

## CHAPTER 181A

### CHILD LABOR

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#### 181A.01 CITATION.

Sections 181A.01 to 181A.12 may be cited as the "Child Labor Standards Act."

**History:** 1974 c 432 s 1

#### 181A.02 PURPOSE.

The purpose of sections 181A.01 to 181A.12 is to aid in the economic, social and educational development of young people through employment. Work is an integral factor in providing a sense of purpose, direction, and self-esteem necessary to the overall physical and mental health of an individual. Young people, especially those who have completed high school or occupational training, should not be denied employment opportunities. Work, however, must be coordinated with schooling and safety considerations in order to serve the best interest of the young.

**History:** 1974 c 432 s 2

#### 181A.03 DEFINITIONS.

Subdivision 1. **General.** As used in sections 181A.01 to 181A.12, the terms defined in this section shall have the following meanings.

Subd. 2. **Department.** "Department" means the Minnesota Department of Labor and Industry.

Subd. 3. **Division.** "Division" means the Division of Labor Standards within the department.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the department or designees.

Subd. 5. **Employment.** "Employment" means any occupation engaged in for compensation in money or other valuable consideration, whether paid to the minor or to some other person, including, but not limited to, occupation as a servant, agent, or independent contractor.

Subd. 6. **School days.** "School days" means any day when normal classes are in session during the regular school year in the school district.

Subd. 7. **School hours.** "School hours" means that period during which the student is required to be in school in the school district.

**History:** 1974 c 432 s 3; 1986 c 444

**181A.04 MINIMUM AGE AND MAXIMUM HOURS.**

Subdivision 1. **Minimum age.** No minors under the age of 14 shall be permitted employment in this state except as authorized by section 181A.07.

Subd. 2. **During school.** On school days, during school hours, no minor under the age of 16 years shall be permitted employment except as provided in section 181A.05.

Subd. 3. **Time of day, under 16.** No minor under the age of 16 shall be permitted to work any day before 7:00 a.m. or after 9:00 p.m.

Subd. 4. **Maximum hours.** No employer shall be permitted to work a minor under the age of 16 more than 40 hours a week or more than eight hours in any 24-hour period.

Subd. 5. **Hazardous occupations.** No minor under the age of 18 shall be permitted to work in any occupation which the commissioner shall find to be particularly hazardous for the employment of children under 18 years of age or detrimental to their well-being. A list of such occupations shall be established and promulgated by rule pursuant to section 181A.09. Notwithstanding any law or rule to the contrary, this subdivision does not apply to minors employed in retail stores that are nonseasonal and are of a nontransient nature and which sell or offer for sale explosives or pyrotechnics.

Subd. 6. **Time of day, high school students.** A high school student must not be permitted to work after 11:00 p.m. on an evening before a school day or before 5:00 a.m. on a school day, except:

(1) as permitted by section 181A.07, subdivisions 1, 2, 3, and 4;

(2) this subdivision does not apply to a high school student age 18 or older, unless the student provides a written request for the hours restrictions to the employer at least two weeks before any restricted hours begin; or

(3) if a high school student under the age of 18 has supplied the employer with a note signed by the parent or guardian of the student, the student may be permitted to work until 11:30 p.m. on the evening before a school day and beginning at 4:30 a.m. on a school day.

For the purpose of this subdivision, a high school student does not include a student enrolled in an alternative education program approved by the commissioner of education or an area learning center, including area learning centers under sections 123A.05 to 123A.08 or according to section 122A.163.

**History:** 1974 c 432 s 4; 1985 c 248 s 70; 1Sp1985 c 13 s 294; 1993 c 261 s 1; 1994 c 465 art 2 s 1; 1998 c 397 art 11 s 3; 1998 c 398 art 5 s 55; 2000 c 489 art 10 s 18; 2003 c 130 s 12; 2012 c 266 s 1; 2017 c 68 art 1 s 1; 2017 c 94 art 2 s 18

**181A.05 EMPLOYMENT CERTIFICATES.**

Subdivision 1. **When issued.** Any minor 14 or 15 years of age who wishes to work on school days during school hours shall first secure an employment certificate. The certificate shall be issued only by the school district superintendent, the superintendent's agent, or some other person designated by the Board of Education. The employment certificate shall be issued only for a specific position with a designated employer and shall be issued only in the following circumstances:

(1) if a minor is to be employed in an occupation not prohibited by rules promulgated under section 181A.09 and as evidence thereof presents a signed statement from the prospective employer; and

(2) if the parent or guardian of the minor consents to the employment; and

(3) if the issuing officer believes the minor is physically capable of handling the job in question and further believes the best interests of the minor will be served by permitting the minor to work.

Subd. 2. **Content of certificates.** The employment certificate shall show the name, address, date of birth and description of the minor, the name and address of the employer, the kind of work to be performed, the hours of exemption, and shall also require the signature of the parent or guardian and the minor in the presence of the issuing officer.

Subd. 3. **Consulting requirement.** If the issuing officer is in doubt about whether the proposed employment is in accordance with these provisions, the officer shall consult with the division before issuing the certificate.

Subd. 4. **Termination.** Upon termination for any reason of the employment authorized, the employer shall return the employment certificate directly to the issuing officer with a notation showing the date of termination.

Subd. 5. **Cancellation.** The issuing officer is authorized to cancel an employment certificate, if the issuing officer determines that such action would be in the best interest of the minor.

