

Chapter Ind 70

CHILD LABOR

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History: Chapter Ind 70 as it existed on May 31, 1968 was repealed and a new chapter Ind 70 was created, Register, May, 1968, effective June 1, 1968.

Ind 70.001 Child labor permits. Section 103.71, Wis. Stats., permits the issuance of permits to minors 14 years of age and over for lawful employment. Section 103.71, Wis. Stats., is hereby modified to permit the issuance of child labor permits by duly authorized permit officers to minors under 14 years of age for the occupations and the ages indicated below:

- (1) To minors 12 years of age and over for employment in school lunch programs of the school which they attend.
- (2) To minors 12 years of age and over for employment as caddies on a golf course.
- (3) To minors 12 years of age and over employed in agricultural pursuits to serve as age certificates.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

Ind 70.01 Age certificate. (1) **AGE LIMIT.** Age certificates shall be issued to minors 18 to 21 years of age.

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

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

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

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

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

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

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

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

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

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

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

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

(b) *Other proofs of age.* School age preferably from the first school attended, with a parent's, guardian's or custodian's statement of age and physician's statement of physical age if under 18 years of age. If between 18 and 21 years of age, the school age with a parent's affidavit and the minor's affidavit.

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

(4) **MARRIED GIRLS.** A marriage license or certificate shall be required in addition to the proof of age used.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

Ind 70.03 Exemptions. Prohibited employment restrictions shall not apply to minors 16 and 17 years of age who are apprentices, high school graduates, and student learners, when employed under the following conditions:

(1) **APPRENTICES.** Minors indentured under the provisions of section 106.01, Wis. Stats., shall not be subject to the law or rules concerning prohibited employment for minors insofar as such minors at the time of injury are performing service within the provisions of

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contracts of apprentice indenture approved by the department of industry, labor and human relations.

(2) **HIGH SCHOOL GRADUATES.** High school graduates shall not be subject to the law or rules concerning prohibited employment for minors. This rule does not exempt high school graduates from the work permit requirements.

(3) **STUDENT LEARNERS.** Student learners shall not be subject to the law or rules concerning prohibited employments for minors insofar as such minors at the time of injury are performing service within a bona fide school-work training program sponsored by an accredited school and authorized and approved by the state department of public instruction, or the board of vocational, technical and adult education.

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

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

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

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

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

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

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

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

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68; r. and recr. Register, June, 1969, No. 162, eff. 7-1-69.

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

(1) **GENERAL EMPLOYMENT.** No minor under 18 years of age shall be employed or permitted to work in any gainful occupation during the hours he is required to attend school as defined in section 118.15, Wis. Stats., except for those students participating in an approved high school or vocational school work training or work experience program for which proper scholastic credit is given.

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

(a) *Agricultural pursuits.* Minors 12 years of age or over may be employed in agricultural pursuits as provided in section 103.77, Wis. Stats.

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

Note: It is recommended that minors operating power equipment such as snow blowers, lawn mowers, cultivating machinery, etc. around the home of the employer be at least 14 years of age and obtains instruction on the proper handling and maintenance of such equipment. Qualified instructors may represent manufacturers, dealers, schools and safety organizations.

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

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

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

(f) *School lunch programs.* Section 103.67 (2), Wis. Stats., is modified to permit the employment of minors 12 years of age and over in the school lunch programs of the schools which they attend.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

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

(1) **HOURS OF LABOR.** (a) Minors 14 and 15 years of age may not be employed more than 6 days per week, except in street trades; 8 hours per day; 24 hours per week while schools are in session or, 40 hours per week during their school vacation.

(b) Minors 16 and 17 years of age may not be employed more than: 6 days per week, except in street trades and as station captains or delivery clerks incidental to street trades; 8 hours per day; 40 hours per week while schools are in session or, 48 hours per week during their school vacations.

(c) Florists may employ minors 16 and 17 years of age in excess of the permitted hours of labor per day and per week on a voluntary basis during the 3-day period prior to Valentine's Day, Easter, Mother's Day, Memorial Day, and Christmas.

During these peak periods, time and one-half the regular rate of pay must be paid for all overtime hours worked per day or per week, whichever is greater as follows:

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

2. To minors 16 and 17 years of age working over 8 hours a day, 48 hours a week during their school vacations.

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

(2) **TIME OF DAY RESTRICTIONS.** (a) Minors 14 and 15 years of age may not be employed before 7:00 a.m. on any day, except in street trades, nor after 8:00 p.m. on days preceding school days and not later than 9:30 p.m. on days not preceding school days and during their school vacations.

