

# RULES CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPT. OF INDUSTRY, )  
LABOR & HUMAN RELATIONS )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carol Skornicka, Secretary of the Department of Industry,  
Labor and Human Relation, and custodian of the official records of said department, do hereby certify the  
the annexed rule(s) relating to Child Labor and Street Trades were duly  
(Subject)  
approved and adopted by this department on November 14, 1991  
(Date)

I further certify that said copy has been compared by me with the original on file in the department  
and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set  
my hand and affixed the official seal of the  
department at 11:30 a.m.  
in the city of Madison, this 14th  
day of November A.D. 1991.

Carol Skornicka  
Secretary

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NOV 14 1991  
1:55 pm  
DEPT. OF INDUSTRY  
& LABOR

# ORDER OF ADOPTION

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s)

101.02(1) and 103.66 and 103.805

Stats., the Department of Industry, Labor and Human Relations  creates;  amends;

repeals and recreates;  repeals and adopts rules of Wisconsin Administrative Code chapter(s):

Ind 70 and 71

(Number)

Child Labor and Street Trades

(Title)

The attached rules shall take effect on publication

pursuant to section 227.22, Stats.

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NOV 14 1991

Division of Statutes  
Bureau

Adopted at Madison, Wisconsin this

date: November 14, 1991

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN  
RELATIONS



Secretary



# RULES in FINAL DRAFT FORM

**Rule No.:** Ind 70 and 71

**Relating to:** Child Labor and Street Trades

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DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

## TEXT OF PROPOSED RULE

Pursuant to the authority vested in the Department of Industry, Labor and Human Relations under Sections 101.02(1), 103.66 and 103.805, Wis. Stats., the Department of Industry, Labor and Human Relations hereby proposes to repeal Ind 70.05(1)(a) and (b); to renumber Ind 70.05(1)(d), 70.05(2)(a), (b) and (c), and 70.06(1) and (10); to renumber and amend ind 70.05(1)(c) and (e) and 70.05(2)(b); to amend Ind 70.001, 70.05(2)(b), (5) and (6), 70.06(36)(e), 70.08(1)(b)6, 70.09 and 71.02; to repeal and recreate Ind 70.05(2)(c) and 71.04; and to create Ind 70.002, 70.003, 70.05(1)(a), (b), (c), (g) and (h), 70.05(2)(a), 70.06(1), (1r), (2m), (3m), (7m) and (34m), 70.15, 70.16, 71.06, 71.07 and 71.08, relating to changes in the regulation of child labor.

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### ANALYSIS

The Council on Child Labor has recommended changes to Chapters Ind 70, Child Labor, and Ind 71, Street Trades.

The recommended changes include procedural language for obtaining and revoking work permits, increasing the fee for the issuance of work permits, a general reduction in the hours and time of day minors may work and the addition of several new hazardous employments.

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SECTION 1. Ind 70.001 is amended to read:

Ind 70.001 CHILD LABOR PERMITS. Section 103.71, Stats., permits the issuance of permits to minors 14 years of age and over, minors 12 and over in school lunch programs, in street trades, and—as caddies on golf courses and under the direct supervision of the minor's parent or guardian in connection with the parent's or guardian's business, trade or profession.

SECTION 2. Ind 70.002 is created to read:

Ind 70.002 REQUIREMENTS TO OBTAIN A CHILD LABOR PERMIT. (1) Child labor permits may be obtained from any authorized permit officer throughout the state when the following is presented to the permit officer:

- (1) Proof of age as provided in Ind 70.02.
- (2) Letter from the employer stating the intent to employ the minor along with the job duties, hours of work and time of day the minor will be working.
- (3) Letter from the minor's parent, guardian or court-ordered foster parent while the minor is under their care and supervision consenting to the employment. As an alternative, the parent, guardian or foster parent may countersign the employer's letter.
- (4) The minor's social security card.
- (5) Payment from the employer of the permit fee. If the minor advances the fee, the employer shall reimburse the minor not later than the first pay check.

SECTION 3. Ind 70.003 is created to read:

Ind 70.003 CHILD LABOR PERMIT FORM. (1) The permits shall be issued upon blanks furnished by the department and copies shall be distributed as follows:

- (a) Original to the employer.
- (b) Copy 2 to the minor.
- (c) Copy 3 to the department.
- (d) Copy 4 retained by the permit officer.
- (e) Copy 5 to the school district the minor attends.

