labor Standards Division may assess a civil penalty for each violation.

(b) The maximum amount of a civil penalty will be based on the nature and the gravity of the violation or violations. Matters which are indications of the gravity of a violation and which justify maximum civil penalty assessments are:

- (1) the likelihood of injury and the seriousness of the potential injuries to which the child has been exposed;
- (2) multiplicity of violations by a business or employer;
- (3) recurring violations;
- (4) employment of any child in a hazardous or detrimental occupation;
- (5) violations involving youths under fourteen (14) years of age;
- (6) a substantial number of hours worked in excess of the statutory limits;
- (7) falsification and/or concealment of information regarding the employment of children in violation of state or federal law; and
- (8) failure to assure future compliance.

(c) Reduction in the penalty amount may be made based on the size of the business. The size of the business includes the number of employees and the gross volume of sales.

(d) Assessment of a civil penalty shall be made no later than two (2) years from the date

of the occurrence of the violation.

#### **010.14-324 Contesting a Civil Penalty**

(a) An employer may contest the imposition of a civil penalty by filing a written request for a hearing with the Director of Labor, 10421 West Markham, Little Rock, Arkansas 72205. The written request must be made within fifteen (15) days after the employer's receipt of notification of the civil penalty or the assessment will become final.

(b) A written request for a hearing shall be referred to a hearing officer designated by the Director.

(c) The employer shall be provided at least twenty (20) days notice of the hearing. Such notice shall include:

- (1) a statement of the time, date, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a short and plain statement of the matters of fact and law asserted; and
- (4) a statement that the employer may, upon written request, obtain the issuance of a subpoena by the Director for the attendance and testimony of witnesses and the production of documents.

(d) The designated hearing officer shall, after consideration of the evidence, issue a decision setting forth findings of fact and conclusions of law. Such decision shall become the final determination of the Director, unless judicial review is sought within thirty (30) days pursuant to the Administrative Procedures Act, Ark. Code Ann. § 25-15-212.

#### **EFFECTIVE DATE AND HISTORY**

##### **010.14-325 Effective Date and History**

(a) The Department originally promulgated rules pertaining to Act 647 of 1987 (established standards for employment of children in the entertainment industry) on June 3, 1987. The Department promulgated comprehensive rules for other jurisdictional statutes effective April 14, 1992.

(b) Rule 010.14-306 (b)(9) pertaining to hazardous occupations was adopted effective July 28, 1995.

(c) Rule 010.14-318 pertaining to permissible hours for children under 18 was amended effective December 1, 2005.

(d) Effective January 1, 2019, Rule 010.14-300; -318; and -319 were amended to remove reference to 17 year olds pursuant to Act 162 of 2015. Rule 010.14-313 was amended regarding hours and rest time for children in the entertainment industry. Additionally, the child labor rules were re-numbered and some references updated.