

CR 82-197

RULES CERTIFICATE

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

RECEIVED

FEB 14 1983

4:10 pm
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Howard S. Bellman, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Child Labor were duly approved and adopted by this department on 2/ /83.
(Subject) (Date)

I further certify that said copy has been compared by me with the original on file in this 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 2:00 p.m. in the city of Madison, this 14th day of February A.D. 19 83.

Howard S. Bellman
Secretary

5-1-83.

ORDER OF ADOPTION

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Revisor of Statutes
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Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 101.02(1) and 103.66, Stats., the Department of Industry, Labor and Human Relations hereby creates; amends; repeals and recreates; and repeals and adopts rules of Wisconsin Administrative Code chapter(s):

Amends 70.05(1) (5) & (6)	Hours of Labor of Minors
Ind. Amends 70.06(1) and (36)	Minimum Age for Hazardous Employment
Creates <u>70.14</u>	<u>Permanent Records to be Kept by the Employer</u>
(Number)	(Title)

The attached rules shall take effect on the day following publication

_____, pursuant to section
227.026, Stats.

Adopted at Madison, Wisconsin, this 14th
day of February, A.D., 1983.

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

Howard S. Bellman
Secretary

Administrative rule to amend and create sections of Ind 70 Child Labor

RULES IN FINAL DRAFT FORM

Plain language analysis by the
Department of Industry, Labor and Human Relations

The proposed changes to Ind 70 primarily can be considered as clarification or clean up language. They are based on the recommendations of the Child Labor Council,

Ind 70.05(1) clarifies that hour restrictions are based on a calendar week and that if a minor attends school any time during the week that week is considered a school week.

Ind 70.05(5) & (6) creates a definition for day and week which provides more flexibility and would permit using an established employer day or week other than a calendar day or week.

Ind 70.06(1) through (21) simply is clean up language. The opening paragraph of Ind 70.06 clearly establishes that Ind 70.06 applies to employes and frequenters, therefore it is not necessary to repeat the language in each section.

Ind 70.06(36) clarifies which occupations apply to minors over or under 16 years of age.

Ind 70.14 is new and requires certain types of records to be kept by the employer. Employers are already required to keep these same records under the minimum wage and overtime law. However, these two laws do not apply to the State and its political subdivisions, but the child labor law does. Without the record keeping requirement in the child labor law governmental units do not have to keep the required records to show compliance.

Pursuant to the authority vested in the Department of Industry, Labor and Human Relations under s. 101.02(1) and 103.66, Stats, the Department hereby adopts rules amending and creating sections of Ind 70 Child Labor as follows:

AN ORDER to amend Ind 70.05(1)(a) and (b) and 70.06(1) to (21), (35) (caption) and (36); and to create Ind 70.05(5) and (6) and 70.14, relating to child labor.

Chapter Ind 70

CHILD LABOR

Ind 70.001	Child Labor permits (p. 1)	Ind 70.07	Caddies on golf courses (p. 16-10)
Ind 70.01	Age certificates (p.1)	Ind 70.08	Volunteer services (p. 16-11)
Ind 70.02	Age proof for labor permits and age certificates (p. 2)	Ind 70.09	Fees for permits (p. 16-12)
Ind 70.03	Exemptions (p. 2)	Ind 70.10	Employment of minors in agriculture (p. 16-12)
Ind 70.04	Minimum age in various employments (p. 4)	Ind 70.12	Canning or first processing perishable fresh fruits and
Ind 70.05	Hours of labor of minors (p. 4)	Ind 70.13	Higher standards (p. 16-13)
Ind 70.06	Minimum age for hazardous employment (p. 6)	Ind 70.14	Record keeping

SECTION 1. Ind 70.05(1) is amended to read

(1) HOURS OF LABOR. (a) Minors 12 through 15 years of age may not be employed more than 6 days per week, except in street trades and agriculture; 8 hours per day, 24 hours per calendar week while their respective school is in session or 40 hours per calendar week during the calendar weeks they are not required to attend school on any day of the calendar week.

(b) Minors 16 and 17 years of age may not be employed more than: 6 days per week, except in street trades, agriculture, and canning and freezing establishments, and as station captions or delivery clerks incidental to street trades; 8 hours per day, 40 hours per calendar week while their respective school is in session or ~~48~~ 50 hours per calendar week during the weeks they are not required to attend school as provided in Ind 70.05(1)(c).