(2) At the end of each month, the issuing office shall forward a copy of each permit issued to the public school district the minor attends or to the private or parochial school the minor attends. This requirement shall not apply for summer employment or for out-of-state students.

SECTION 4. Ind 70.05(1)(a) and (b) are repealed.

SECTION 5. Ind 70.05(1)(a), (b) and (c) are created to read:

Ind 70.05(1) HOURS OF LABOR. (a) Minors 12 and 13 years of age may be employed in agricultural pursuits, domestic employment, school lunch programs, caddies on a golf course and for parent or guardian employing their own children not more than 6 days per week, except in street trades; 4 hours per day, except 8 hours per day on Fridays, Saturdays, Sundays and other non-school days, 18 hours per calendar week, while their respective school is in session, or 24 hours per calendar week while their respective school is in session less than 5 days per week, 8 hours per day or 40 hours per calendar week during the weeks they are not required to attend school on any day of the calendar week.

(b) Minors 14 and 15 years of age may be employed not more than 6 days per week, except in street trades and agriculture; 4 hours per day except 8 hours per day on Fridays, Saturdays, Sundays and other non-school days, 18 hours per calendar week, while their respective school is in session, or 24 hours per calendar week while their respective school is in session less than 5 days per week, 8 hours per day or 40 hours per calendar week during the weeks they are not required to attend school on any day of the calendar week.

(c) Minors 16 and 17 years of age may be employed not more than 6 days per week, except in street trades, agriculture, and canning and freezing establishments, and as station captains or delivery clerk incidental to street trades; 4 hours per day except 8 hours per day on Fridays, Saturdays, Sundays and other non-school days, 26 hours per calendar week while their respective school is in session, or 32 hours per calendar week while their respective school is in session less than 5 days per week.

SECTION 6. Ind 70.05(1)(c) is renumbered Ind 70.05(1)(d) and amended to read:

~~(e)~~ (d) Minors 16 and 17 may be employed in excess of the permitted hours of labor per day and per week ~~on-a-voluntary-basis~~ in weeks when they are not required to attend school provided the employer pays overtime as provided under the employer's pay plan to other workers, but in no case shall the payment be less than time and one-half their regular rate of pay for all overtime hours worked over 10 hours per day or over 40 hours per week whichever is greater, but in no case may minors 16 and 17 years of age be employed more than 50 hours per week. This exception shall not be interpreted to permit a minor to work more than 8 hours per day on Saturday, Sunday or other days during the week when the minor is required to attend school on any day of that week.

SECTION 7. Ind 70.05(1)(d) is renumbered Ind 70.05(1)(e).

SECTION 8. Ind 70.05(1)(e) is renumbered Ind 70.05(1)(f) and amended to read:

~~(e)~~ (f) Minors ~~12~~ 14 through 17 years of age may be employed in agricultural pursuits in excess of the permitted hours of labor per week ~~on-a-voluntary-basis~~ during peak periods. During these peak periods, time and one-half the regular rate of pay must be paid for all overtime hours worked over 50 hours per week: ~~1. To~~ Minors 12 14 through 17 years of age ~~working~~ may work over the permitted hours of labor of 50 hours a week during the hours they are not required to attend school when their school is in session.

~~2. To minors 12 through 17 years of age working over 60 hours a week during their school vacations.~~

~~3. Effective January 1 of each year the permitted weekly hours shall decrease by one hour per week as follows:~~

~~a. Effective January 1, 1980 --- 54 hours per week~~

~~b. Effective January 1, 1981 --- 53 hours per week~~

~~c. Effective January 1, 1982 --- 52 hours per week~~

~~d. Effective January 1, 1983 --- 51 hours per week~~

~~e. Effective January 1, 1984 --- 50 hours per week~~

SECTION 9. Ind 70.05(1)(g) is created to read:

Ind 70.05(1)(g) In court ordered restitution or community services programs, minors 12 or 13 years of age may be employed or perform any duties under circumstances in which a minor 14 or 15 years of age is permitted to be employed or permitted to work as provided under Ind 70.05 and Ind. 70.06.

Note: See ss. 48.34(5), (6) and (9)(a), Stats.

