

# CHILD LABOR LAWS AND AGRICULTURE

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Child labor laws help ensure that workplace responsibilities and conditions for minors are safe. Because many farmers and ranchers employ minors to help on weekends or over the summer, it is crucial that they understand child labor laws related to agriculture.

## SOURCE OF LAWS

Both federal and state laws address child labor and agriculture. On the federal level, the Fair Labor Standards Act (FLSA) and corresponding regulations explain these rules, and many states also have state-level employment laws. Federal rules are key considerations for Texas farmers and ranchers since most of the Texas-specific laws closely follow federal provisions.

## FARMER/RANCHER'S CHILDREN

A parent may employ his or her child of any age, at any time, doing any type of work, on a farm or ranch owned or operated by the parent (see [29 CFR § 570.2\(a\)\(2\); \(b\)](#)).



Source: Penn State Agricultural Safety and Health Program

The same is true if the owner or operator of the farm or ranch is someone standing in place of the parent, such as a custodial grandparent (see [29 CFR § 570.2\(a\)\(2\); \(b\)](#)), and the same rules apply under Texas law (see [Texas Labor Code § 51.003\(1\)\(C\)](#)). So, employing one's own children is fairly straightforward.

## OTHER PEOPLE'S CHILDREN

The rules become more complex regarding employing another person's child on the farm or ranch. The applicable rules depend on the child's age and the nature of the tasks he or she performs (see [29 CFR § 570](#)):

- ▶ **Age 16 or 17.** A child may perform any farm job, including those deemed hazardous by the Secretary of Labor, and may work anytime, including during school hours.
- ▶ **Age 14 or 15.** A child may perform only those jobs not considered hazardous by the Secretary of Labor, and may be employed only outside of school hours.
- ▶ **Age 12 or 13.** A child may work in an agricultural operation only if its parent is also employed there. Work may occur only outside of school hours.
- ▶ **Children 11 or under.** A child may work in an agricultural operation only if his or her parents give consent, and the farm employees are exempt from the FLSA requirements. Work is permitted only outside of school hours. Common exemptions under the FLSA (see [29 U.S.C. § 213\(a\)\(6\)](#)) include
  - Immediate family members of the employer
  - Persons principally engaged in range production of livestock
  - Farms making less than \$500,000 in annual gross sales
  - Businesses with less than 500 "man days" (an employee works for at least 1 hour in a day) of agricultural labor in any quarter of the prior year

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Source: Tonya Perez

## HAZARDOUS ACTIVITIES

Children under the age of 16 may not participate in activities the Secretary of Labor deems to be hazardous (see [29 CFR § 570.71](#)), many of which may surprise most farmers and ranchers:

- ▶ Operating a tractor of over 20 PTO (power takeoff) horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor
- ▶ Operating or helping to operate (even touching) any of the following machines:
  - Auger conveyor
  - Corn picker
  - Cotton picker
  - Crop dryer
  - Earthmoving equipment
  - Feed grinder
  - Forage blower
  - Forage harvester
  - Forklift
  - Grain combine
  - Hay baler
  - Hay mower
  - Mobile pea viner
  - Nonwalking-type rotary tiller
  - Potato combine

- Potato digger
- Power-driven circular, band, or chain saw
- Power post driver
- Power post-hole digger
- Trencher
- Unloading mechanism of a nongravity-type self-unloading wagon or trailer
- ▶ Working on a farm in a pen, stall, or yard occupied by a boar, bull, cow with a newborn calf (umbilical cord present), sow with suckling pigs, or stud horse maintained for breeding purposes
- ▶ Bucking, felling, loading, skidding, or unloading timber more than 6 inches in diameter
- ▶ Working from a ladder or scaffold at a height of more than 20 feet
- ▶ Driving an automobile, bus, or truck while transporting passengers
- ▶ Riding on a tractor as a passenger or helper
- ▶ Working inside a(n)
  - Forage, fruit, or grain storage unit designed to retain an oxygen-deficient or toxic atmosphere
  - Horizontal silo while operating a tractor for packing purposes
  - Manure pit
  - Upright silo within 2 weeks of silage being added or when a top-uploading device is in the operating 2 position
- ▶ Handling or applying (includes cleaning equipment, disposing or returning empty containers, or serving as flagman) Category I chemicals identified by the word “poison” and the skull and cross-bone labels, or Category II chemicals identified by the word “warning” on the label
- ▶ Handling or using a blasting agent
- ▶ Transferring, transporting, or applying anhydrous ammonia

It is also important to ensure that all required equipment safety guards are in place and that the equipment children are not allowed to operate is properly marked with required Occupational Safety and Health Act (OSHA) safety stickers.

There are certain exceptions for students in vocational agriculture education programs and 4-H members who have completed a tractor-training program (see [29 CFR § 570.72](#)). To avoid potential violations, a farmer or rancher who hires a minor as part of a school work-study program should make sure the school program has obtained approval from the Department of Labor.



Source: National Children's Center for Rural and Agricultural Health and Safety

## MINIMUM WAGE REQUIREMENTS

If an employer is not exempt, a minimum wage requirement of \$4.25 an hour applies to children employed in agriculture. An employer who has received a special certificate from the Department of Labor may pay full-time apprentices, student workers, student learners, and workers with disabilities less than minimum wage.

Many agricultural operations do not fall under the minimum wage requirements (see [29 U.S.C. § 213\(a\)\(6\)](#)). For example, an operation that used less than 500 “man days” of agricultural labor in any quarter of the last calendar year is exempt from these requirements (see [29 U.S.C. § 213\(a\)\(6\)](#)).

## RECORD-KEEPING REQUIREMENTS

Required records for a farm or ranch that employs children include (see [29 CFR § 516.33\(f\)](#)):

- ▶ Child's full name
- ▶ Date of birth
- ▶ Place where the child lives during employment
- ▶ Written consent of the parent if required for employment

## PENALTY FOR VIOLATIONS

Persons who violate these rules can face serious consequences. Monetary fines can be as much as \$11,000 per employee who is subject to a violation. Willful violations may be punished by up to an additional \$10,000 and incarceration of up to 6 months. If the violation results in the death or serious injury of the child, the penalty increases to \$50,000 per person and may double if the violation is found to have been repeated or willful.

Times have changed concerning laws that apply to minors working on farms and ranches. Anyone who intends to hire children under the age of 18 should be aware of and carefully comply with child labor laws.