SECTION 2. Ind 70.05(5) and (6) are created to read:

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

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

SECTION 3. Ind 70.06(1)(a) is amended to read:

(1) AMUSEMENT PARKS, SKI HILLS ~~OR-RESORTS~~, STREET CARNIVALS AND TRAVELING SHOWS. (a) Finding and declaration of fact. The following occupations involved in the operation of amusement parks, ski hills, street carnivals and traveling shows are particularly hazardous ~~for the employment of minors and their employment may be dangerous or prejudicial to the life, health, safety or welfare of other employes or frequenters.~~

SECTION 4. Ind 70.06(2)(a) is amended to read:

(2) BAKERY MACHINES. (Also see Federal Hazardous Occupations Order No. 11 Section 1500.62.) (a) Finding and declaration of fact. The following occupations involved in the operation of power-driven bakery machines are particularly hazardous ~~for the employment of minors.~~

SECTION 5. Ind 70.06(3)(a) is amended to read:

(3) BRICK, TILE AND KINDRED PRODUCTS. (Also see Federal Hazardous Occupations Order No. 13 Section 1500.64.) (a) Finding and declaration of fact. The following occupations involved in the manufacture of clay construction products and of silica refractory products are particularly hazardous ~~for the employment of minors and detrimental to their health and well-being.~~

SECTION 6. Ind 70.06(4)(a) is amended to read:

(4) COAL MINE. (Also see Federal Hazardous Occupations Order No. 3 Section 1500.53.) (a) Finding and declaration of fact. All occupations in or about any coal mine, except the occupation of slate or other refuse picking at a picking table or picking chute in a tippie or breaker and occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface of any coal mining plant, are particularly hazardous ~~for the employment of minors.~~

SECTION 7. Ind 70.06(5)(a) is amended to read:

(5) EXCAVATION OPERATIONS. (Also see Federal Hazardous Occupations Order No. 17 Section 1500.68.) (a) Finding and declaration of fact. The following occupations in excavation operations are particularly hazardous ~~for the employment of minors.~~

SECTION 8. Ind 70.06(6)(a) is amended to read:

(6) EXPLOSIVES. (Also see Federal Hazardous Occupations Order No. 1 Section 1500.51.) (a) Finding and declaration of fact. The following occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous ~~for miners or detrimental to their health or well-being.~~

SECTION 9. Ind 70.06(7)(a) is amended to read:

(7) HOISTS AND HOISTING APPARATUS. (Also see Federal Hazardous Occupations Order No. 7 Section 1500.58.) (a) Finding and declaration of fact. The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous ~~for miners.~~

SECTION 10. Ind 70.06(8)(a) is amended to read:

(8) LIFEGUARDS, AND SWIMMING INSTRUCTORS AND AIDES. (a) Finding and declaration of fact. The occupation of lifeguards and swimming instructors and aides is particularly hazardous ~~for the employment of minors and their employment may be dangerous or prejudicial to the life, health, safety or welfare of other employees or frequenters.~~

SECTION 11. Ind 70.06(9)(a) is amended to read:

(9) LIQUORS. (a) Finding and declaration of fact. All occupations in establishments in which strong, spiritous or malt liquors are manufactured, bottled, stored, sold or given away are particularly hazardous ~~for the employment of minors and their employment may be dangerous or prejudicial to the life, health, safety or welfare of other employes or frequenters.~~

SECTION 12. Ind 70.06(10)(a) is amended to read:

(10) LOGGING, SAWMILL, LATH MILL, SHINGLE MILL OR COOPERAGE STOCK MILL. (Also see Federal Hazardous Occupations Order No. 4 Section 1500.54.) (a) Finding and declaration of fact. All occupations in logging and all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage stock mill are particularly hazardous ~~for the employment of minors~~ except the following:

SECTION 13. Ind 70.06(11)(a) is amended to read:

(11) METAL FORMING, PUNCHING AND SHEARING POWER-DRIVEN MACHINES. (Also see Federal Hazardous Occupations Order No. 8 Section 1500.59.) (a) Finding and declaration of fact. The following occupations are particularly hazardous ~~for the employment of minors.~~

SECTION 14. Ind 70.06(12)(a) is amended to read:

(12) MINING OTHER THAN COAL. (Also see Federal Hazardous Occupations Order No. 9 Section 1500.60.) (a) Finding and declaration of fact. All occupations in connection with mining, other than coal, are particularly hazardous ~~for the employment of minors or detrimental to their health or well being~~ and employment in such occupations is therefore prohibited under sub. (4) except the following:

SECTION 15. Ind 70.06(13)(a) is amended to read:

(13) MOTOR VEHICLE DRIVER AND OUTSIDE HELPER. (Also see Federal Hazardous Occupations Order No. 2 Section 1500.52.) (a) Finding and declaration of fact. Except as provided in par. (b) of this section, the occupations of motor vehicle driver and outside helper on any public road, highway, in or about mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in subsection (5) are particularly hazardous ~~for the employment of minors.~~

SECTION 16. Ind 70.06(14)(a) is amended to read:

(14) PAPER-PRODUCTS MACHINES. (Also see Federal Hazardous Occupations Order No. 12 Section 1500.62.) (a) Finding and declaration of fact. The following occupations are particularly hazardous ~~for the employment of minors:~~

SECTION 17. Ind 70.06(15)(a) is amended to read:

(15) RADIOACTIVE SUBSTANCES AND TO IONIZING RADIATIONS. (Also see Federal Hazardous Occupations Order No. 6 Section 1500.57.) (a) Finding and declaration of fact. The following occupations involving exposure to radioactive substances and to ionizing radiations are particularly hazardous ~~and detrimental to health for minors.~~

SECTION 18. Ind 70.06(16)(a) is amended to read:

(16) ROOFING. (Also see Federal Hazardous Occupations Order No. 16 Section 1500.67.) (a) Finding and declaration of fact. All occupations in roofing operations are particularly hazardous ~~for-the-employment-of-minors-or-detrimental-to-their-health.~~

SECTION 19. Ind 70.06(17)(a) is amended to read:

(17) CIRCULAR SAWS, BANDSAWS AND GUILLOTINE SHEARS. (Also see Federal Hazardous Occupations Order No. 14 Section 1500.65.) (a) Finding and declaration of fact. The following occupations are particularly hazardous ~~for-the-employment-of-minors.~~

SECTION 20. Ind 70.06(18)(a) is amended to read:

(18) SLAUGHTERING, MEAT PACKING OR PROCESSING OR RENDERING. (Also see Federal Hazardous Occupations Order No. 10 Section 570.61.) (a) Finding and declaration of fact. The following occupations in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail or service establishments are particularly hazardous ~~for-the-employment-of-minors-or-detrimental-to-their-health-or-well-being.~~

SECTION 21. Ind 70.06(19)(a) is amended to read:

(19) STRIKES AND LOCKOUTS. (a) Finding and declaration of fact. Any occupations or activities, including picketing, performed in or on the premises of any establishment where a strike or lockout is in active progress are particularly hazardous ~~for-the-employment-of-minors-or-detrimental-to-their-health-or-well-being.~~

SECTION 22. Ind 70.06(20)(a) is amended to read:

(20) WOODWORKING POWER-DRIVEN MACHINES. (Also see Federal Hazardous Occupations Order No. 5 Section 570.55.) (a) Finding and declaration of fact. The following occupations involved in the operation of power-driven woodworking machines are particularly hazardous ~~for-minors.~~

SECTION 23. Ind 70.06(21)(a) is amended to read:

(21) WRECKING, DEMOLITION AND SHIPBREAKING. (Also see Federal Hazardous Occupations Order No. 15 Section 1500.66.) (a) Finding and declaration of fact. All occupations in wrecking, demolition, and shipbreaking operations are particularly hazardous ~~for-the-employment-of-minors-and-detrimental-to-their-health-and-well-being.~~

SECTION 24. Ind 70.06(35) title is amended to read:

PERMITTED AND PROHIBITED OCCUPATIONS IN RETAIL, FOOD SERVICE, AND GASOLINE SERVICE ESTABLISHMENTS. (Also see Child Labor Regulation 8 Section 1500.34.)

SECTION 25. Ind 70.06(36)(a) and (f) are amended to read:

(36) Paragraph (a) of this section shall not be construed to permit the application of this subpart to any of the following occupations in retail, food service, and gasoline service establishments for minors under 16 years of age:

(f) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery type mixers; persons must be 18 years of age. See Ind 70.06(18).

SECTION 26. Ind 70.14 is created to read.

Ind 70.14 PERMANENT RECORDS TO BE KEPT BY THE EMPLOYER. (1) Every employer shall make and keep for at least 3 years payroll or other records for each of their employes which contain:

- (a) Name and address
- (b) Date of birth.
- (c) Date of entering and leaving employment.
- (d) Time of beginning and ending of work each day.
- (e) Time of beginning and ending of meal periods. When employe's meal periods are required or when such meal periods are to be deducted from work time. This requirement shall not apply when work is of such a nature that production or business activity ceases on a regularly scheduled basis.
- (f) Total number of hours worked per day and per week.
- (g) Rate of pay and wages paid each payroll period.
- (h) The amount of and reason for each deduction from the wages earned.
- (i) Output of employe, if paid on other than time basis.

(2) The required records or a duplicate copy thereof shall be kept safe and accessible at the place of employment or business at which the employe is employed, or at one or more established central record keeping offices in the state of Wisconsin.

(3) The required records shall be made available for inspection and transcription by a duly authorized deputy of the department during the business hours generally observed by the office at which they are kept or in the community generally.

EFFECTIVE DATE: This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.026(1), (intro.), Wis. Stats.