SECTION 10. Ind 70.05(1)(h) is created to read:

Hours worked as part of a work experience program during school hours will not count as part of the total permitted hours of work per day or per week.

SECTION 11. Ind 70.05(2)(a) is renumbered Ind 70.05(2)(b).

SECTION 12. Ind 70.05(2)(a) is created to read:

Ind 70.05(2) TIME OF DAY RESTRICTIONS. (a) Minors 12 and 13 years of age may be employed in agricultural pursuits, domestic employment, school lunch programs, caddies on a golf course and for parents or guardians employing their own children not before 7:00 a.m. on any day, 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. Except in agriculture, they may start at 5:00 a.m.

SECTION 13. Ind 70.05(2)(b) is amended to read:

Ind 70.05 (2) TIME OF DAY RESTRICTIONS. (a) (b) Minors ~~12~~ 14 through 15 years of age may not be employed before 7:00 a.m. on any day, nor after 8:00 p.m. on days preceding school days and not later than ~~9:30~~ 11:00 p.m. on days not preceding school days ~~and during their school vacations,~~ except in agriculture they may start at 5:00 a.m.

SECTION 14. Ind 70.05(2)(b) is renumbered Ind 70.05(2)(c) and repealed and recreated to read:

(c) Minors 16 and 17 years of age may not be employed before 7:00 a.m. on school days nor before 5:00 a.m. on non-school days, nor after 11:00 p.m. on days preceding school days, nor after 12:30 a.m. on days not preceding a school day. During non-school weeks, the time of day is not regulated except between the hours of 12:30 a.m. and 5:00 a.m. they shall be under direct adult supervision and they shall receive at least 8 consecutive hours of rest between the ending of work and the beginning of work the next day, except in agriculture adult supervision is not required. This paragraph shall not apply to minors employed in street trades nor as station captains or delivery clerks incidental to street trades.

SECTION 15. Ind 70.05(2)(c) is renumbered Ind 70.05(2)(d).

SECTION 16. Ind 70.05(5) and (6) are amended to read:

Ind 70.05(5) "Day" means a calendar day. ~~or a regular reoccurring period of 24 consecutive hours.~~

Ind 70.05(6) "Week" means a calendar week or a regular reoccurring period of 168 hours in the form of 7 consecutive ~~24-hour periods~~ calendar days.

SECTION 17. Ind 70.06(1) is renumbered Ind 70.06(1g)

SECTION 18. Ind 70.06(1) is created to read:

Ind 70.06 (1) ADULT BOOKSTORES. Finding and declaration of fact. All occupations in an adult bookstore are hazardous for employment or detrimental to their health or well-being.

SECTION 19. Ind 70.06(1r) is created to read:

Ind 70.06 (1r) ASBESTOS, CHRYSOTILE, CROCIDOLITE, AMOSITE, TREMOLITE, ANTHOPHYLLITE AND ACTINOLITE. Finding and declaration of fact. All occupations or duties relating to exposure to asbestos, chrysotile, crocidolite, amosite, tremolite, anthophyllite and actinolite. Note: See ILHR 32, Wis. Adm. Code, and H55 159, Adm. Code.

SECTION 20. Ind 70.06(2m) is created to read:

Ind 70.06 (2m) BINGO. Finding and declaration of fact. All occupations involving conducting or assisting in the operation of the bingo game. Note: See s. 163.5 1(13)(B) ss.

SECTION 21. Ind 70.06 (3m) is created to read:

Ind 70.06 (3m) CONFINED SPACE. Finding and declaration of fact. All occupations or duties in an environment which by design or construction has limited openings for entry and egress, has unfavorable natural ventilation, could reasonably be believed by the employer to have dangerous air contaminants or contain materials which may produce dangerous air contaminants, and is not intended for human occupancy. Confined spaces include, but are not limited to, storage tanks, compartments of ships, process vessels, pits, silos, vats, degreasers, reaction vessels, boilers, ventilation and exhaust ducts, manholes, sewers, tunnels, underground utility vaults, and pipelines, but do not include heating system tunnels and vaults. Note: See ILHR 31.01, Wis. Adm. Code.

