

Child Labor Laws and Agriculture

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In preparing for an upcoming presentation, I have been looking into child labor laws in agriculture. What I've learned is that pretty much my entire childhood was illegal! Because many farmers and ranchers do employ minors to help on weekends or over the summer, understanding child labor laws related to agriculture is extremely important.

Source of Laws

Laws related to child labor and agriculture are found at both the federal and state levels. Federally, these rules are found in the Fair Labor Standards Act (FLSA). Many states also have state-level employment laws as well. In Texas, these laws are found in the Texas Labor Code, [Chapter 51](#). Most of the Texas-specific laws closely follow along with the federal rules. Additionally, the Texas Labor Code does not apply to a child employed in agriculture during a period of time when the child is not legally required to be attending school. *See* Texas Labor Code 51.003. Thus, the key considerations for Texas farmers and ranchers are the rules found in federal law.

Farmer/Rancher's Own Children

A child of any age may be employed by his or her own parent at any time, doing any type of work, on a farm or ranch that is owned or operated by the parent. *See* [29 CFR 570.2\(a\)\(2\); \(b\)](#). The same is true if the owner or operator of the farm or ranch is someone standing in place of the parent, such as a custodial grandparent. *See id.* The same is true under Texas law. *See* Texas Labor Code 51.003(1)(C).

Other People's Children

Employment of another person's child on the farm or ranch is where the rules get more complex. The applicable rules depend upon the age of the child and the nature of the tasks he or she is doing. *See* 29 USC 570.

- **Age 16 or 17:** The child can perform any farm job, including those deemed "hazardous" by the Secretary of Labor. Further, the child may work anytime, including school hours.
- **Age 14 or 15:** A child may perform only those jobs not considered to be "hazardous" by the Secretary of Labor. The child may only be employed outside of school hours.

- **Age 12 or 13:** A child may only work in an agricultural operation if the child's parent is also employed there. Work may only occur outside of school hours.
- **Children 11 or under:** A child may work in an agricultural operation only if parental consent is obtained and the farm employees are exempt from the FLSA requirements. Here again, work is only permitted outside of school hours.

"Hazardous Activities"

As noted above, children under the age of 16 may not participate in activities deemed to be "hazardous" by the Secretary of Labor. The Secretary has developed a list of agricultural related activities deemed "hazardous." *See 29 USC 570.71.* Many of these may surprise most farmers and ranchers. They are as follows:

- Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement of any of its parts to or from such a tractor.
- Operating or assisting to operate (basically including even touching) any of the following machines: corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer, power post-hole digger, power post driver, nonwalking type rotary tiller, trencher, earthmoving equipment, fork lift, potato combine, power-driven circular, band or chain saw.
- Working on a farm in a yard, pen, or stall occupied by: a bull, boar, or stud horse maintained for breeding purposes, a sow with suckling pigs or a cow with a newborn calf (umbilical cord present).
- Felling, bucking, skidding, loading, or unloading timber more than 6" in diameter.
- Working from a ladder or scaffold at a height of more than 20 feet.
- Driving a bus, truck or automobile while transporting passengers.
- Riding on a tractor as a passenger or helper.
- Working inside a fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere, a upright silo within 2 weeks of silage being added or when a top unloading device is in operating position, a manure pit, or a horizontal silo while operating a tractor for packing purposes.
- Handling or applying (includes cleaning equipment, disposal or return of empty containers or serving as flag man) Category I chemicals, identified by the word poison

and the skull and cross-bone labels or Category II chemicals, identified by the word warning on the label.

- Handling or using a blasting agent.
- Transferring, transporting, or applying anhydrous ammonia.

There are certain exceptions for student-learners in vocational agriculture education programs and 4-H members who have completed a tractor training program. For more details, see 29 USC 570.72.

Recordkeeping Requirements

If children are employed on a farm or ranch, certain record keeping requirements apply. *See* 29 USC 516.33(f). The required records include the child's name in full, place where the child lives during employment, date of birth, and written consent of the parent if required for employment.

Penalty for Violations

Persons who violate these rules can face serious consequences. First, monetary fines up to \$11,000 per employee that is subject to a violation may be imposed. Violations found to be willful may be punished by up to an additional \$10,000 and imprisonment of up to 6 months. If the violation results in death or serious injury of the child, the penalty increases to \$50,000 per person and may be doubled if the violation is found to have been repeated or willful.

Conclusion

The good ol' days have certainly changed when it comes to employing children on the farm or ranch. Anyone who intends to hire children under 18 should be aware of these rules and be careful to comply with the requirements.