

STATE OF ARIZONA



YOUTH EMPLOYMENT LAWS

THE INDUSTRIAL COMMISSION
of ARIZONA

LABOR DEPARTMENT

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When Arizona was admitted as a State, the initial State constitution included Article 18, Section 2 restricting the employment of certain children in certain occupations at certain hours, etc. The first Legislature of the State of Arizona adopted the first Child Labor Law in 1912. That initial law has been modified over the years.

Most recently, Chapter 34 of the Session Laws of 1986 substantially revised the Child Employment Laws under the new heading of Youth Employment. In adopting the new law, the Legislature declared its intent as follows:

"It is the policy of the Legislature to encourage the economic, social and educational development of the youth of this state. Employment is an integral factor in such development and provides a sense of purpose, direction and self-esteem. Employment coordinated with education should be encouraged to serve the interests of the individual and, by so doing, bring benefits to the citizens of this state. The legislature recognizes that there are occupations that present danger of injury to youth due to a lack of training, job skills and experience. Because certain occupations carry with them the possibility of physical injury and permanent disability, the state is compelled to provide adequate protection, in this act, the objective of the legislature is to provide such protection of youth but not to unduly restrict opportunities to gain experience and education through employment."

The State Labor Department, a division of the Industrial Commission of Arizona, is charged with the enforcement and administration of the Youth Employment Laws. It must be noted, however, that the Federal Fair Labor Standards Act, administered by the Wage and Hour Division of the U.S. Department of Labor, also contains provisions regulating the employment of children. Where there is a difference between Federal and State Law, the stricter law takes precedence.

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This Publication is circulated by the Industrial Commission of Arizona for the purpose of providing a brief and handy reference to the statutes of the State of Arizona having a particular reference to child labor issues and matters connected therewith. It is not intended as a complete statement of the law. Section references in this pamphlet are to the Arizona Revised Statutes. They are set forth without annotation. References should be made to the annotated code itself and to the sources in the body of the law for complete and accurate information and analysis in any particular instance

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Constitution
of the
STATE OF ARIZONA

ARTICLE XVIII

LABOR

2. Child labor

Section 2. No child under the age of fourteen years shall be employed in any gainful occupation at any time during the hours in which the public schools of the district in which the child resides are in session; nor shall any child under sixteen years of age be employed underground in mines, or in any occupation injurious to health or morals or hazardous to life or limb; nor for more than eight hours in any day.

ARIZONA REVISED STATUTES

TITLE 23

LABOR

Chapter 2 - Employment Practices & Working Conditions

Article 3: YOUTH EMPLOYMENT

23-230. Definitions

In this article, unless the context otherwise requires:

1. "Automatic elevator" means a passenger or freight lift operated by push buttons so that the starting, moving, leveling, holding and opening and closing of the doors is entirely automatic.
2. "Clay construction product" means brick, hollow structural tile, sewer pipe, refractories, architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping and drain tile.
3. "Construction" means building, altering, repairing, adding to, subtracting from, improving, moving, wrecking or demolishing a building, highway, road, railroad, excavation or other structure, project, development or improvement, including the erection and use of scaffolding or a similar structure and providing mechanical or structural service for a structure, project, development or improvement.
4. "Elevator" means a power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. Elevator does not include dumbwaiters.
5. "Explosive" means ammunition, black powder, blasting caps, fireworks or any substance or combination of substances commonly used for the purpose of detonation and which, on exposure to any external force or condition, is capable of a relatively instantaneous release of gas and heat.

6. "Hazardous agricultural chemicals" means any substance that has a toxicity level that requires manufacturer or distributor labeling as category I, category II and category III toxicity in accordance with the regulations adopted by the administrator pursuant to the federal environmental pesticide control act of 1972, as amended.

