

# Hiring Youth on the Farm: The Status of Child Labor Regulations in Agriculture

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A sixteen-year old farm employee in Lyon County is killed in July 2011 when working on a cattle shed door from inside a raised payloader bucket due to being crushed between the bucket and doorway header as the payloader is accidentally moved forward. A twelve-year-old Sioux County boy is killed when the ATV he is driving overturns on the family farm in October 2011. A thirteen-year-old Jasper County boy dies on the family farm after his sweatshirt becomes entangled in farm machinery in April 2012. An eighteen-year-old high school senior in Pottawattamie County has his leg amputated above the knee in October 2011 after the leg is crushed between a tractor and trailer.

It is such deaths and injuries to young people that can serve as the impetus for regulators to propose strengthening child labor rules related to farm employment.

For the time being, however, the US Department of Labor (“DOL”) is abandoning proposed regulations in favor of increased farm safety programs particularly aimed at protecting children on the farm.

By way of background, it was September 2011 when the DOL proposed revisions to child labor regulations intended to strengthen safety requirements for youth employed in agriculture and related fields. The regulations are promulgated pursuant to the Fair Labor Standards Act, and had not been updated since 1970.

The proposed regulations would not have been applied to children working on farms owned by their parents under what is known as the “parental exemption.” The parental exemption allows children of any age who are employed by their parent, or a person standing in the place of a parent, to perform any job on a farm owned or operated by their parent or such person standing in the place of a parent. However, the proposals would have had other impacts in non-family farm employment situations, such as prohibiting youth (in all employment) from using cellphones or other electronic devices while operating power-driven equipment. Children under the age of 16 would have been prohibited from operating almost all power-driven equipment with limited exemptions for student learners to operate certain farm implements and tractors when equipped with proper rollover protection structures and seat belts.

The DOL took comments on the proposed rules, and on April 26, 2012, issued a statement regarding withdrawal of the proposals related to children working in agricultural occupations: “The Obama administration is firmly committed to promoting family farmers and respecting the rural way of life, especially the role that parents and other family members play in passing those traditions down through the generations. The Obama administration is also deeply committed to listening and responding to what Americans across the country have to say about proposed rules and regulations. As a result, the Department of Labor is announcing today the withdrawal of the proposed rule dealing with children under the age of 16 who work in agricultural vocations. The decision to withdraw this rule – including provisions to define the ‘parental exemption’ – was made

in response to thousands of comments expressing concerns about the effect of the proposed rules on small family-owned farms. To be clear, this regulation will not be pursued for the duration of the Obama administration. **Instead, the Departments of Labor and Agriculture will work with rural stakeholders – such as the American Farm Bureau Federation, the National Farmers Union, the Future Farmers of America, and 4-H – to develop an educational program to reduce accidents to young workers and promote safer agricultural working practices.**"

The need for continued vigilance and enhanced farm safety programs is undisputed. In the meantime – and particularly because of significant media attention given to this issue – farm producers have questions regarding the current rules for youth employment in farm and other ag-related occupations. The basic guidelines include the following:

- Youths of any age may work at any time in any job on a farm owned or operated by their parents.
- Youths ages 16 and above may work in any farm job at any time.
- Youths aged 14 and 15 may work outside school hours in jobs not declared hazardous by the DOL.
- Youths 12 and 13 years of age may work outside of school hours in non-hazardous jobs on farms that also employ their parent(s) or with written parental consent.
- Youths under 12 years of age may work outside of school hours in non-hazardous jobs with parental consent, but **only** on farms where none of the employees are subject to the minimum wage requirements of the FLSA – meaning small farms.
- Local youths aged 10 and 11 may hand harvest short-season crops outside school hours for no more than 8 weeks between June 1 and October 15 if the employer has obtained special waivers from the DOL.

Again, minors under the age of 16 may not work in **hazardous** occupations in agriculture unless the youth is employed on a farm **owned or operated** by the parents. Also, 14- and 15-year old student learners enrolled in vocational agricultural programs are exempt from certain hazardous occupation prohibitions when certain requirements are met; and minors aged 14 and 15 who hold certificates of completion of training under a 4-H or vocational agriculture training program may work outside school hours on certain equipment for which they have been trained.

Hazardous occupations in agriculture would generally be described as the following:

- 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;
- Operating or working with a corn picker, grain combine, hay mower, forage harvester, hay baler, potato digger, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor, unloading mechanism of a nongravity-type self-unloading wagon or trailer, power post-hole digger, power post driver, or nonwalking-type rotary tiller;
- Operating or working with a trencher or earthmoving equipment, fork lift, potato combine, or power-driven circular, band or chain saw;
- Working 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 (with umbilical cord present);
- Felling, buckling, skidding, loading, or unloading timber with a butt diameter or more than 6 inches;
- Working from a ladder or scaffold at a height of over 20 feet;
- Driving a bus, truck or automobile to transport passengers, or 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; an upright silo within 2 weeks after silage has been 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 toxic agricultural chemical identified by the words "danger," "poison," or "warning" or a skull and crossbones on the label;
- handling or using explosives; and
- transporting, transferring, or applying anhydrous ammonia.

The rules summarized above are based on federal regulations, but there may also be applicable state rules. Depending on the state where the youth employment takes place, those state rules should be consulted, and the law setting the most stringent standard (either state or federal) must be observed.

It is impossible to over-emphasize farm safety for all workers, both youth and adults. Producers should conduct farm safety audits and institute an on-going farm safety education program. Additionally, producers should consult with their own legal counsel for specific advice on any employment or liability questions that may arise, and consult with their insurance professionals to assure that adequate liability coverage is maintained for the operation.

**For more information see:**

**Child Labor Requirements In Agricultural Occupations Under the Fair Labor Standards Act (Child Labor Bulletin 102) (revised June 2007)**

<http://www.dol.gov/whd/regs/compliance/childlabor102.pdf>

**Federal Youth Employment Laws in Farm Jobs (Fact Sheet #40, US Department of Labor, Wage and Hour Division)** <http://www.dol.gov/whd/regs/compliance/whdfs40.pdf>

**For information on Iowa child labor laws, see the Iowa Workforce Development website:**

<http://www.youthforiowa.org/laborlaws.html>

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