

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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Previous Agency Name, If Applicable \_\_\_\_\_

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Attachment C

AGENCY #010.14

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**ADMINISTRATIVE RULES REGARDING CHILD LABOR  
LABOR STANDARDS SECTION  
DIVISION OF LABOR  
ARKANSAS DEPARTMENT OF LABOR AND LICENSING**

Rules effective as of

~~July 1, 2020~~

October 31, 2023

Arkansas Department of Labor and Licensing  
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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 and Licensing.
3. "Director" means the Director of the Division of Labor, Department of Labor and Licensing.
4. "Division" means the Division of Labor of the Department of Labor and Licensing.
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 school Daysdays~~" means days that school is not in session in the district where a child resides.
8. "Occupation" means any type of work performed or service rendered in connection with any type trade, vocation, or other business, including agriculture.
9. "Remunerative ~~Occupation~~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.*
10. "School ~~Vacation~~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.
11. "Section" means the Labor Standards Section, Division of Labor, Department of Labor and Licensing.

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#### 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-Except as provided in this subdivision (b)(2),~~ 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

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employment or activity except at times when his or her presence is not required at school.

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(B)(i) ~~The provisions of Rule 010.14-301(a)(b)(2)(A) shall be applicable only where~~ the if 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.

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~~(C)(ii) -The schedule of benefits under this the 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 or~~ 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 The~~ hospital and medical expense protection shall be excess insurance coverage or indemnity over and above any other collectable insurance.

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(3)(A) A child under the age of fourteen (14) years may be employed or may enter into a 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 or her presence is not required at school.

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(B) The provisions of 010.14-301~~(a)(b)(3)(A)~~ shall be applicable only ~~where the if~~ 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)(b)(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.

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(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 through 107 or determined to be hazardous by the director. ~~See under~~ Rules 010.14-306 through 010.14-309 ~~herein~~.

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(d) ~~No-Except as provided in subsection (c), a~~ child under the age of sixteen (16) years ~~shall may~~ be employed or permitted to work:

~~(1) Pursuant to without an employment certificate or~~ entertainment work permit issued and maintained ~~pursuant to the provisions of under~~ Ark. Code ~~Ann. §§~~ 11-6-109, and § 11-12-104 and Rules 010.14-302; 010.14-305 and Rule 010.14-312 ~~herein, except;~~

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

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(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 [Repealed.]**

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#### **010.14-302 General [Repealed.]**

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~~(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 [Repealed.]**

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

~~(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.~~

(e) ~~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 [Repealed.]**

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(a) ~~The Labor Standards Section 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 Section shall issue each employment certificate in duplicate. One copy shall be maintained by the section 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 Division 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 Section 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 [Repealed.]**

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~~(a) The Labor Standards Section may revoke an employment certificate for cause. The section 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 division.~~

~~(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    Hazardous Occupations Generally**

(a) Arkansas Code Ann. §§ 11-6-105 ~~and through~~ 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 including:

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- (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), according to the following definitions:

(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.

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(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-fourteen~~ (14) and ~~fifteen~~ (15) years of age, provided there is compliance with ~~employment certificate requirements (Rule 010.14-302 through 010.14-305), and the~~ hour restrictions ~~(provided in 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-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;

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(7) ~~Kitchen~~ Except for cooking, baking, and food preparation as provided by this Rule 010.14-307(b)(5) and (9), 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);~~

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(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; and

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(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; and

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(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;

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(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; and

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

(c) This Rule 010.14-307~~7~~ shall not prohibit the employment of a child below the age of sixteen (16) by his or her 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~~7~~.

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

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

(~~iii~~C) Power post-hole digger, power post driver, or nonwalking type rotary tiller~~7~~.

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(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~~A) Trencher or earthmoving equipment;

(~~ii~~B) Fork lift;

(~~iii~~C) Potato combine; or

(~~iv~~D) Power-driven circular, band, or chain saw~~7~~.

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

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

(~~ii~~B) Sow with suckling pigs, or cow with newborn calf (with umbilical cord present)~~7~~.

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(5) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches~~7~~.

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(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~~.

