

Employment of Minors



*The following information has been provided
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If your business employs teens or uses unpaid students as interns, it is essential for you to be aware of, and adhere to, those laws which guide the practice of employment of minors. If your company's gross volume of sales is greater than \$500,000, your business is construed to be engaged in "interstate commerce." As such, both federal and state laws apply, with the more stringent of the two controls. The following provides an updated summary of these laws as they apply to your business and the employment of minors.

A. Employment of All Minors

1. Unless working for a parent, a minor must be at least 14 years of age to be employed.
2. Prior to employing a minor, an employer must procure and keep on file at the place of employment, a copy of a **work permit**, see
 - Combined Offer of Employment and Work Permit/Age Certificate CA-6 for Minors UNDER 16 Years of Age
https://www.michigan.gov/documents/leo/CA-6FORM_02_16_06_2_154114_7_364528_7_old_dleg_674719_7.pdf
 - Combined Offer of Employment and Work Permit/Age Certificate CA-7 for Minors 16 and 17 Years of Age
https://www.michigan.gov/documents/leo/CA-7Form_02_16_06_2_154115_7_364532_7_old_dleg_version_674721_7.pdf.

Work permits are no longer required to be printed on pink or yellow paper.

3. A minor cannot be employed for more than five hours continuously without an interval of at least 30 minutes uninterrupted for a meal and rest.
4. A minor cannot be employed unless an employer or another employee 18 years of age or older is present, nor can a minor be employed at a fixed location in an occupation that involves a cash transaction after sunset or 8:00 p.m., whichever is earlier, unless an employer or other employee 18 years of age or older is present at the fixed location during those hours.
5. An employer must keep posted an informational sheet summarizing the Michigan Youth Employment Standards Act, see:
 - Informational Sheet: Youth Employment Standards Act 90 of 1978, as amended POSTING REQUIREMENT
https://www.michigan.gov/documents/leo/whd_9919_yesa_Posting_Requirements_674651_7.pdf.
6. An employer is also required to maintain a time record on the premises which states the number of hours worked by the minor each day of the week along with the starting and ending times and meal/rest periods.

Employment of Minors

7. The Michigan minimum wage rate does not apply to minors under the age of 16 years. Therefore, employers must comply with the Federal minimum hourly wage rate of \$7.25 per hour, except:

- a. Employers may take advantage of a provision under Federal and State law, which allows a training wage to be paid to employees under 20 years of age of \$4.25 per hour for the first 90 consecutive calendar days of employment.
- b. Additionally, even after the 90 day period expires, employers are not required to pay minors ages 16 and 17 the full Michigan minimum wage rate, but rather may pay these minors 85 percent of the Michigan minimum hourly wage rate **if** said reduced rate is the same or higher than the Federal minimum wage rate. Currently, the minimum wage rate in Michigan is \$10.10 per hour and the Federal minimum wage rate is \$7.25 per hour. Therefore, since the reduced rate of 85% under Michigan law is higher than the Federal minimum wage rate, **employers can pay the reduced rate of \$8.59 per hour to employees under the age of 18 years.**

B. Employment of Minors Age 14 And 15

A minor who is age 14 or 15 may be employed:

1. Outside school hours;
2. Not more than 40 hours in any one week when school is not in session;
3. Not more than 6 days in any one week;
4. Not more than a combined school and work week of 48 hours when school is in session;
5. Not more than 8 hours in any one day on non-school days or when school is not in session;
6. Not more than 3 hours on school days;
7. Not more than 18 hours a week when school is in session;
8. Only between 7:00 a.m. and 7:00 p.m. in any one day, except during the summer (June 1 through Labor Day) when the evening hour is 9:00 p.m.;
9. To perform clean-up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but cannot use power-driven mowers or cutters; and
10. To do office and clerical work, including the operation of office machines, as well as cashiering and errand and delivery work by foot, bicycle and public transportation.

However, minors in this category cannot:

1. Be involved in the operation or tending of a hoisting apparatus or any power-driven machinery other than office machines; and
2. Operate a motor vehicle or serve as a helper on a motor vehicle.