7. "Logging" means felling timber, bucking or converting timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts or similar products, collecting, skidding, yarding, loading, transporting and unloading such products, constructing, repairing and maintaining roads, railroads, flumes or camps used in connection with logging, moving, installing, rigging and maintenance of machinery or equipment used in logging, operation of a sawmill, lath mill, shingle mill or cooperage stock mill in connection with the storing of logs and bolts, converting logs or bolts into sawed lumber, laths, shingles or cooperage stock and storing, drying and shipping lumber, laths, shingles and cooperage stock or other products of such mills.

8. "Manufacturing" means designing, assembling, fabricating, producing, constructing or preparing a product or part of a product before sale or use.

9. "Mine or quarry" means an underground or surface rock or mineral extracting, placer, dredging or bore-hole operation including all grinding and metal mills, washer plants and any other cutting, crushing, grinding, screening, sizing, washing or cleaning operation performed on extracted rocks or minerals.

10. "Motor vehicle" means an automobile, truck, truck tractor, trailer, semi trailer, motorcycle or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation. Motor vehicle does not include a vehicle operated exclusively on rails.

11. "Outside helper" means a person who rides on a motor vehicle other than in the driver or passenger compartment for the purpose of transporting, loading or unloading items.

12. "Power-driven bakery machine" means a horizontal or vertical dough mixer, batter mixer, bread dividing, rounding or molding machine, dough brake, dough sheeter, combination bread slicing and wrapping machine, cake cutting band saw, cookie machine or cracker machine.

13. "Power-driven hoist" means an apparatus for raising or lowering a load by the application of a pulling or pushing force including a crane, derrick or forklift. Power-driven hoist does not include an elevator or an automatic elevator.

14. "Power-driven meat processing machine" means a meat patty forming machine, meat and bone cutting saw or knife, head splitter, guillotine cutter, snout puller, jaw puller, skinning machine, horizontal rotary washing machine, casing cleaning machine, grinding, mixing, chopping and hashing machines and meat presses.

15. "Power-driven metal working, forming, punching or shearing machine" means a machine, other than machine tools, which changes the shape of or cuts metal by means of dies, rolls, knives or similar tools which are mounted on rams, plungers or other moving parts.

16. "Power-driven paper products machine" means a platen die-cutting press, platen printing press, punch press which involves hand feeding of the machine, arm-type wirestitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single or double-lacing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap paper baler or vertical slotter or other machine used in the remanufacture or conversion of paper or pulp into a finished product.

17. "Power-driven woodworking machine" means a fixed or portable machine or tool driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, assembling, pressing or printing wood or veneer.

18. "Processing" means an activity involving an addition to, subtraction from, change in or cleaning of any food or foodstuff including filleting fish, dressing poultry or cracking nuts.

19. "Radiation" means ionizing radiation including gamma rays, x-rays, alpha and beta particles, high speed electrons, neutrons, protons and other nuclear particles or rays.

20. "Radioactive substance" means a solid, liquid or gaseous material or materials that spontaneously emit radiation.

21. "Roofing" means all work performed in connection with the application of weatherproofing materials and substances, including tar, pitch, asphalt, prepared paper, tile, slate, metal, translucent materials and shingles of asbestos, asphalt or wood, to roofs of buildings and other structures. Roofing includes all work performed in connection with installation of roofs, including related metal work, and alterations, additions, maintenance and repair including painting and coating of roofs.

22. "Silica refractory products" means items produced from raw materials and containing free silica as their main constituent.

23. "Warehousing" means loading, unloading, storing or otherwise moving any item or items to and from trucks, railroad cars, conveyors and buildings.

24. "Wrecking, demolition and shipbreaking" means all work, including cleanup and salvage work, performed on or at the site of the total or partial razing, demolishing or dismantling of a building, bridge, steeple, tower, chimney, other structure, motor vehicle, ship or other vessel.