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

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(8) Working inside:

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

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

(~~C~~) A manure pit; or

(~~D~~) A horizontal silo while operating a tractor for packing purposes;

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(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 and~~

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(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;

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(2) Student-learners. The prohibitions in 010.14-308(a) shall not apply to the employment of any child as a 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;

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

(i) ~~that~~ That the work of the student-learner is incidental to his or her training;

(ii) ~~that such~~ That the work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) ~~that That~~ safety instruction shall be given by the school and correlated by the employer with on-the-job training; and

(iv) ~~that That~~ a schedule of organized and progressive work processes to be performed on the job have been prepared; and

         ~~(Cv) Such written agreement contains the 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

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~~(DC)~~ 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/she has successfully completed one or more training programs described in 010.14-308(b)(3)(A), (B), or (C) or described in Section 33f04(b) of the U.S. Department of Labor Wage and Hour Field Operations Handbook by the local county agricultural extension agent as part of the 4-H Club program, provided the minor is identified by showing a copy of his or her certificate of training and the employer retains a copy of the certificate of training on file, and provided further he/she has been instructed by his/her employer on safe and proper operation of the specific equipment he/she is to use; is continuously and closely supervised by the employer where feasible; or, where not feasible, in work such as cultivating, his/her safety is checked by the employer at least at midmorning, noon, and midafternoon.

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(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/she is a 4-H member;
- (ii) He/she is 14 years of age, or older;
- (iii) He/she is familiar with the normal working hazards in agriculture;
- (iv) He/she 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/she has passed a written examination on tractor safety and has demonstrated his/her 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/her 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 Section, 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~~ provided:

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

(ii) He/she 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/she has passed a written and practical examination on safe machinery operation; and

(iv) His/her employer has on file with the ~~child's~~ 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 Section, 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~~ provided:

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

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

(iii) He/she 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); ~~and~~

(iv) He/she has passed a written examination on tractor and farm machinery safety, and has demonstrated his/her 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; ~~and~~

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(v) His/her 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 Section, 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/she has successfully completed one or more training programs described in Rule 010.14-308(b)(4)(A) or (B) or described in Section 33f04(C) of the U.S. Department of Labor Wage and Hour Division Field Operations Handbook provided by local vocational agriculture teachers on the safe use of tractors and farm machinery provided the student is identified by showing a copy of his or her certificate of training and the employer retains a copy of the certificate of training on file, and who has been instructed by his/her employer in the safe and proper operation of the specific equipment he/she 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/she is 14 years of age, or older;

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

(iii) He/she 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/she has passed both a written test and a practical test on tractor safety including a demonstration of his/her 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/her 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 Section, 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/she has completed the Tractor Operation Program described in Rule 010.14-308(b)(4)(A) and:

(i) He/she 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/she 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/her 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 Section, 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 ~~010.14-309~~ creates an exception to the application of some ~~provisions of this~~ the Hazardous Occupations, section provisions of these Rules (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~~ Occupations in retail, food service, and gasoline service establishments ~~covered~~ permitted by Rule 010.14-307; and

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

#### 010.14-310 ~~Administrative Responsibility~~ Studies and Investigations - Reports

(a) The director shall be assisted by the Labor Standards Section in making studies and

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investigations 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 of age to justify their exclusion therefrom. All interested persons and organizations are invited to cooperate with the director and the sSection by making suggestions and requests and providing pertinent information to the sSection concerning employment hazards to children. Submissions should be mailed to the Labor Standards Section, Division of Labor, 900 West Capitol, Suite 400, Little Rock, Arkansas 72201. In addition, ~~the manager of~~ the Labor Standards Section 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.

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(b) The ~~manager of the~~ Labor Standards Section 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 the Labor Standards ~~Division~~ Section.

(c) ~~The~~ Whenever warranted, the director, on recommendation of the sSection or on his or her own motion, shall initiate proceedings to make, amend, or revoke a determination regarding a hazardous occupation in these rules. 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.*

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(d) Any person may at any time file with the sSection 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~~ the petition is denied, ~~he~~ the petitioner will be advised promptly with a simple statement of reasons.

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(e) Any person adversely affected or aggrieved by the procedure provided in this Rule 010.14-310 may file a petition for a change with the Labor Standards Section, Division of Labor, 900 West Capitol, Suite 400, Little Rock, AR 72201, expressing the change desired with supporting reasons.

