

Chapter 23 Employment of Minors

Part 1 General Provisions

34-23-101 Policy of state.

It is a policy of the state of Utah to encourage the growth and development of minors through providing opportunities for work and for related work learning experience while at the same time adopting reasonable safeguards for their health, safety, and education.

Amended by Chapter 113, 1992 General Session

34-23-102 Chapter to be liberally construed.

When this chapter, or any part or section of it, is interpreted by a court, it shall be liberally construed by that court.

Enacted by Chapter 8, 1990 General Session

34-23-103 Definitions.

As used in this chapter:

- (1) "Casual work" is employment on an incidental, occasional, or nonregular basis which is not considered full-time or routine.
- (2) "Commission" means the Labor Commission.
- (3) "Division" means the Division of Antidiscrimination and Labor in the commission.
- (4) "Hazardous occupation" is any occupation defined as hazardous by the United States Department of Labor under 29 U.S.C. Sec. 201 et seq., the Fair Labor Standards Act.
- (5) "Minor" is a person under the age of 18 years.

Amended by Chapter 375, 1997 General Session

34-23-104 Duty of commission to establish hours and conditions -- Promulgation of rules.

- (1) The commission shall ascertain and establish the hours and the conditions of labor and employment for any occupation in which minors are employed.
- (2) The commission may promulgate rules consistent with this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 382, 2008 General Session

Part 2 Occupations of Minors

34-23-201 Employment of minors in hazardous occupations prohibited -- Exceptions.

A minor may not be employed or permitted to work in any hazardous occupation except as authorized by the division in writing when the minor is under careful supervision in connection with

or following completion of an apprentice program, vocational training, or rehabilitation program as approved by the division.

Amended by Chapter 240, 1996 General Session

34-23-202 Employment of minors under 16 during school hours -- Hours of work limited.

- (1) A minor under the age of 16 may not be employed or permitted to work during school hours except as authorized by the proper school authorities.
- (2) A minor under the age of 16 may not be permitted to work:
 - (a) before or after school in excess of four hours a day;
 - (b) before 5:00 a.m. or after 9:30 p.m., unless the next day is not a school day;
 - (c) in excess of eight hours in any 24-hour period; or
 - (d) more than 40 hours in any week.

Renumbered and Amended by Chapter 8, 1990 General Session

34-23-203 Permitted occupations for minors 16 or older.

Minors 16 years of age or older may work:

- (1) in all occupations not declared hazardous; and
- (2) in occupations which involve the use of motor vehicles if the minor is licensed to operate the motor vehicle for employment purposes under state law.

Renumbered and Amended by Chapter 8, 1990 General Session

34-23-204 Permitted occupations for minors 14 or older.

- (1) Minors 14 years of age or older may work in a wide variety of nonhazardous occupations including:
 - (a) retail food services;
 - (b) automobile service stations, except for the operation of motor vehicles and the use of hoists;
 - (c) public messenger service;
 - (d) janitorial and custodial service;
 - (e) lawn care;
 - (f) the use of approved types of vacuum cleaners, floor polishers, power lawn mowers, and sidewalk snow removal equipment; and
 - (g) other similar work as approved by the division.
- (2) Minors 14 years of age or older may also work in nonhazardous areas in manufacturing, warehousing and storage, construction, and other such areas not determined harmful by the division.

Amended by Chapter 240, 1996 General Session

34-23-205 Permitted occupations for minors 12 or older.

Minors 12 years of age or older may work in occupations such as:

- (1) the sale and delivery of periodicals;
- (2) door-to-door sale and delivery of merchandise;
- (3) baby-sitting;
- (4) nonhazardous agricultural work; and
- (5) any other occupation not determined harmful by the division.

Amended by Chapter 240, 1996 General Session

34-23-206 Permitted occupations for minors 10 or older.

Minors 10 years of age or older may work in occupations such as:

- (1) delivery of handbills, newspapers, advertising, and advertising samples;
- (2) shoe-shining;
- (3) gardening and lawn care involving no power-driven lawn or snow removal equipment;
- (4) caddying; and
- (5) any occupation not determined harmful by the division.

Amended by Chapter 240, 1996 General Session

34-23-207 Permitted occupations with no specific age limitations or restrictions.