SECTION 22. Ind 70.06 (7m) is created to read:

Ind 70.06 (7m) INFECTIOUS AGENT. Finding and declaration of fact. All occupations or duties relating to exposure to bacterial, mycoplasmal, fungal, parasitic or viral agent identified by the department by rule as causing illness in humans or human fetuses or both, which is introduced by an employer to be used, studied, or produced in the workplace. "Infectious agent" does not include such an agent in or on the body of a person who is present in the workplace for diagnosis or treatment. Note: See ILHR 35, Wis. Adm. Code, Infectious Agents.

SECTION 23. Ind 70.06 (10) is renumbered Ind 70.06 (19).

SECTION 24. Ind 70.06(10) is created to read:

Ind 70.06(10) LEAD. A finding and declaration of fact. All occupations in working with lead are particularly hazardous.

All occupations involving hazardous exposure to lead.

SECTION 25. Ind 70.06(34m) is created to read:

Ind 70.06(34m) RACETRACKS AND FAIRS WITH PARI-MUTUEL BETTING

(a) All occupations or duties at a racetrack where pari-mutuel betting is permitted.

(b) All occupations or duties in pari-mutuel wagering activities at a fair.

Note: See also s. 562.06(2), Stats.

SECTION 26. Ind 70.06(36)(e) is amended to read:

Ind 70.06(36)(e) ~~Cooking except at soda fountains, lunch locations, snack bars, or cafeteria serving counters) and baking~~ with adult supervision.



SECTION 27. Ind 70.08(1)(b)6 is amended to read:

Ind 70.08(1)(b)6 Teenaged volunteers are not to be economically exploited nor shall they be used to replace a paid employe.

SECTION 28. Ind 70.09 is amended to read:

Ind 70.09 FEES FOR PERMIT AND CERTIFICATE OF AGE. The department fixes a fee of ~~\$1~~ \$5.00 for the issuing of each Child Labor Permit or Certificate of Age and authorizes the retention of ~~50-cents~~ \$2.50 of the fee by the permit officer as compensation for his services. The permit officer shall forward ~~50-cents~~ \$2.50 of the fee to the department to cover the cost of administration, materials and supervision. ~~The department authorizes the Milwaukee school board to retain the full fee as compensation for their services due to the volume of permits issued, the high cost of facilities and salaries in the city of Milwaukee.~~

SECTION 29. Ind 70.15 is created to read:

Ind 70.15 POSTING OF ORDER. A summary of the provisions of this chapter shall be posted in a conspicuous place in all places of employment where minors are employed or permitted to work, except domestic and agricultural employments, on a form prescribed by the department.

SECTION 30. Ind 70.16 is created to read:

Ind 70.16 REVOCATION OF PERMITS. (1) The department may revoke any permit whenever the permit has been improperly or illegally issued, or the physical, moral welfare or the best interests of the minor would be served by revocation.

(2) The department may revoke any permit if requested in writing by the school principal or the minor's parent or guardian who has legal custody of the minor or the court-ordered foster parent while the minor is under their care and supervision. The requesting party shall demonstrate some attempt has taken place to resolve the work problem between the minor, school, parent or guardian and employer before the request for revocation is made to the department.

SECTION 31. Ind 71.02 is amended to read:

Ind 71.02 FEES. The department fixes a fee of ~~\$1~~ \$5.00 for the issuing of each Street Trades Permit and authorizes the retention of ~~50-cents~~ \$2.50 of the fee by the permit officer as compensation for his services. The permit officer shall forward ~~50-cents~~ \$2.50 of the fee to the department to cover the cost of administration, materials and supervision. ~~The department authorizes the Milwaukee school board to retain the full fee as compensation for their services due to the volume of permits issued, the high cost of facilities and salaries in the city of Milwaukee.~~

SECTION 32. Ind 71.04 is repealed and recreated to read:

Ind 71.04 HOURS OF WORK AND TIME OF DAY OF WORK. (1) Minors under 12 years of age may work in a fundraising sale for a non-profit organization, a public or private school. Minors under 12 years of age must submit written approval from their parent or guardian to the non-profit organization, public or private school. Each minor or group of minors under 9 years of age must be physically accompanied by a parent or person at least 16 years of age.

(2) No minor under 16 years of age shall be employed or permitted to work at any street trade more than 6 days per week except for the delivery of newspapers; 4 hours per day, except 8 hours per day on Fridays, Saturdays, Sundays and other non-school days, 18 hours per calendar week while their respective school is in session, or 24 hours per calendar week while their respective school is in session less than 5 days per week or 40 hours per week during non-school weeks, nor before 7:00 a.m. except for the delivery of newspapers 5:00 a.m., nor after 8:00 p.m. on days preceding school days and not later than 9:00 p.m. on days not preceding school days.