## THE ENTERTAINMENT INDUSTRY

### 010.14-311 Definitions

As used in this ~~section~~ Part (Rules 010.14-311 through 010.14-316):

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- (1) "Child" means any minor under sixteen (16) years of age;
- (2) "Department" means the Arkansas Department of Labor and Licensing;
- (3) "Director" means the Director of the Division of Labor, Department of Labor and Licensing;
- (4) "Employ" means to use the services of an individual in any remunerative occupation;
- (5) "Employer" means any individual, company, firm, partnership, association, or

corporation employing or seeking to employ a child in the entertainment industry;

(6) "Entertainment ~~Industry~~ industry" means any individual, partnership, corporation, association, or group of persons using the services of a child in motion picture productions, television or radio productions, theatrical productions, modeling productions, horse shows, rodeos, ~~and or~~ musical performances;

(7) "Guardian" means an individual who legally has the care and management of the person and the estate of a child during ~~its~~ the child's minority;

(8) "Nurse" means any ~~licensed RN~~ registered nurse or ~~LPN~~ licensed practical nurse;

(9) ~~"Special effects person" means an individual qualified by training and experience in the planning, setting up and performance of the type of special effect involved~~ "Studio Teacher" means an on-site individual who is qualified to provide age-appropriate educational instruction to a child; and

(10) "Stunt coordinator" means an individual qualified by training and experience in the planning, ~~setting up and staging~~, performance, ~~of~~ and type of stunt involved.

#### 010.14-312 Entertainment Work Permit

(a)(1) No child may be employed in the entertainment industry without an Entertainment Work Permit issued by the director.

(2) No Entertainment Work Permit ~~will~~ shall be issued without the following:

(A) ~~an~~ An application for an Entertainment Work Permit on a form provided by the director;

(B) ~~one~~ One (1) of the following as proof of age:

(i) ~~birth~~ Birth certificate;

(ii) ~~record~~ Record of baptism or confirmation;

(iii) ~~passport~~ Passport or certificate of arrival in the U.S.;

(iv) ~~insurance~~ Insurance policy at least one (1) year old;

(v) ~~a~~ A bona fide contemporary record of birth in the family bible; ~~or~~

(vi) ~~certified~~ Certified school record;

(C) ~~the~~ The written consent of the child's parent or guardian for the issuance of the Entertainment Work Permit;

(D) Except as provided in subdivision (a)(2)(D)(ii)(b) of this Rule 010.14-312, a written statement from the school in which the child is enrolled as to the academic standing of the child, the advisability of allowing the child to work, and the arrangements for meeting the state's compulsory attendance law, unless:

(i) ~~the~~ The child is not enrolled in school (children ages 7 through 16 inclusive must be enrolled in school), or

(ii)(a) ~~the~~ The child will not be employed during a time school is in session;

(b)(i) Parents of home-schooled children may provide his the

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information ~~required by subdivision (a)(2)(D)(ii)(a) of this Rule 010.14-312~~ upon verification that the child is enrolled in home school;

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(E) ~~a~~ written statement from the employer as to:

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(i) ~~the~~ The length of time, including dates and hours, the child will be employed;  
and

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(ii) ~~the~~ The child's rate of pay;

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(F)(i) ~~a~~ written statement from a doctor licensed to practice medicine in the State of Arkansas as to the health of any child under six (6) years of age and the advisability of allowing the child to work.

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(ii) If the child is not a resident of Arkansas, a written statement from a doctor licensed to practice medicine in the state of the child's residence may be submitted; and

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(G) ~~proof~~ Proof of workers compensation coverage or insurance coverage as required by Rule 010.14-314.

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(b) The director may refuse to issue an Entertainment Work Permit or may suspend or revoke any Entertainment Work Permit for cause, ~~which includes, but is not limited to finding that any of the following conditions exist~~ including without limitation:

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(1) ~~that~~ That the child, the child's parent or guardian, or the employer has knowingly submitted false information to the ~~Division~~ in application of an Entertainment Work Permit;

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(2) ~~that~~ That the child, the child's parent or guardian, or the employer has violated any provisions of Ark. Code ~~Ann.~~ §§ 11-12-101 *et seq.* or any rules lawfully promulgated thereunder;

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(3) ~~that~~ That the work for which an application ~~of~~ for an Entertainment Work Permit is sought is hazardous or detrimental to the health, safety, morals, education, or welfare of the child; or

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(4) ~~that~~ That the child is lawfully removed from the custody of the parent or guardian who consented to the issuance of the Entertainment Work Permit.