23-231. Prohibited employments of persons under the age of eighteen

A. Unless a variance is granted pursuant to section 23-241, a person shall not employ or allow a person under the age of eighteen years to work in, about or in connection with:

1. An establishment manufacturing or storing explosives, except a retail establishment if the employment does not include any handling of explosives other than prepackaged small arms ammunition. In this paragraph "small arms ammunition" means ammunition not exceeding .60 caliber in size, shotgun shells or blasting caps.
2. Occupations as a motor vehicle driver or outside helper, except for driving incidental to employment if the person has a valid license for operation of the vehicle and either:
 - (a) The total driving time does not exceed two hours per day or twenty-five per cent of the work period per day.
 - (b) The total mileage driven is fewer than fifty miles per day.
3. Mine or quarry occupations.
4. Logging occupations.
5. Occupations involving the operation, setup, repair, adjustment, oiling or cleaning of a power-driven woodworking machine.
6. Occupations involving exposure to radioactive substances and to radiation in excess of 0.5 rem per year.
7. Occupations involving the operation or assistance in the operation of a power-driven hoist with a capacity exceeding one ton or an elevator, except operation of an automatic elevator incidental to employment.
8. Occupations involving the operation of a power-driven metal working, forming, punching or shearing machine.
9. Occupations involving slaughtering, meat packing, processing or rendering of meat or the operation, setup, repair, adjustment, oiling or cleaning of a power-driven meat processing machine.
10. Occupations involving the operation of a power-driven bakery machine.
11. Occupations involving the operation of a power-driven paper products machine.
12. Occupations involving the manufacture of clay construction products or silica refractory products.
13. Occupations involving the operation of a power-driven saw.
14. Occupations involving wrecking, demolition and ship-breaking operations.

15. Occupations involving roofing operations or equipment attached to or placed on roofs.

16. Occupations in excavation or tunnel operations, except manual excavation, backfilling or working in trenches or other penetrations of the ground surface that do not exceed two feet in depth at any point.

B. The industrial commission may by regulation declare other occupations to be dangerous to lives or limbs or injurious to the health and morals of persons under the age of eighteen years and prohibit the employment or allowance to work in, about or in connection with the occupations by such persons unless a variance is granted.

23-232. Prohibited employments of persons under the age of sixteen

A. In addition to the prohibited employments under section 23-231, unless a variance is granted pursuant to section 23-241, a person shall not employ or allow a person under the age of sixteen years to work in, about or in connection with:

1. Manufacturing.
2. Processing.
3. Laundering or dry cleaning in a commercial laundry.
4. Warehousing.
5. Construction.
6. Boiler, furnace or engine rooms.
7. Occupations, including window washing, involving work from a ladder, scaffold, window sill or similar structure or place more than five feet in height.
8. Any of the following activities in a retail food or gasoline service establishment:
 - (a) Maintenance or repair of machines or equipment of the establishment, except work in connection with cars and trucks if confined to dispensing gasoline and oil, courtesy service, car cleaning, washing and polishing but not including work involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.
 - (b) Cooking and baking, except at soda fountains, lunch counters, snack bars or cafeteria serving counters.
 - (c) Setting up, adjusting, cleaning, oiling or repairing power-driven food slicers, grinders, choppers and cutters.
 - (d) All work in preparation of meats for sale, except wrapping, sealing, labeling, weighing, pricing and stocking.
9. Any of the following activities in agriculture:
 - (a) Operating a tractor over twenty power take off horsepower that is not equipped with a rollover protective structure and seatbelts.
 - (b) Connecting or disconnecting an implement or any of its parts to or from a tractor over twenty power take off horsepower.
 - (c) Operating a corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato harvester, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor or self-unloading wagon, power post hole digger, power-driven nonwalking rotary type tiller, trencher or earthmoving equipment or potato combine. In this subdivision "operating" means starting, stopping, adjusting, feeding or any other activity regarding physical conduct associated with such machines and machinery.
 - (d) Working in a pen occupied by a bull, boar or stud horse maintained for breeding purposes, a sow with young pigs or a cow with a newborn calf.
 - (e) Felling, bucking, skidding or unloading timber with butt more than six inches in diameter.
 - (f) Picking or pruning from a ladder over eight feet in height.
 - (g) Riding on a tractor as a helper or driving a bus, truck or automobile.

(h) Working inside a fruit storage area or grain storage area designed to retain an oxygen deficient or toxic atmosphere, an upright silo within two weeks after silage has been added, a manure pit or operating a tractor for packing purposes in a horizontal silo.

