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1990

## G90-1002 Child Labor Laws For Agriculture

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## Child Labor Laws For Agriculture

This NebGuide details special considerations for employing persons 16 years of age and younger.

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*Raymond Massey, Extension Agricultural Economist*

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- [Minimum Age Standards](#)
- [Working Hours](#)
- [Hazardous Jobs](#)
- [Exemptions From Hazardous Jobs](#)
- [Special Provisions for Beet Field Work](#)
- [Record Keeping](#)
- [Section 60-407 Nebraska Law](#)
- [Quick Guide for Employers](#)

The employment of minors became regulated by the Fair Labor Standards Act of 1938. Amendments to this Act and additional Nebraska laws have further regulated child labor use.

Agriculture is given special provisions regarding child labor. Specific regulations pertaining to age, working hours and hazardous jobs have been written to assure that minors are not employed nor endangered while working in agricultural jobs.

The child labor provisions mentioned in this NebGuide apply to the agricultural employment of all non-family minors, migrant as well as local resident children. The provisions do not apply to minors employed by their parents or legal guardians in any job on a farm owned or operated by their parent or legal guardian. *Legal guardian* is a specific legal term not including casual or family relationships which are temporary. Employers should consult an attorney if they are unclear about whether they are legal guardians.

Agricultural employers are responsible for complying with state and federal laws and providing records, if requested, indicating their compliance. Failure to follow the child labor laws may result in a penalty of up to \$1,000 for each violation.

### Minimum Age Standards

Sixteen years is the minimum age for employment in agriculture during school hours and for agricultural occupations declared hazardous by the Secretary of Labor. Fourteen- and fifteen-year-olds may be

employed outside school hours in agricultural jobs **not** declared hazardous. Children 12-13 years old may be employed outside school hours, in a non-hazardous job, on a farm where their parent or legal guardian is employed. Such employees must have written parental consent to work. The child labor provisions apply regardless of farm size or the number of man-days of labor used on the farm.

Children under 12 years may be employed under the same conditions as 12- and 13-year olds if the farm employer is exempt from federal minimum wage provisions. Employers hiring fewer than 500 man-days in any calendar quarter of the previous year are exempt from the minimum wage provisions. Five hundred man-days are roughly equal to seven employees working full time in a calendar quarter.

## **Working Hours**

School hours vary from district to district. For the purpose of complying with child labor laws, school hours are those set by the school district in which the minor is living and/or employed. Work done before and after school hours, on weekends and on non-school days is considered outside of school hours.

## **Hazardous Jobs**

The following agricultural jobs are declared hazardous and may not be performed by anyone under 16 unless specifically exempted as listed in the next section.

1. Operating a tractor of more than 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from a tractor with more than 20 PTO horsepower.
2. Operating or helping operate (including starting, stopping, adjusting, feeding or any other activity involving physical contact associated with the operation) a:
  - Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;
  - Feed grinder, crop dryer, forage blower, auger conveyer, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or
  - Power post-hole digger, power post driver, or nonwalking-type rotary tiller.
3. Operating or helping operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) a:
  - Trencher or earthmoving equipment;
  - Fork lift;
  - Potato combine; or
  - Power-driven circular, band, or chain saw.
4. Working on a farm in a yard, pen, or stall occupied by a:

- Bull, boar, or stud horse maintained for breeding purposes; or
  - Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).
5. Felling, bucking, skidding, loading, or unloading timber with a butt diameter more than 6 inches.
  6. Working from a ladder or scaffold at a height of more than 20 feet.
  7. Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
  8. Working inside:
    - A fruit, forage or grain storage area designed to retain an oxygen deficient or toxic atmosphere;
    - An upright silo within two weeks after silage has been added or when a top unloading device is in operating position;
    - A manure pit; or
    - A horizontal silo while operating a tractor for packing purposes.
  9. Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals identified by the word "poison," an illustration of a skull and crossbones, or by the word "warning" on the label;
  10. Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or
  11. Transporting, transferring, or applying anhydrous ammonia.