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(c) No child under the age of fifteen (15) days shall be issued an Entertainment Work Permit.

(d) An Entertainment Work Permit shall be issued for the period designated on the face of the permit, not to exceed six (6) months. Application ~~for renewal~~ of an Entertainment Work Permit ~~must~~ shall be made in the same manner and under the same conditions as the original permit.

(e)(1) Prior to the issuance of the Entertainment Work Permit, the director may require a physical examination of the child to ensure that the child's physical condition permits the minor to perform the work or activity called for by the application for an Entertainment Work Permit

without danger to the child's health, safety, or welfare.

(2) The director may require a personal interview with the child, the parent or guardian, or the employer for the same purpose.

#### 010.14-313 Hours and Rest Time

(a) No child shall be permitted at the place of employment, except in compliance with the following:

(1)(A) Children who have reached the age of fifteen (15) days, but have not reached the age of six (6) months, may be at the place of employment for a maximum of two (2) hours between the hours of 9:00 A.M. and 4:30 P.M.

(B) The day's work shall not exceed twenty (20) minutes, and under no circumstances shall the child be exposed to bright lights for more than thirty (30) seconds at any one (1) time. When

(2) For children under six (6) weeks of age are used, a one (1) nurse must shall be provided for each three children or fraction thereof. When

(3) For children from age six (6) weeks to age six (6) months are used, one (1) nurse must shall be provided for each ten (10) children or fraction thereof.

(4) Children who have reached the age of six (6) months, but have not reached the age of two (2) years may be at the place of employment for a maximum of four (4) hours per workday, with two (2) hours for work and two (2) hours for rest and recreation.

(5) Children who have reached the age of two (2) years, but have not reached the age of six (6) years may be at the place of employment for a maximum of six (6) hours per workday, with three (3) hours for work and three (3) hours for rest and recreation.

(6)(A) Children who have reached the age of six (6) years, but have not reached the age of nine (9) years may be at the place of employment a maximum of eight (8) hours per workday. Such eight (8) hour

(B) The eight-hour period shall consist of not more than four (4) hours of work, with four (4) hours for school, rest, and recreation.

(7)(A) Children who have reached the age of nine (9) years, but have not reached the age of sixteen (16) years may be at the place of employment a maximum of nine (9) hours per workday. Such nine (9) hour

(B) The nine-hour period shall consist of not more than five (5) hours of work, with four (4) hours for school, rest, and recreation.

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(68) On days when school is not in session, school-age children may work an additional two (2) hours per day.

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(79) On all days, school-age children must have at least one (1) hour of rest and recreation.

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(810) In cases involving a studio teacher, by prior arrangement with the teacher, up to two (2) hours of school may be banked (stored) to offset additional work hours on other days.

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(11) ~~There must be at At~~ least one (1) hour of school ~~on~~ shall be given each day the child's regular school is in session.

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(b)(1) No child shall be required to report for work before 5:00 A.M.

~~(2)(A)~~ No child shall be at the place of employment later than 10:00 P.M.

~~(B)~~ The 10:00 P.M. restriction may be extended to 12:30 A.M. on nights preceding non-school days.

~~(C)(i)~~ Special requests for a child to work other hours may be granted by the director for night exteriors shot as exteriors; ~~and~~ live television, musical, or theatrical performances; or for other reasons.

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~~(ii)~~ Each such request must be submitted in writing at least two (2) working days prior to the time needed.

(c)(1) With the exception of children under six (6) months of age, all of the hours in which a child may be at the place of employment are exclusive of meal periods, which must be of at least one-half (1/2) hour; and no more than one (1) hour duration.

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~~(2)~~ In no event may a child be at the place of employment for a period longer than six (6) hours without a meal break.

(d)(1) A child shall receive a ~~twelve (12) hour~~ ~~twelve-hour~~ rest break at the end of his or her workday and prior to the commencement of his or her next day of work for the same employment.

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~~(2)~~ Special requests for a child to receive a ~~ten (10) hour~~ ~~ten-hour~~ rest break may be granted by the director for one-time performances, provided such requests are submitted in writing at least two (2) working days prior to the time needed.

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(e) The time spent by children in rehearsals and in learning or practicing any of the arts, such as singing or dancing, for or under the direction of a motion picture studio, theater, or television studio, shall be counted as work time when such learning or practicing is connected with or is in contemplation of particular pictures or shows.

