CHILD LABOR LAWS
By D. L. Uchtmann & Cindi Parr

This article focuses on child labor laws applicable to farmers and provides general answers to the following questions:

- What, if any, age restrictions or other limitations affect the employment of a farmer’s own child in agriculture?
- What are the age restrictions for employing children (other than the farmer’s own), and does it depend on whether the activities are hazardous?
- What are the penalties for violations of child labor laws?

The discussion is intended to provide general answers for educational purposes. For more comprehensive information, visit the actual statutes and regulations (links to unofficial versions of relevant statutes and regulations are provided). You may find it helpful to discuss your special circumstances with your legal counselor.

What, if any, age restrictions or other limitations affect the employment of a farmer’s own child in agriculture?

Members of a farmer’s immediate family who live with the farmer and are employed by the farmer in agriculture are exempt from nearly all federal and state child labor regulations. The Federal Fair Labor Standards Act, at 29 U.S.C. § 203(l), excludes from the definition of oppressive child labor “a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining.” Accordingly, a parent or guardian may employ his own child or a child in his custody under the age of 16 years in any occupation other than the following: (1) manufacturing; (2) mining; (3) an occupation found by the Secretary to be particularly hazardous for children between the ages of 16 and 18 years. 29 C.F.R. § 570.126. Likewise, under the Illinois child labor law, members of a farmer’s own family who live with the farmer are not prohibited from working in agriculture. 820 Ill. Comp. Stat. 205/1. While the child labor laws allow for such employment, farmers must also abide by other laws that may limit employment of their children, such as those laws enforcing school attendance. If child labor law issues are of special interest to the reader and additional information is needed, the reader should discuss the specific situation further with his or her attorney.

What are the age restrictions for employing children (other than the farmer’s own), and does it depend on whether the activities are hazardous?

Minors 16 years of age or older can be employed in any agricultural occupation at any time. Minors under 16 years of age cannot be employed during the normal school hours of the school district where the child is living. If the child is under 14, parental consent usually is required for employment. If the child is under 12, he cannot work on a farm where any of the employees are required to be paid minimum wage (these are large farms, typically those employing six or more persons). Generally, a non-family minor
under age ten cannot work in agriculture at any time. See 29 U.S.C. § 213(c)(1). Except for family members and except as otherwise provided below, minors under 16 may not be employed at any time in an agricultural occupation declared hazardous by the Secretary of Labor (see below). However, persons ages 14 or older who have completed certain training programs can obtain approval for employment in some occupations declared hazardous by the Secretary.

The Secretary of Labor has declared a number of activities as hazardous agricultural occupations for minors under 16 years of age. See 29 C.F.R. § 570.71. Following are a few activities listed in the regulation. For a complete list, please refer directly to the regulation.

- Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.
- Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:
  - grain combine;
  - hay mower;
  - hay baler;
  - feed grinder;
  - auger conveyor;
  - power post-hole digger.
- Working on a farm in a yard, pen, or stall occupied by a potentially dangerous animal such as a bull, boar, etc.
- Working from a ladder or scaffold at a height of over 20 feet.
- Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
- Handling or applying agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act as Category I of toxicity.
- Handling or using a blasting agent; or
- Transporting, transferring, or applying anhydrous ammonia.

Minors age 14 or older who have completed the applicable training programs can obtain approval for employment in certain occupations listed above. Such special training programs include the 4-H tractor operation program, or a tractor and machine operation program. Also, vocational agriculture student learners can obtain approval for employment in a wider variety of occupations listed above. See generally 29 C.F.R. § 570.72.

Minors under 16 years of age cannot be employed even in nonhazardous agricultural occupations during the normal school hours of the school district where the child is living. Therefore, the employment of minors under 16 is normally lawful only before or after school hours, on weekends, on school holidays, and during summer vacations.
Child labor laws are rather complex. If child labor law issues are of special interest to the reader and additional information is needed, the reader should discuss the specific situation further with his or her attorney.

What are the penalties for violations of child labor laws?

For each violation of the child labor provisions of the Fair Labor Standards Act, employers may be subject to a civil penalty of up to $1000. Willful violation and repeated offenses can result in fines up to $10,000, up to six months imprisonment, or both.