



# HR & BENEFITS UPDATE

## **Businesses Employing Children Should Review & Tighten Practices In Light of Tightened Rules & Increased Penalties**

July 27, 2010

Employers violating child labor laws now face increased penalties. These increased fines, coupled with important recent revisions to the child labor rules and reinvigorated enforcement by the Wage and Hour Division significantly increase the risks for employers that employ young workers that violate the rules. With summer the time that youth employment traditionally peaks, employers hiring workers under age 18 should review their practices for compliance with federal and state child labor laws to minimize exposures to these increased penalties.

### **Federal Regulation of Employment of Children**

The federal Fair Labor Standards Act establishes strict rules governing the employment of children. The Labor Department recently published final regulations updating protections for young employees in nonagricultural work. Under these regulations, for instance, key provisions prohibit the employment of individuals under age 18 in hazardous nonagricultural occupations. Individuals under age 16 may work only limited hours outside of school hours. Additionally, 14- and 15-year-olds may not work before 7 a.m. or later than 7 p.m. (9 p.m. from June 1 through Labor Day). There are additional restrictions on the types of jobs and hours 14- and 15-year-olds may work.

Special rules also apply to the employment of children in agriculture and the Obama Administration presently is reviewing these regulations to assess whether to further tighten these requirements. In the meanwhile, federal rules regarding agricultural employment presently allow employment of individuals under age 12 with parental consent, but only on very small farms that are not subject to the federal minimum wage requirements. Individuals ages 12 and 13 may be employed in agricultural work on the same farm as a parent, or with a parent's consent. Generally, no hired farm worker under age 16 years may perform hazardous work or be employed during school hours.

### **Increased Penalties for Violating Child Labor Rules**

Under tough new penalties announced by the U.S. Department of Labor on July 16, 2010, employers who illegally employ individuals ages 12 or 13 will face a penalty of at least \$6,000 per violation. If a worker is under 12 years of age and illegally employed, the penalty will be at least \$8,000. Penalties for illegally employing workers under age 14 could be raised to \$11,000 under certain conditions.

As summer traditionally is a time when youth employment peaks, summer employment practices of employers that hire young workers makes it particularly important that employers of these young workers take steps to review their current practices to confirm their compliance with these new rules to minimize penalty exposures. If you need assistance with reviewing your organization's child labor or other employment or employee benefit practices, please contact the author of this update, Board Certified Labor & Employment attorney Cynthia Marcotte Stamer at (469) 767-8872 or [cstamer@solutionslawyer.net](mailto:cstamer@solutionslawyer.net).

**About the Author**

Board Certified in Labor & Employment Law by the Texas Board of Legal Specialization, management attorney and consultant Ms. Stamer has more than 23 years experience working with employers, professional employment organizations, employee benefit plan sponsors and administrators and others on a wide range of labor and employment, employee benefits, and other management matters. The Chair of the American Bar Association (ABA) RPTE Employee Benefits & Other Compensation Committee, a Council Representative on the ABA Joint Committee on Employee Benefits, Government Affairs Committee Legislative Chair for the Dallas Human Resources Management Association, the editor of Solutions Law Press HR & Benefits Update and, Ms. Stamer also is recognized for her publications, industry leadership, workshops and presentations on these and other health industry and human resources concerns. She regularly speaks and conducts training for the ABA, Institute of Internal Auditors, Society for Professional Benefits Administrators, Southwest Benefits Association and many other organizations. Publishers of her many highly regarded writings on health industry and human resources matters include the Bureau of National Affairs, Aspen Publishers, ABA, AHLA, Aspen Publishers, Schneider Publications, Spencer Publications, World At Work, SHRM, HCCA, State Bar of Texas, Business Insurance, James Publishing and many others. You can review other highlights of Ms. Stamer's experience [here](#).

If you need help with human resources or other management, concerns, wish to ask about compliance, risk management or training, or need legal representation on other matters please contact Cynthia Marcotte Stamer [here](#) or (469)767-8872.

#### **Other Resources**

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- [New Retirement Plan Resource To Help Spanish-Speaking Participants With Retirement Planning](#)
- [Office of Civil Rights Proposes Changes To HIPAA Privacy, Security & Civil Sanctions Rules](#)
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- [Review & Strengthen Defensibility of Existing Worker Classification Practices In Light of Rising Congressional & Regulatory Scrutiny](#)
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