(f) School-age children may not be employed in violation of any state or local school attendance requirements applicable to the child.

#### 010.14-314 Insurance

(a) An Entertainment Work Permit will not be issued unless provision is made by the employer to provide workers compensation coverage or insurance for injury or death caused by an accident when the accident hazard arises while the child is on the business of the employer or performing activities required by the employer. If insurance apart from workers compensation is provided, the schedule of benefits will be as follows:

(1) At least fifty thousand dollars (\$50,000) for accidental death, and this sum shall be reasonably and equitably prorated for dismemberment: and

(2) Blanket medical coverage for all hospital and medical expenses up to twenty-five thousand dollars (\$25,000) and this hospital and medical expense protection shall be excess insurance coverage or indemnity over and above any other collectable insurance.

#### **010.14-315 Safety and Supervision**

(a) The parent or guardian of a child must be present at all times the child is at the place of employment, and will accompany the child to wardrobe, makeup, hairdressing, and dressing room facilities. The parent or guardian may designate an individual, other than an agent of the employer, to accompany the child during times the child is at the place of employment, provided the designation is made in writing, signed by the parent or guardian, and presented to the employer prior to the child's scheduled work. A copy of the written designation must be immediately mailed by the employer to the Division of Labor.

(b) The employer must designate one (1) individual on each set, stage, or other place of employment to coordinate all matters relating to the welfare of children, and shall notify the parent or guardian of each child of the name of such individual.

(c) A child must be provided a suitable place to rest or play. Under no circumstances will a car, van or truck constitute a suitable place to rest or play. However, this prohibition does not include recreational vehicles and mobile homes or trailers fully equipped for the comfort and safety of the child.

(d) No child shall be required to work in a situation which places the child in clear and present danger to life or limb. If a child believes he or she to be in such a dangerous situation after having discussed the matter with his or her parent or guardian and the employer or stunt coordinator, then the child shall not be required to perform in such situation, regardless of the validity or reasonableness of his or her belief.

(e) No child shall be required to work with an animal which a reasonable person would regard as dangerous in the circumstances, unless an animal trainer or handler qualified by training and experience is present.

(f) ~~Where~~ If scripted or unscripted stunts or other potentially hazardous activity involve a child, a stunt coordinator shall be engaged and present. No child shall be required to perform a stunt without prior consultation between the child, the child's parent or guardian, and the stunt coordinator.

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(g) The prior written consent of the child's parent or guardian must be obtained for the performance of any unusual physical, ~~athletic~~athletic, or acrobatic activity, stunts, work involving special effects, or other potentially hazardous activity.

(h) When any unusual physical, ~~athletic~~athletic, or acrobatic activity, stunts, special effects, or other potentially hazardous activity involving a child is contemplated, the employer shall have available a person qualified to administer medical assistance on an emergency basis and transportation to the nearest medical facility providing emergency services. First-aid kits shall always be available at a child's place of employment.

(i) No child shall work in close proximity to explosives or the functioning parts of unguarded and dangerous moving equipment, aircraft or vessels, or of functioning blades or propellers.

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#### 010.14-316 Schooling

An Entertainment Work Permit does not authorize a child to be absent from school in violation of the requirements of state law or administrative rules or policies of the State Board of Education, the Arkansas Department of Education, or the local School Board.

#### HOURS OF EMPLOYMENT

##### 010.14-317 Children Under Sixteen (16) ~~Years of Age~~

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.

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##### 010.14-318 Children ~~Under Seventeen (17)~~ ~~Sixteen (16) Years of Age~~

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(a) No child ~~under the age of Seventeen (17)~~ ~~sixteen (16) years of age~~ shall be employed, permitted, or suffered to work:

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

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(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

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circumstances listed below and provided the work is not otherwise prohibited by state or federal law:

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

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(c) For the purpose of determining compliance and assessing penalties, the division 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-of age~~ has a rest break between shifts or periods of work of at least ten (10) hours, the division will determine compliance by the hours worked between midnight of one calendar day and midnight of the following calendar day.

