

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History: Chapter Ind 70 as it existed on May 31, 1968 was repealed and a new chapter Ind 70 was created, Register, May, 1968, effective June 1, 1968.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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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 History: Cr. Register, May, 1968, No. 149, eff. 6-1-68; r. Register, July, 1970, No. 175, eff. 8-1-70.

Ind 70.12 Canning or first processing perishable fresh fruits and vegetables. Section 103.68, Wis. Stats., and Wis. Adm. Code Ind 70.95 [70.05] are modified as provided under 103.66, Wis. Stats., regulating the hours of employment of 16 and 17 year old minors, including married minors, high school graduates and other minors exempt from school attendance, in canning and freezing establishments during the season of actual first processing of perishable fruits and vegetables as follows:

(1) **HOURS OF LABOR.** Minors 16 and 17 years of age shall not be required nor permitted to work more than 9 hours in any day nor more than 54 hours in any week, except:

(a) On not more than 10 weeks during the season, canning and freezing establishments may employ minors 16 and 17 years of age more than 9 hours in any day and more than 54 hours in any week and more than 6 days per week providing that such employment shall not result in any undue hazard to his or her health and that each employe is paid not less than 1½ times his or her regular rate of pay for hours worked over 10 hours per day or 50 hours per week, whichever is greater.

(b) Any week in which a 16 or 17 year old minor works more than 9 hours on any day or any week in which a minor works more than 54 hours shall be counted one of the 10 weeks allowed in paragraph (a).

(2) **REST PERIODS.** Each 16 and 17 year old minor shall be given a period of rest of at least 9 consecutive hours from the ending of work on any day to the beginning of work or the beginning of school the next day.

(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 near the middle

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of a shift. In no case shall a minor be employed or permitted to work more than 6 consecutive hours without a meal period.

(4) DEFINITIONS. For the purpose of this order, "a day" is the 24 hours beginning at 6:00 a.m. of each calendar day; "a week" means a calendar week, or a regular recurring period of 168 hours in the form of 7 consecutive 24-hour periods.

(5) HOURS, BEFORE AND AFTER SEASON. The hours of work of minors 16 and 17 years of age employed in canning and freezing establishments before and after the season of actual first processing of fresh fruits and vegetables must be kept within the limits provided in Ind 70.05.

(6) REPORT. Not later than December 1 of each year, the employer shall make a detailed report to the department on blanks furnished by it for each minor employed in excess of 9 hours per day and 54 hours per week.

History: Cr. emerg. eff. 7-6-71; cr. Register, August, 1971, No. 188, eff. 9-1-71.

(b) *Insurer* means any insurance company authorized to transact in this state on a direct basis basic property insurance, including the property insurance components of multi-peril policies.

(c) *Basic property insurance* means the insurance coverages described below in subparagraphs 1, 2 and 3 of this paragraph against direct loss to real and tangible personal property at a fixed location. The Plan may use customary forms and endorsements to effect coverage contemplated by this paragraph. Other insurance endorsements may be added to the Plan upon approval by the commissioner.

1. Coverage provided in the standard fire policy under section 203.01, Wis. Stats., and in the customary extended coverage and builder's risk endorsements.

2. Coverage against loss or damage by burglary or theft, or both, as authorized by section 201.04 (10), Wis. Stats.

3. Coverage against the breakage of glass, except in transit, as authorized by section 201.04 (11), Wis. Stats.

(d) *Location* means a single building and its contents or contiguous buildings and their contents under one ownership.

(e) *Motor vehicles* means vehicles which are self-propelled, including trackless trolley busses.

(f) *Farm risks* are those risks eligible to be written under the customary rates, premiums, and policy forms approved by the commissioner for farm property.

(g) *Manufacturing risks* are those risks eligible to be written under the customary manufacturing business interruption policy forms approved by the commissioner. The following are not considered as being manufacturing risks:

1. Dry cleaning and laundering—Carpet, rug, furniture, or upholstery cleaning; diaper service or infants' apparel laundries; dry cleaning; laundries; linen supply.

2. Installation, servicing and repair—Electrical equipment; electronic equipment; glazing; household furnishings and appliances; office machines; plumbing, heating and air conditioning; protective systems for premises, vaults and safes.

3. Laboratories—Blood banks; dental laboratories; medical or X-ray laboratories.

4. Duplicating and similar services—Blueprinting and photocopying services; bookbinding; electrotyping; engraving; letter service (mailing or addressing companies); linotype or hand composition; lithographing; photo engraving; photo finishing; photographers (commercial).

5. Warehousing—Cold storage (locker establishments); warehouse, cold storage; warehouse, furniture or general merchandise.

6. Miscellaneous—Barber shops; beauty parlors; cemeteries; dog kennels; electroplating; equipment rental (not contractors' equipment); film and tape rental; funeral directors; galvanizing, tinning, and detinning; radio broadcasting, commercial wireless and television broadcasting; taxidermists; telephone or telegraph companies; textiles (bleaching, dyeing, mercerizing or finishing of property of others); veterinarians and veterinary hospitals.

(h) *Weighted premiums written* shall be computed by the Plan as follows:

1. Gross direct premiums less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits, with respect to property in this state (excluding premiums on risks insured under the Plan), shall be computed for basic property insurance, for homeowners multiple peril policies, and for the basic property insurance premium components of all other multiple peril policies.

2. To 50% of the figures obtained for homeowners multiple peril policies shall be added 100% of the figures obtained for the other 2 classes. The basic year for the computation shall be the second preceding calendar year.