### **Exemptions From Hazardous Jobs**

Certain minors may perform hazardous agricultural jobs if one of the following exemptions apply.

1. Persons under age 16 employed by their parent or legal guardian on a farm owned or operated by them may perform any hazardous job listed above.
2. Persons 14 and 15 years old who have certificates indicating that they have successfully completed 4-H or vocational agriculture tractor or machine operation training programs may perform work for which they have been trained. This exemption pertains to items one and two or the list of hazardous jobs. Farmers employing these minors must keep a copy of the certificates of completion on file with the minor's personnel records.
3. Student-learners in a bona fide vocational agricultural program may perform items one through six of the list of hazardous jobs. Such a program is short term and does not pertain to normal employment but to education. Very specific regulations found in Child Labor Bulletin 102 of the Wage and Hour Division of the U.S. Department of Labor exist for this exemption.

## **Special Provisions for Beet Field Work**

Additional Nebraska restrictions apply to beet field work.

1. To employ minors under 16 years of age to work in beet fields, the employer must obtain an employment certificate from the superintendent of schools of the school district where the minor lives. Minors of any age may be employed by their parents or legal guardians in any agricultural job on a farm owned or operated by the parent or guardian.
2. Minors under 16 years may not be employed to work in beet fields for more than 48 hours a week nor more than eight hours a day. They may not begin working before 6 a.m. and must stop working by 10 p.m. Minors under 14 years cannot work after 8 p.m. A special permit to employ minors between 14 and 16 years after 10 p.m. can be obtained if there is no school scheduled for the next day. The permit may be obtained from the Nebraska Department of Labor and costs \$5.

When minors under 16 years old are employed to work in beet fields, the employer must keep two lists of all minors employed: one in a file and one posted near the principle entrance of the building where the minors work. Also, a poster stating the hours required of them each day, the start and stop times and the time allowed for meals must be placed in a conspicuous location. The Nebraska Department of Labor will provide the form for these posters.

## **Record Keeping**

Every farmer (except a parent or legal guardian) who employs any minor under age 16 in agriculture must keep the following records:

1. The full name of the employee;
2. Address of the employee;
3. Date of birth;
4. Social Security number;
5. Written consent of the parent or legal guardian if the minor is under 14 years old;
6. A copy of a tractor or machine operation program certificate of completion, if the minor performs hazardous jobs;
7. Wages paid and social security and income tax withheld. Employers may protect themselves from unintentional violation of the child labor laws by keeping in their files an employment or age certificate for each minor employed to show that the minor is the minimum age for each job.

## **Section 60-407 Nebraska Law**

Minors 13 years or older working for their parents or legal guardians, or 14 years or older employed on a farm, need a special permit to operate tractors and other motorized implements on public highways and roads. The minor must supply a licensed examiner proof of age and demonstrate a knowledge of the operation of the equipment and the rules and laws of the road. Minors who have successfully completed

4-H or vocational agriculture tractor or machine operation training must still obtain this permit to operate farm machinery on public highways and roads.

## **Quick Guide for Employers**

### **Information Sources**

"Child Labor Requirements in Agriculture Under the Fair Labor Standards Act." Child Labor Bulletin No. 102 of the U.S. Department of Labor.

"Nebraska Child Labor," Revised in 1987, Nebraska Department of Labor.

### **Addresses and Phone Numbers**

- U.S. Department of Labor Wage and Hour Division 106 South 15th Street, Room 715 Omaha, NE 68102 (402) 221-4682
- Nebraska Department of Labor Division of Labor and Safety Standards State Office Building 301 Centennial Mall South P.O. Box 85024 Lincoln, NE 68509-5024 (402) 471-2239

**Author's note: The information provided in this NebGuide is for educational purposes. It is not a substitute for legal advice.**

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***File G1002 under: FARM MANAGEMENT***

***G-2, Farm Law***

*Issued December 1990; 7,500 printed.*

*Issued in furtherance of Cooperative Extension work, Acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture. Elbert C. Dickey, Director of Cooperative Extension, University of Nebraska, Institute of Agriculture and Natural Resources.*

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