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—(2) If a child sixteen (16) years ~~old-of age~~ does not have a rest break between shifts or periods of work of at least ten (10) hours, the division 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) years of age:

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- (1) ~~n~~ Name in full;
- (2) ~~h~~ Home address, including ZIP code and telephone number;
- (3) ~~d~~ Date of birth;
- (4) ~~e~~ Occupation;
- (5) ~~r~~ Rate of pay;
- (6) any employment certificate or ~~e~~ Entertainment work permit issued pursuant to Rules

~~010.14-302—010.14-305 or~~ 010.14-312 herein;

(7) ~~h~~Hours worked each workday, including starting time and ending time; and

(8) ~~£~~Total hours worked each workweek.

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(b) The records required by this Rule 010.14-319(a) are in addition to and not in lieu of other records or writings required by the Minimum Wage Act, Ark. Code ~~Ann.~~ §§ 11-4-201 through -219, and any rules promulgated thereunder, ~~by other chapters of these rules~~ including ~~but not limited to~~ without limitation records or writings concerning gross wages, wage deductions, cost of meals and lodging, tip credits, or commissions.

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#### 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 Division of Labor.

#### 010.14-321 Record Retention

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

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(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~~ violates Ark. Code ~~Ann.~~ §§ 11-6-103 through ~~11-6-104 et seq.~~ or § 11-12-101 ~~et seq. through 105~~, or any rules issued thereunder, shall be subject to a civil penalty of not less than ~~fifty one-hundred~~ one hundred dollars (\$~~50.00~~100.00) and not more than ~~one five~~ five thousand dollars (\$~~1,000~~5,000.00) for each violation. Each day the violation continues shall ~~with respect to each child so employed or permitted work~~ constitute a separate offense.

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

(c) In civil penalty cases, the Labor Standards Section shall notify the person, firm, corporation, partnership, or association, charged with the violation(s) by certified and first class mail of the following:

- (1) ~~the~~ The nature of the violation;
- (2) ~~the~~ The date(s) of the violation;
- (3) ~~the~~ The name of the child(ren);
- (4) ~~the~~ The amount of the civil penalty;
- (5) ~~the~~ That 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 Division of Labor in writing that he/she contests the penalty; and
- (6) ~~the~~ The procedure for contesting a civil penalty as provided in Rule 010.14-324 of these rules.

(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 Rule 010.14-322(c) of this Rule, the penalty assessment by the Labor Standards Section 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 Section finds that a person, firm, partnership, or association has violated any of the provisions of Ark. Code ~~Ann. §§ 11-6-103 through 11-6-105~~ et seq. or § 11-12-101 through 105 et seq., or any rules issued thereunder, the ~~Administrator of the~~ Labor Standards Section 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~~ The likelihood of injury and the seriousness of the potential injuries to which the child has been exposed;
- (2) ~~multiplicity~~ Multiplicity of violations by a business or employer;
- (3) ~~recurring~~ Recurring violations;
- (4) ~~employment~~ Employment of any child in a hazardous or detrimental occupation;
- (5) ~~violations~~ Violations involving youths under fourteen (14) years of age;
- (6) ~~a~~ A substantial number of hours worked in excess of the statutory limits;
- (7) ~~falsification~~ Falsification ~~and/or~~ or concealment of information regarding the employment of children in violation of state or federal law; and
- (8) ~~failure~~ Failure to assure future compliance.

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(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)~~ three (3) years from the date of the occurrence of the violation.

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#### 010.14-324 Contesting a Civil Penalty

(a) An ~~employer~~ individual or entity may contest the imposition of a civil penalty by filing a written request for a hearing with the Director of the Division of Labor, 900 West Capitol, Suite 400, Little Rock, Arkansas 72201. The written request ~~must~~ shall be made within fifteen (15) days after the employer's receipt of notification of the civil penalty or the assessment will become final.

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

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

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(1) ~~a~~ A statement of the time, date, place, and nature of the hearing;

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(2) ~~a~~ A statement of the legal authority and jurisdiction under which the hearing is to be held;

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(3) ~~a~~ A short and plain statement of the matters of fact and law asserted; and

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(4) ~~a~~ A statement that the ~~employer~~ individual or entity 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.

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(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,~~ the final unless judicial review is sought within thirty (30) days pursuant to the Administrative Procedures Act, Ark. Code ~~Ann.~~ Ann. § 25-15-212.

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#### 010.14-325 Criminal Referrals, Prosecutions, And Investigations

(a) Any individual or entity that violates Arkansas Code § 11-6-101 et seq. is subject to criminal penalties under Arkansas Code § 11-6-103.