(i) *Habitational risks* mean:

1. Dwellings, permanent or seasonal, designed for occupancy by not more than 4 families or containing not more than 4 apartments.

2. Private boarding and rooming houses and tourist homes, permanent or seasonal, with not more than 20 rooms for lodging and (or) with not more than 20 boarders.

3. Nurses' and sisters' homes with not over 10 sleeping rooms.

4. Private outbuildings used in connection with any of the foregoing.

5. Trailer homes at a fixed location.

6. Household and personal property in risks described in subparagraphs 1 through 5.

7. Tenants' contents in apartment houses.

(j) *Servicing company* means an insurer which issues and services policies referred to it by the Plan.

(k) *Non-servicing company* means an insurer which does not issue policies under the Plan.

(4) **ELIGIBLE RISKS.** (a) All risks at a fixed location shall be eligible for inspection and insurance under this Plan except motor vehicles, farm risks, and manufacturing risks as defined in subsection (3) (e), (f), and (g).

(b) The maximum limits of coverage for the type of basic property insurance defined in subsection (3) (c) 1. which may be placed under this Plan are \$100,000 on any habitational risk at one location and \$500,000 on any other eligible property at one location. If the full insurable value at one location is in excess of applicable limits, the Plan, upon specific application, will seek to place the additional amounts of coverage.

(c) The maximum limits of coverage for the type of basic property insurance defined in subsection (3) (c) 2. which may be placed under this plan are \$5,000 on any habitational risk at one location and \$15,000 on any other eligible property at one location. If the full insurable value at one location is in excess of applicable limits, the Plan, upon specific application, will seek to place the additional amounts of coverage.

(5) **MEMBERSHIP.** (a) Every insurer, as defined in subsection (3) (b), licensed to write one or more components of basic property insurance, as defined in subsection (3) (c), shall be considered a member of this Plan. Any other insurer may, upon application to and approval by the governing committee, become a member.

Plan. Any such notice of cancellation or nonrenewal shall allow ample time for application to the Plan and for the issuance of coverage.

(b) No servicing company shall cancel or refuse to renew a policy issued under this Plan except for:

1. Facts as confirmed by inspection which would have been grounds for nonacceptance of the risk under the Plan had they been known to the Plan at the time of acceptance; or
2. Changes in the physical condition of the property or other changed conditions as confirmed by inspection or investigation that make the risk uninsurable under the Plan rules; or
3. Nonpayment of premiums; or
4. Conviction of the policyholder of arson or fraudulent claim.

(c) Notice of cancellation or nonrenewal under paragraph (b), containing a statement of the reasons therefor, shall be sent to the insured with a copy to the Plan. Any cancellation or nonrenewal notice to the insured shall be accompanied by a conspicuous statement that the insured has a right of appeal as provided in subsection (19).

(16) COMMISSION. (a) Commission to the licensed agent designated by the applicant shall be 10% of the policy premium. The agent need not be licensed by the servicing company.

(b) In the event of cancellation of a policy, or if an endorsement is issued which requires premium to be returned to the insured, the agent shall refund ratably to the insurer commissions on the return premium at the same rate at which such commissions were originally paid.

(17) PUBLIC EDUCATION. The Plan shall undertake a continuing public education program to assure that the Plan receives adequate public attention. All insurers and agents shall cooperate fully in the public education program.

(18) COOPERATION OF AGENTS. Each insurer shall require its licensed insurance agents to cooperate fully in the accomplishment of the intents and purposes of the Plan.

(19) RIGHT OF APPEAL. Any affected person may appeal to the governing committee within 30 days after any final ruling, action, or decision of the Plan. The governing committee must consider the appeal and render a decision promptly after receipt of any such appeal. Any decision of the governing committee may be further appealed to the commissioner within 30 days. Orders of the commissioner shall be subject to judicial review.

(20) REVIEW BY COMMISSIONER. The governing committee shall report to the commissioner the name of any insurer or agent which fails to comply with the provisions of the Plan or with any rules prescribed thereunder by the governing committee or to pay within 30 days any assessment levied.

(21) INDEMNIFICATION. Each person serving on the governing committee or any subcommittee thereof, each member of the Plan, and the manager and each officer and employee of the Plan shall be indemnified by the Plan against all cost, settlement, judgment, and expense actually and necessarily incurred by him or it in connection with the defense of any action, suit, or proceeding in which he or it is made a party by reason of his or its being or having been a member

of the governing committee, or a member or manager or officer or employee of the Plan except in relation to matters as to which he or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his or its duties as a member of such governing committee, or a member or manager or officer or employee of the Plan. This indemnification shall not apply to any loss, cost, or expense on insurance policy claims under the Plan. Indemnification hereunder shall not be exclusive of other rights to which the member, manager, officer, or employee may be entitled as a matter of law.

(22) **TRANSITION.** The voluntary Wisconsin Insurance Plan shall terminate as of January 1, 1970, and the assets and liabilities of such plan shall be assumed by the Plan established by this rule effective January 1, 1970, in accordance with the procedures established by the governing committee of the respective plans.

(23) **EFFECTIVE DATE.** This rule shall become effective January 1, 1970.

History: Cr. Register, December, 1969, No. 168, eff. 1-1-70; am. (3) (c) and (4) (b), cr. (4) (c), am. (5) (a) and (9) (a), renum. (9) (b) to be (c), and cr. (9) (b), am. (11) (a) 3. a. and c. and cr. 3. d. am. (15) (b) 2. and 4., Register, June, 1971, No. 186, 7-1-71; am. (3) (c) 3., Register, August, 1971, No. 188, eff. 9-1-71.

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