(i) Handling hazardous agricultural chemicals.

(j) Handling explosives.

(k) Transporting, transferring or applying anhydrous ammonia.

B. The Industrial commission may by regulation declare any other occupation to be dangerous to lives or limbs or injurious to the health and morals of persons under sixteen years of age and prohibit the employment or allowance to work in, about or in connection with the occupations by such persons unless a variance is granted.

23-233. Permissible hours of labor for persons under the age of sixteen; exceptions; definition

A. Employment of persons under the age of sixteen shall be confined to:

1. Not more than forty hours in any one week when the person is not enrolled in a session of school or when school is not in session.

2. Not more than eighteen hours in any one week when the person is enrolled in any session of school when school is in session.

3. Not more than eight hours in any one day when the person is not enrolled in a session of school or on a day when school is not in session.

4. Not more than three hours in any one day when the person is enrolled in any session of school on a day when school is in session.

B. A person shall not employ persons under the age of sixteen at night nor shall they be employed in solicitation sales or deliveries on a door-to-door basis between 7:00 p.m. and 9:30 p.m. on days preceding a day when school is in session and between 7:00 p.m. and 11:00 p.m. on days preceding a day when school is not in session.

C. The provisions of this section do not apply to persons who deliver newspapers to a consumer.

D. For the purpose of this section, "night" means:

1. On a day preceding a day when school is in session, those hours beginning at 9:30 p.m. and continuing until 6:00 a.m. on the succeeding day.

2. On a day preceding a day when school is not in session, those hours beginning at 11:00 p.m. and continuing until 6:00 a.m. on the succeeding day.

23-234. Minimum age of newspaper carriers

No child under the age of ten years shall sell, expose for sale or otherwise offer for sale newspapers, magazines or periodicals in any street or public place.

23-235. Exemptions

A. The provisions of sections 23-231, 23-232 and 23-233 shall not apply to persons:

1. Employed by a grandparent, brother, sister, aunt, uncle, first cousin, stepparent or parent, including a relative of the same degree through marriage or adoption, or person in loco parentis in occupations in which the grandparent, brother, sister, aunt, uncle, first cousin, stepparent or parent or person in loco parentis owns at least ten per cent of the employing organization and such owner is actively engaged in the daily operation of the organization, if either:

(a) The person is under the age of eighteen years and not engaged in manufacturing or mining occupations.

(b) The person is between the ages of sixteen and eighteen years and is engaged in manufacturing or mining occupations.

2. Employed as stars or performers in motion picture, theatrical, radio or television productions if before the beginning of production the production company provides the department of labor of the industrial commission with the name and address of the person, the length, location and hours of employment and any other information required by the department.

3. Involved in career education programs.

4. Involved in vocational or technical training school programs pursuant to title 15, chapter 7, article 5.

5. Employed as apprentices and registered by the bureau of apprenticeship and training of the United States department of labor in accordance with the standards established by that bureau or registered by the apprenticeship council or employed under a written apprenticeship agreement and conditions which are found by the secretary of labor to conform substantially with such federal or state standards.

6. Trained under either the 4-H federal extension service or the United States office of education vocational agriculture training programs, if employed outside school hours on the equipment for which they have been trained.

7. Who have completed vocational or career education programs approved by the department of education if the programs are directly related to the prohibited occupation or employment or if working in the prohibited occupation is part of the vocational or career education program.

8. Who are married.

9. Who have a high school diploma or its equivalent.

B. Sections 23-231 and 23-232 do not apply to:

1. The operation of power-driven equipment used in the care and maintenance of lawns and shrubbery not connected to retail, food service and gasoline service establishments.

2. Clerical employment in an office in which duties are performed without exposure to the hazards described or defined in this article.