(b) Girls 16 and 17 years of age may not be employed before 6:00 a.m. on any day nor after 11:00 p.m. on days preceding school days and not later than 12:30 a.m. on days not preceding school days and during their school vacations.

(c) Boys 16 and 17 years of age may not be employed before 6:00 a.m. on any day nor after 12:30 a.m. on any day except where they are under direct adult (21 or over) supervision, and providing that on days preceding a school day they receive at least 8 consecutive hours of rest between the ending of work and the beginning of school the next day. This paragraph shall not apply to boys employed in street trades nor as station captains or delivery clerks incidental to street trades.

(d) Minors under 18 years of age may not be employed during the hours they are required to attend school as defined in section 118.15, Wis. Stats., nor contrary to local curfew ordinances establishing an earlier restriction.

(3) **MEAL PERIODS.** At least 30 minutes shall be allowed for each meal period reasonably close to the usual meal period time, namely 6:00 a.m.; 12:00 noon; 6:00 p.m.; 12:00 midnight or at such other times as deemed reasonable by the department. In no case shall a minor under 18 years of age be employed or permitted to work more than 6 consecutive hours without a meal period.

(4) **HIGH SCHOOL GRADUATES OR OTHER MINORS WHO ARE EXEMPT FROM SCHOOL ATTENDANCE.** Minors 16 and 17 years of age, who are high school graduates or exempt from school attendance, may be employed the same daily and weekly hours and time of day as women and men 18 years of age or over.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68; cr. (1) (c) r. and recr. (2), Register, January, 1969, No. 157, eff. 2-1-69.

Ind 70.06 Minimum age for hazardous employment. The employments and places of employment designated herein shall be deemed to be dangerous or prejudicial to the life, health, safety, or welfare of minors under the ages specified, and no employer shall employ or permit such minors to work in such employments. Section 103.69, Wis. Stats., is altered as provided under section 103.66 (1), Wis Stats., to read as follows:

(1) **MINORS UNDER 18 YEARS OF AGE.** (a) Amusement parks, street carnivals and traveling shows: in the operation, erection or dismantling or any rides or machinery, and loading or unloading of passengers.

(b) Boats and vessels (commercial use).

(c) Construction and building operations.

1. Electric wiring, on the outside erection and repair of electric wiring, including telegraph and telephone wiring.

2. Ditches, trenches, tunnels and caissons (Minors 16 and 17 years of age may be employed in ditches and trenches not exceeding 4 ft. in depth at any point.)

3. Roofing.

4. Tower erection (including TV outside antennas).

5. Well drilling (oil, gas or water).

6. Other construction operations including wrecking or demolition (Except that minors 16 and 17 years may be employed on ground level work not near power-driven equipment.)

(d) Dusts, fumes, vapors, gases and radioactive substances; any occupation where dusts, fumes, vapors, gases and radioactive substances are found in injurious quantities:

1. Arsenic, Selenium or their salts

2. Beryllium and its salts (all processes)

3. Chromium and Cadmium (electroplating, brazing or welding)

4. Fertilizer manufacturing

5. Free Silica (such as in foundries, granite works, quarries and sand blasting)

6. Insecticides; including all manufacturing, spraying or dusting operations

7. Lead; processing and smelting (battery manufacturing or reclaiming and paint manufacturing and spraying operations)

8. Ionizing or radiation exposures

9. Manganese (dry cell battery manufacturing)

10. Mercury; all operations using mercury

11. Toxic and flammable liquids or gases; the manufacturing or handling of toxic and flammable liquids or gases, strong acids and alkalis (all operations). (Does not include retail gasoline or service stations and garages.)

(e) Elevators; in running or management of any elevators, lifts or hoisting machines. (Except minors 16 and 17 years of age may operate fully automatic self-service type elevators during the normal course of employment, and empty or filled can palletizers or de-palletizers.)

(f) Explosives; manufacturing, storage or handling

(g) Ice harvesting

(h) Life guards; except that minors 16 and 17 years of age may be employed as life guards and swimming instructor aides where constant adult supervision is provided and where Red Cross certificates or the equivalent have been issued.