Employment of Minors

C. Employment of Minors Age 16 And 17

Federal law does not address hours-time standards for 16 and 17 year olds. As such, Michigan law is controlling. A minor who is age 16 or 17 may be employed:

1. For a period no longer than a weekly average of 8 hours per day, nor more than 10 hours in any one day;
2. Not more than 6 days in any one week;
3. Not more than 24 hours in a week when school is in session, nor more than 48 hours in a week when school is not in session;
4. Only between 6:00 a.m. and 10:30 p.m. Sunday through Thursday. A minor aged 16 or 17 may be employed until 11:30 p.m. on Fridays and Saturdays, during school vacation periods, or when the minor is not regularly enrolled in school;
5. Minors 16 years of age may not drive automobiles or trucks on public roadways during their employment;
6. Minors 17 years of age may drive automobiles or trucks on public roadways only if:
 - a. Such driving is restricted to daylight hours;
 - b. The minor holds a State license valid for the type of driving involved in the job performed and has no record of any moving violations at the time of hire;
 - c. The minor has successfully completed a State-approved driver education course;
 - d. The automobile or truck is equipped with a seat belt for the driver and any passengers and the minor's employer has instructed the minor that the seat belts must be used when driving the automobile or truck;
 - e. The automobile or truck does not exceed 6,000 pounds of gross vehicle weight;
 - f. Such driving should not make up more than 1/3 of a minor's workday and no more than 20 percent of a minor's work time in any workweek;
 - g. Such driving does not involve:
 - (i) the towing of vehicles;
 - (ii) route deliveries or route sales;
 - (iii) the transportation for hire of property, goods or passengers;
 - (iv) urgent, time-sensitive deliveries;
 - (v) more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the minor's employer to a customer (other than urgent, time-sensitive deliveries, which are prohibited);
 - (vi) more than two trips away from the primary place of employment in any single day for the purpose of transporting passengers (other than employees of the employer);
 - (vii) transporting more than three passengers (including employees of the employer); or
 - (viii) driving beyond a 30 mile radius from the employee's place of employment; and
 - (ix) vehicles other than automobiles and trucks, i.e., recreational vehicles, all-terrain vehicles motorcycles, buses, golf carts, etc.

Employment of Minors

D. Minors Graduated From High School/Minors With GED/Emancipated Minors

Under Michigan law, minors who are 16 years of age or older and have completed the requirements for graduation from high school, or, who are 17 years of age and have their GED, or, who are emancipated (by petition, marriage, active duty with the armed forces), are not subject to state child labor laws.

However, because employers are subject to federal law, and federal law does not provide for these exemptions, minors who fall into these categories will still be subject to federal child labor laws, which include the hazardous occupation restrictions discussed above.

E. I-9 Form

As in any employment scenario, when hiring minors, all appropriate documentation must be completed. In particular, when completing an I-9 form for a minor (see this link for the current Form I-9 Employment Eligibility Verification <https://www.uscis.gov/sites/default/files/document/forms/i-9-paper-version.pdf>), if the minor is hired and does not have any of the identity documents listed under List A or List B, he or she is exempt from producing same if:

1. a parent or legal guardian completes Section 1 of the I-9 and writes in the space for minor's signature the words, "Minor Under Age 18";
2. the parent or legal guardian completes the preparer/translator certificate of the I-9 form; and
3. the employer writes in Section 2 of the I-9 form the words "Minor Under Age 18" under List B in the space "Document Identification Number." A minor must still produce a List C document showing employment eligibility if this procedure is followed.

F. Unpaid Interns

If your business uses unpaid interns as part of its operations, you should be aware that the Department of Labor (DOL) has now adopted the "primary beneficiary test", which had previously been followed and applied by the Sixth Circuit courts. Under this test, the intern must be the primary beneficiary of the internship. The DOL's Fact Sheet #71 lists the following factors that should be used to determine if the intern is the primary beneficiary of the unpaid internship:

- The parties have a clear understanding that there is no expectation of compensation;
- The internship provides educational and "hands on" training;
- The internship is tied to the intern's formal education program;
- The internship accommodates the intern's academic commitments;
- The internship ends once the educational benefit to the intern ends;
- The intern's work complements and does not displace other positions within the business;
- There is a clear understanding of no entitlement to a paid position upon the termination of the internship.

Failure to properly classify and pay an intern could result in claims against the business for back wages and overtime pay along with attorney's fees. If the foregoing factors cannot be satisfied, then the company should pay the intern in accordance with the remaining requirements contained in this notice depending on the intern's age and other factors outlined herein.

If you have any questions about the employment of minors or any related labor issues, please contact Colombo & Colombo at 248.645.9300.