23-236. Cease and desist order; time for compliance; civil penalty

A. When the commission has reasonable cause to believe that any person is violating any provision of this article or any rule or regulation adopted pursuant to this article it may forthwith serve upon such person by registered or certified mail or in person a cease and desist order. Such order shall state with particularity the act being done that constitutes the violation, shall state in its entirety the certain requirement, provision or rule or regulation being violated, and that the alleged violator is entitled to a hearing if such hearing is requested in writing within twenty days after the date of issuance of the order.

B. The cease and desist order shall include a civil penalty of not more than one thousand dollars against the person named in the order. The civil penalty is payable to the general fund.

23-237. Hearings on cease and desist orders

A. A cease and desist order issued by the commission shall become final upon the expiration of the time during which a request for a hearing may be made pursuant to section 23-236 unless the person or persons named in such order have made a timely request for a hearing before the commission. The commission may refer the request for hearing to an administrative law judge for the conduct of the hearing. If a hearing is requested, the hearing shall be held thirty days from receipt of the request unless such time is extended by the commission or the administrative law judge to which it is assigned. Written notice of the time and place of the hearing shall be sent by the commission or the administrative law judge to the person or persons requesting the hearing at least fifteen days before the hearing. Such hearing shall be conducted pursuant to title 41, chapter 6, article 8.

B. If the commission, after the hearing, determines that the act or acts set forth in the cease and desist order constitute a violation of any provision of this article or of the rules adopted pursuant to this article, the commission shall affirm or modify the order accordingly.

C. The order issued by the commission after the hearing is final unless within thirty days after the date of mailing of a copy of such order to the person named in the order such person applies to the court of appeals for a writ of certiorari pursuant to section 23-951. The order shall contain a statement of this right of appeal.

23-238. Injunctive relief

Upon the failure or refusal of a person to comply with a cease and desist order of the commission, the commission may file an action in the superior court of the county where the alleged violation occurred to restrain and enjoin the person from engaging in further acts violating the order. The court shall proceed as in other actions for injunctions. In the preliminary hearing in an action for an injunction or restraining order brought pursuant to this article, any findings of the commission shall be prima facie evidence of the fact or facts found therein until rebutted.

23-239. Violation; classification

Any person who violates any provision of this article is guilty of a class 2 misdemeanor.

23-240. Rules and regulations

The commission shall promulgate such rules and regulations as are necessary to carry out the provisions of this article.

23-241. Application for variation; contents; notice; denial; hearing

A. A person who desires a variation from this article or a modification or renewal of a variation granted under this section shall file a written application with the director of the department of labor of the industrial commission containing the following information:

1. The name and address of the firm, the name and title of the person filing the application, the name and date of birth of the person under the age of eighteen years and the name and address of the school the person under the age of eighteen years is attending if the person is attending school.
2. The address of the place of employment involved and the type of business.
3. A specific description of the variation, modification or renewal sought.
4. A statement detailing how the granting of the variation would be in the best interests of the person under the age of eighteen years and the community.
5. A statement indicating any training the person under the age of eighteen years has received in the proposed employment, including a copy of certification of successful completion of any training program.
6. The maximum hours to be worked in the employment on a daily and weekly basis.
7. The scale of wages and the method and timing of payment of wages.
8. A statement of how the safety, health and personal well-being of the person under the age of eighteen years would be protected.
9. The name of the immediate supervisors and the frequency of supervision.
10. The approval of the parent or guardian.

B. The director, after conducting an investigation and evaluation of the jobsite and application, shall notify the parties concerned by mail of the granting of a variation, modification or renewal including any prescribed terms and conditions.

C. If a variation is granted, the employer shall retain a copy of the variation at the place of employment of the person under the age of eighteen years.

D. The director may decline to consider an application for a variation on a subject, issue or employer if a cease and desist order has been issued or an investigation is proceeding.

E. On denial of a variation, modification or renewal by the director, the applicant may request a hearing by the industrial commission. The industrial commission shall conduct the hearing pursuant to title 41, chapter 4, article 1.

23-242. Applicability of other laws

No provision of this article alters or excuses noncompliance with any applicable federal statute or regulation relating to the employment of child labor. If both federal law and the provisions of this article are applicable, the law with the higher standard governs.