(i) Liquors; employment in any establishments in which strong, spirituous or malt liquors are manufactured, bottled, stored, sold or given away; provided that this restriction shall not apply to employment in brewery offices, stores and wholesale warehouses which sell predominantly other merchandise and in which liquor is sold only in sealed packages for consumption off the premises. Minors 16 and 17 years of age may be employed in hotels, motels, summer resorts, clubhouses, bowling alleys and restaurants which serve liquor, on condition that the minors are not handling or serving the liquor, and in stores in which liquor is sold only in sealed packages for consumption off the premises, provided such minor does not engage in

the retail sale of fermented malt beverages or intoxicating liquors and is under the supervision of the licensee or a licensed operator. (Also see section 66.054 Wis. Stats.)

(j) Mines, quarries, sand and gravel pits; any occupation in or about, except for employment in offices or weigh stations.

(k) Motor vehicles over 1 ton capacity; driver.

(m) Power-driven machinery (portable or stationary); oiling, cleaning or maintaining any power-driven machinery either while in motion or at rest.

(n) Power-driven machinery (heavy); in the operation of or assisting in the operation of the following machines:

1. Industrial (forklifts) trucks
2. Logging or lumbering (all operations—except pulp peeling, not immediately adjacent to tree felling or log loading operations may be done by 16 and 17 year old minors.)
3. Meat grinders
4. Milling machines
5. Punch presses, press brakes and shears (all operations—including punching, shearing, drawing, forming and bending.)
6. Sawmill, lath mill, shingle mill or cooperage stock manufacturing
7. Woodworking machinery—circular saws, radial saws, jointers, and shaping machines

(o) Railroads, street railways and interurban railroads, switch-tending or gate-tending; as brakeman, fireman, engineer, motorman, conductor, telegraph operator

(p) Strikes and lockouts; any establishment where such are in active progress

(q) Welding, heavy; tanks and vessels

(r) Window washing; where work is above the first floor and involves climbing ladders or using safety belts

(2) MINORS UNDER 16 YEARS OF AGE. (a) Amusement or recreational centers, in or about, commercial: arcades, billiard halls, bowling alleys, karting tracks, poolrooms, roller skating rinks, dance halls and pavilions, except as provided in section 103.69 (3) (d), Wis. Stats.

Note: Minors 14 years of age and over may be employed in arenas, auditoriums, coliseums and stadiums.

(b) Airports; in or about landing strip, taxi or maintenance apron

(c) Gun clubs; as skeet and trap loaders

(d) Hospitals (personal care of patients)

(e) Hotels, motels, summer resorts and clubhouses

(f) Motor vehicles: driver or helper

(g) Nursing homes

(h) Power-driven machinery (light); in the operation of or assisting in the operation of the following machines:

1. Farm type tractors and other self-propelled vehicles
2. Laundry machinery
3. Lawn and garden equipment including sidewalk type snow blowers. (This restriction does not apply to work in and around the private home of the employer and not in connection with his trade or business.)

4. Machines; drill presses, grinder wheels, lathes and portable power-driven machinery such as drills, sanders and floor maintenance equipment—polishers and scrubbers

5. Meat saws and slicers

6. Textile machinery

7. Welding, light—light welding including spot welding in manufacturing operations

8. Woodworking machinery not listed under section Ind 70.06 (1) (n) 6.

(1) Street carnivals and traveling shows (See section Ind 70.06 (2) (a)).

(3) GIRLS UNDER 16 YEARS OF AGE. (a) Restaurants, including drive-ins and curb service stands

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68; r. and recr. (1) (1), Register, January, 1969, No. 157, eff. 2-1-69; am. (1) (1), and r. (1) (1), Register, March, 1969, No. 159, eff. 4-1-69; am. (1) (1), Register, June, 1969, No. 162, eff. 7-1-69.