(3) No minors 16 or 17 years of age shall be employed or permitted to work at any street trade more than 6 days per week except for the delivery of newspapers; 4 hours per day, except 8 hours per day on Fridays, Saturdays, Sundays and other non-school days, 26 hours per calendar week while their respective school is in session, or 32 hours per calendar week while their respective school is in session less than 5 days per week, nor before 6:00 a.m., except for the delivery of newspapers 5:00 a.m., nor after 9:00 p.m. on days preceding school days and not later than 11:00 p.m. on days not preceding school days.

(4) Hours worked as part of a work experience program during school hours will not count as part of the total permitted hours of work per day or per week.

(5) Minors 16 and 17 may be employed in excess of the permitted hours of labor per day and per week in weeks when they are not required to attend school provided the employer pays overtime as provided under the employer's pay plan to other workers, but in no case shall the payment be less than time and one-half their regular rate of pay for all overtime hours worked over 10 hours per day or over 40 hours per week whichever is greater, but in no case may minors 16 and 17 years of age be employed more than 50 hours per week. This exception shall not be interpreted to permit a minor to work more than 8 hours per day on Saturday, Sunday or other days during the week when the minor is required to attend school on any day of that week.

(6) Minors may not be employed during the hours they are required to attend school as defined in s. 118.15, Stats., nor contrary to local curfew ordinances establishing an earlier restriction.

(7) Minors 16 and 17 years of age, who are high school graduates or exempt from school attendance as defined in s. 118.15, Stats., may be employed the same daily and weekly hours and time of day as adults.

(8) "Day" means a calendar day.

(9) "Week" means a calendar week or a regular reoccurring period of 168 hours in the form of 7 consecutive calendar days.

(10) In court ordered restitution or community services programs, minors 12 or 13 years of age may be employed or perform any duties under circumstances in which a minor 14 or 15 years of age is permitted to be employed or permitted to work as provided under Ind 70.05 and Ind 70.06. Note: See ss. 48.34(5)(b) and (9)(a), Stats.

SECTION 33. Ind 71.06 is created to read:

Ind 71.06 REQUIREMENTS TO OBTAIN A STREET TRADES PERMIT. (1) Street trades permits may be obtained from any authorized permit officer throughout the state when the following is presented to the permit officer:

(a) Proof of age as provided in Ind 70.02.

(b) Letter from the employer stating the intent to employ the minor along with the job duties, hours of work and time of day the minor will be working.

(c) Letter from the minor's parent, guardian or court-ordered foster parent while the minor is under their care and supervision consenting to the employment. As an alternative, the parent, guardian or foster parent may countersign the employer's letter.

(d) The minor's social security card.

(e) Payment from the employer of the permit fee. If the minor advances the fee, the employer must reimburse the minor not later than the first pay check.

(2) At the end of each month, the issuing office shall forward a copy of each permit issued to the public school district the minor attends or to the private or parochial school the minor attends. This requirement shall not apply for summer employment or for out-of-state students.

SECTION 34. Ind 71.07 is created to read:

Ind 71.07 STREET TRADES FORM AND IDENTIFICATION CARD. The permit and identification card shall be issued upon blanks furnished by the department and copies shall be distributed as follows:

(a) Original to the employer.

(b) Copy 2 to the minor.

(c) Copy 3 to the department.

(d) Copy 4 retained by the permit officer.

(e) Copy 5 to the school district the minor attends.

(f) Identification card to the minor.

SECTION 35. Ind 71.08 is created to read:

Ind 71.08 REVOCATION OF PERMITS. (1) The department may revoke any permit whenever the permit has been improperly or illegally issued, or the physical, moral welfare or the best interests of the minor would be served by revocation.

(2) The department may revoke any permit if requested in writing by the school principal or the minor's parent or guardian who has legal custody of the minor or the court-ordered foster parent while the minor is under their care and supervision. The requesting party shall demonstrate some attempt has taken place to resolve the work problem between the minor, school, parent or guardian and employer before the request for revocation is made to the department.

SECTION 36 EFFECTIVE DATE: This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro), stats.

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