With consent of the minor's parent, guardian, or custodian, no specific age limitations or restrictions are imposed for:

- (1) home chores and other work done for parent or guardian;
- (2) any casual work not determined harmful by the division;
- (3) agricultural work including the operation of power-driven farm machinery in the production of agricultural products; or
- (4) work for which a specific, written authorization has been made by the division.

Amended by Chapter 240, 1996 General Session

34-23-208 Exceptions.

The provisions of this chapter do not apply to a person who is 16 years of age or older and for whom employment would not endanger the person's health and safety if that person:

- (1) has received a high school diploma;
- (2) has received a school release certificate;
- (3) is legally married; or
- (4) is head of a household.

Amended by Chapter 297, 2011 General Session

34-23-209 Age certificates issued by schools -- Responsibility of employers.

- (1) All public and private schools and school districts within the state shall cooperate with employers or prospective employers by issuing age certificates or lists of students or recent students showing their dates of birth according to school records.
- (2) Such age certificates do not relieve employers of full responsibility for complying with all laws and rules pertaining to the employment of minors.

Renumbered and Amended by Chapter 8, 1990 General Session

**Part 3
Minimum Wages**

34-23-301 Minimum hourly wages.

The commission may establish minimum hourly wages for minors. If there is an established minimum hourly wage for adults, the minimum hourly wages for minors may be established at a lesser amount.

Amended by Chapter 375, 1997 General Session

34-23-302 Criminal penalty -- Enforcement.

- (1)
 - (a) Repeated violation of Section 34-23-301 is a class B misdemeanor.
 - (b) "Repeated violation" does not include separate violations as to individual employees arising out of the same investigation or enforcement action.
- (2) Upon the third violation of Section 34-23-301 by the same employer within a three-year period, the commission may prosecute a criminal action in the name of the state.
- (3) The county attorney, district attorney, or attorney general shall provide assistance in prosecutions under this section at the request of the commission.

Amended by Chapter 375, 1997 General Session

34-23-303 Civil action allowed.

- (1) In addition to the administrative action authorized by Section 34-23-401, and criminal actions authorized by Sections 34-23-302 and 34-23-402, a minor employee may bring a civil action to enforce his right to a minimum wage under Section 34-23-301.
- (2)
 - (a) An aggrieved minor employee is entitled to injunctive relief and may recover the difference between the wage paid and the minimum wage, plus interest.
 - (b) The court may award court costs and attorney fees to the prevailing party.
- (3) An action brought under this section shall be brought within two years of the alleged violation.

Enacted by Chapter 8, 1990 General Session

**Part 4
Penalties**

34-23-401 Investigation by division -- Administrative penalty.

- (1) The director of the division or the director's designee shall have authority to enter and inspect any place or establishment covered by this chapter and to have access to such records as may aid in the enforcement of this chapter.
- (2) The division may investigate any complaint under this chapter and may commence an administrative proceeding with a penalty of up to \$500 per violation. Administrative proceedings conducted under this section shall be consistent with Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

34-23-402 Violation -- Criminal penalty.

- (1) The commission may prosecute a misdemeanor criminal action in the name of the state. The county attorney, district attorney, or attorney general shall provide assistance in prosecutions under this section at the request of the commission.
- (2) It is a class B misdemeanor for a person, whether individually or as an officer, agent, or employee of any person, firm, or corporation to:
 - (a) knowingly employ a minor or permit a minor to work in a repeated violation of this chapter;
 - (b) refuse or knowingly neglect to furnish to the commission, any information requested by the commission under this chapter;
 - (c) refuse access to that person's place of business or employment to the commission or its authorized representative when access has been requested in conjunction with an investigation related to this section;
 - (d) hinder the commission or its authorized representative in the securing of any information authorized by this section;
 - (e) refuse or knowingly omit or neglect to keep any of the records required by this chapter;
 - (f) knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter;
 - (g) discharge an employee or threaten to or retaliate against an employee because:
 - (i) the employee has testified;
 - (ii) is about to testify; or
 - (iii) the employer believes that the employee may testify in any investigation or proceedings relative to the enforcement of this chapter; and
 - (h) willfully violate any order issued under this chapter.
- (3) This section does not apply to violations of Section 34-23-301.

Amended by Chapter 347, 2009 General Session