Ind 70.07 Caddies on golf courses. The labor permit issued by the department of industry, labor and human relations or by a person designated by it to issue labor permits for a minor under 18 years of age to be employed as a caddy by the golf club named in the permit, shall be deemed to permit the employment of the minor named in the permit as a caddy by such golf club on whose course inter-club matches, inter-service club matches or special events for nonmembers are being held during the duration of such matches or events; provided that the club on whose course the matches or events are being held secures from the club to whom the permit or permits were issued a list of the caddies transferred prior to the employment of such caddies by the club to which transferred. This list shall contain the name, address, and date of birth of each minor transferred, together with the date of issuance of the permit, the name of the golf club to which it was issued, and the name of the golf club to which the minor was transferred. The golf club to which the permit or permits were issued shall keep on file at the club a duplicate of the above list. The golf club to which the caddy or caddies are transferred shall add to the list the dates of employment by it of each minor named in the list and shall keep such list on file at the club.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

Ind 70.08 Gainful employment. (1) Services, not prohibited by statute or regulation, performed by minors under 18 years of age on a part time, occasional, and volunteer basis for nonprofit organizations generally recognized, not only as nonprofit, but also of an educational, charitable, religious, or community service nature, are not regarded as gainful occupations or employments, where no employer-employee relationship, in fact, exists.

(a) A nonprofit organization is one which is not operating for a profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) Minors under 18 years of age may engage in part-time, occasional services on a volunteer basis for nonprofit organizations of a charitable, educational and religious nature or a community service under the following conditions:

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1. Volunteers may not serve at any job or in any area that is prohibited by the child labor law or orders of the department.

2. The hours of contributed service and the time of day shall be limited to those permitted by Wisconsin child labor regulations for minors under 18 years of age.

3. Each organization utilizing the service of a minor volunteer must obtain the written consent of the minor's parent.

4. Teenage volunteers must be under the supervision of a responsible adult, and should have such training and supervision as will make their services a genuine learning experience.

5. The organizations utilizing volunteers should provide by means of insurance, or otherwise, for on-duty injuries that may occur to the volunteer when contributing service to the organization. It is also recommended that some type of liability coverage be provided to protect the volunteer in the event that the volunteer causes an accident to a third party.

6. Teenage volunteers are not to be economically exploited.

7. Nothing in this policy shall be construed to prohibit activities by organized volunteer groups engaged in providing entertainment such as singing, playing or performing, solely for the patients of the hospitals or institutions.

(2) Services not prohibited by statute or regulation performed by students during regular school hours while enrolled in an approved high school or vocational school work training or work experience program are not regarded as gainful occupations or employments, where no employer-employee relationship, in fact, exists.

(a) Minors under 18 years of age may engage in work training or work experience programs under the following conditions:

1. The hours of service shall be performed during regular school hours.

2. Minors may not serve at any job prohibited by statute or orders of the department.

3. The program provides a true learning experience and is based on a bona fide curriculum.

4. Proper scholastic credit is given.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

Ind 70.09 Fees for permits. The department fixes a fee of 25 cents for the issuing of each child labor permit and authorizes the retention of such fee by the permit officer as compensation for his services.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

Ind 70.10 Employment of minors in agriculture. No minor under 12 years of age may be employed or permitted to work under section 103.77 (2) Wis. Stats., in cherry orchards, market gardening, gardening conducted or controlled by canning companies and the culture of sugar beets and cranberries.

(1) The presence of a child under 12 at the place where his parent or guardian is employed, if merely for the purpose of supervision, is not prohibited by this order, and

(2) An employer is not deemed to have permitted a child to work at employment prohibited by this order if he has notified his employes

of its provisions and has made reasonable effort to enforce such provisions and has not acquiesced in children under 12 performing such work.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

Ind 70.11 Seasonal employment, return of permit. The permit of a minor employed in a seasonal employment does not have to be returned to the permit officer by the employer at the end of the season as required by section 103.74 (3), Wis. Stats., if the minor will probably be reemployed the next season, providing the following conditions are met:

(1) That the permit be returned within 24 hours upon the request of the minor, the permit officer or the department.

(2) That the permits of all minors whose employment has been terminated and who will not be reemployed, be returned to the permit officer.

(3) Before the season begins, the employer must return all permits of all minors who will not be reemployed by him, keeping only the permits for those minors who will actually be employed.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.

Ind 70.12 Penalties. Any employer who employs any minor in violation of the permitted hours of labor as specified in section Ind 70.05 (1), and on the time of day as specified in section Ind 75.05 (2), [70.05] notwithstanding other statutory penalties, shall be required to pay to each minor time and one-half the regular rate of pay for all hours worked in violation per day or per week whichever is greater.

History: Cr. Register, May, 1968, No. 149, eff. 6-1-68.