(b) The Labor Standards Section may refer any child labor violation to a state or federal law enforcement authority or prosecutor.

(c) No criminal investigation, prosecution, or proceeding shall prevent the Labor Standards Section from pursuing civil penalty penalties or taking any other action.

## EFFECTIVE DATE AND HISTORY

### 010.14-~~325-326~~ 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 years of age 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.

(e) Effective July 1, 2020, the rules were amended to reflect organizational name changes.

(f) Effective October 31, 2023, the rules were amended to repeal non-entertainment industry child permit requirements (Act 195 of 2023); to increase civil penalties, increase the time to assess a civil penalty from two (2) to three (3) years, and address procedures concerning newly enacted criminal penalties (Act 687 of 2023); and make grammatical and technical changes to conform to the Bureau of Legislative Research Drafting Manual and conventions of the Code of Arkansas Rules.

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**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

**DEPARTMENT** Arkansas Department of Labor and Licesning

**BOARD/COMMISSION** Division of Labor

**PERSON COMPLETING THIS STATEMENT** Miles Morgan

**TELEPHONE NO.** (501) 682-4507 **EMAIL** Miles.Morgan@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

**TITLE OF THIS RULE** Administrative Rules Regarding Child Labor

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐  
If no, please explain:  
  - (a) how the additional benefits of the more costly rule justify its additional cost;
  - (b) the reason for adoption of the more costly rule;
  - (c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and
  - (d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.
4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:  
  - (a) What is the cost to implement the federal rule or regulation? n/a

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

n/a

**Next Fiscal Year**

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ \_\_\_\_\_

n/a

**Next Fiscal Year**

\$ \_\_\_\_\_



7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

**SUMMARY OF PROPOSED AMENDMENTS TO THE ADMINISTRATIVE RULES  
REGARDING CHILD LABOR**

**DEPARTMENT OF LABOR AND LICENSING**

July 7, 2023

The purpose and necessity of the proposed amendment is to: 1) comply with changes from the 2023 legislative session; and 2) make grammatical and stylistic changes.

The proposed amendments would accomplish the following:

- 1) Amend the rules to comply with Act 195 of 2023 to repeal the child labor employment certificate rules;
- 2) Amend the rules to comply with Act 687 of 2023 to enhance civil penalties and increase the time to pursue civil penalties from two (2) to three (3) years for child labor violations;
- 3) Update certain exemptions to the hazardous employment prohibition; and
- 4) Make grammatical and stylistic changes to conform with the BLR drafting manual and the format for the Code of Arkansas Rules.

## LEGAL NOTICE

The Department of Labor and Licensing, Division of Labor, will hold a public hearing on **Wednesday, September 13, 2023 at 1:30 p.m. at the Arkansas Department of Labor and Licensing, 900 West Capitol Avenue, suite 400, Little Rock, Arkansas 72201.** The public hearing will be conducted for the purpose of accepting public comment on proposed amendments to the Administrative Rules Regarding Child Labor. The proposed amendments would accomplish the following:

- 1) Amend the rules to comply with Act 195 of 2023 to repeal the child labor employment certificate rules;
- 2) Amend the rules to comply with Act 687 of 2023 to provide for criminal referrals and investigations and enhance civil penalties and increase the time to pursue civil penalties from two (2) to three (3) years for child labor violations;
- 3) Update certain exemptions to the hazardous employment prohibition; and
- 4) Make grammatical and stylistic changes to conform with the BLR drafting manual and the format for the Code of Arkansas Rules.

Written comment will be accepted through Wednesday, September 13, 2023 at 1:30 p.m. by the Arkansas Department of Labor and Licensing at the above address. A copy of the proposed amendments may be obtained by calling the Department of Labor and Licensing, Division of Labor, at (501)682-4500. A copy of proposed amendments can also be accessed on the Department of Labor and Licensing's website at:

<http://www.labor.arkansas.gov/news/proposed-rule-making/>

or the Secretary of State's website at:

[http://www.sos.arkansas.gov/rules\\_and\\_regs/index.php/rules/search/new](http://www.sos.arkansas.gov/rules_and_regs/index.php/rules/search/new)

Ralph T. Hudson, Director  
Division of Labor  
Department of Labor and Licensing

**This Legal Notice will be published in the Arkansas Democrat-Gazette from Sunday August 13, 2023 through Tuesday August 15, 2023.**