**History:** 1974 c 432 s 5; 1985 c 248 s 70; 1986 c 444

#### 181A.06 AGE CERTIFICATES.

Subdivision 1. **Proof of age.** Every employer shall require proof of the age of any minor employee or prospective employee by requiring the minor to submit an age certificate, a copy of the minor's birth record, a copy of the minor's driver's license, or a United States Department of Homeland Security Citizenship and Immigration Services Employment Eligibility Verification Form I-9. Upon the request of a minor, an age certificate shall be issued by or under the authority of the school superintendent of the district in which the applicant resides. Superintendents, principals, or headmasters of independent or parochial schools shall issue age certificates to minors who attend such schools.

Subd. 2. **Content of certificates.** The age certificate shall show the age of the minor, the date of birth, the date of issuance of the certificate, the name and position of the issuing officer, the name, address, and description of the minor, and what evidence was accepted as proof of age. The age certificate shall also show the name of the employer, the proposed occupation, and shall state that a separate employment certificate is required for minors under 16 to work on regular school days during school hours. It shall be signed by the issuing officer and by the minor in the officer's presence.

Subd. 3. **When issued.** An age certificate shall not be issued unless the minor's birth record or photocopy or extract thereof is exhibited to the issuing officer, or unless such evidence was previously examined by the school authorities and the information is shown on the school records. If a birth record is not available, other documentary evidence shall be accepted only as provided by the rules or orders of the department.

Subd. 4. **Filing requirements.** The employer shall keep an age certificate for the duration of the minor's employment and shall keep on file all age certificates, copies of birth records or copies of drivers' licenses presented to the employer pursuant to subdivision 1, where they may be readily examined by an agent of the Division of Labor Standards.

**History:** 1974 c 432 s 6; 1985 c 248 s 70; 1986 c 444; 2001 c 82 s 1; 1Sp2001 c 9 art 15 s 32; 2007 c 13 art 1 s 25

**181A.07 EXEMPTIONS.**

Subdivision 1. **Agricultural operations.** Minors employed in corn detasseling operations and other agricultural operations, with the permission of their parents or guardian, shall be exempt from the provisions of section 181A.04, subdivision 4. Such minors 12 years of age or older are exempt from the age provision of section 181A.04, subdivision 1.

Subd. 2. **Entertainers and models.** Any minor employed as an actor, model, or performer shall be exempt from the minimum age provisions of section 181A.04, subdivision 1.

Subd. 3. **Newspaper carriers.** Newspaper carriers shall be exempt from the minimum age provision of section 181A.04, subdivisions 1 and 3. Such carriers shall be at least 11 years of age.

Subd. 4. **Home chores; babysitters.** Any minor employed to do home chores, to babysit, or employed by a parent shall be exempt from all provisions of sections 181A.01 to 181A.12.

Subd. 4a. **Youth athletic program referees.** A minor at least 11 years of age and less than 14 years of age shall be exempt from the minimum age provisions of section 181A.04, subdivision 1, if employed as a youth athletic program referee, umpire, or official for an age bracket younger than the minor's own age if an adult representing the state or local athletic program is on the premises at which the athletic program event is occurring and a person responsible for the state or local athletic program possesses a written acknowledgment signed by the minor's parent or guardian consenting to the minor's employment as a referee, umpire, or official.

Subd. 5. **Commissioner exemptions.** The commissioner may grant exemptions from any provisions of sections 181A.01 to 181A.12 for an individual minor if the commissioner finds that such an exemption would be in the best interest of the minor involved. Such exemptions shall be granted only in accordance with the established rules of the department.

Subd. 6. **Requests for commissioner exemption.** Any minor's parent or guardian, school official, or youth employment specialist may request an exemption as provided in subdivision 5.

Subd. 7. **Approved training programs.** The commissioner may grant exemptions from any provisions of sections 181A.01 to 181A.12 for minors participating in training programs approved by the commissioner; or students in a valid apprenticeship program taught by or required by a trade union, the commissioner of education, the commissioner of employment and economic development, the Board of Trustees of the Minnesota State Colleges and Universities, or the Board of Regents of the University of Minnesota.

**History:** 1974 c 432 s 7; 1975 c 204 s 78; 1976 c 2 s 72; 1985 c 248 s 70; 1986 c 444; 2003 c 26 s 1; 2003 c 31 s 1; 2009 c 86 art 1 s 90; 2014 c 312 art 3 s 9

**181A.08 POWERS AND DUTIES OF THE DEPARTMENT.**

Subdivision 1. **Inspections.** The commissioner, an authorized representative, or any truant officer may enter and inspect the place of business or employment and may interview any employees, of any employer of employees in any occupation in the state, all for the purpose of ascertaining whether any minors are employed contrary to the provisions of sections 181A.01 to 181A.12. Such authorized persons may require that employment certificates, age certificates, and lists of minors employed shall be produced for their inspection.

Subd. 2. **Compliance orders.** The commissioner or an authorized representative may issue an order requiring an employer to comply with the provisions of sections 181A.01 to 181A.12 or with any rules

promulgated under the provisions of section 181A.09. Any such order shall be served by the department upon the employer or an authorized representative in person or by certified mail at the employers place of business. If an employer wishes to contest the order for any reason, the employer shall file written notice of objection with the commissioner within ten days after service of said order upon said employer. Thereafter, a public hearing shall be held in accordance with the provisions of sections 14.57 to 14.69, and such rules consistent therewith as the commissioner shall make.

**Subd. 3. Restraining orders.** The commissioner or an authorized representative may apply to any court of competent jurisdiction for an order restraining the violation of an order issued by the commissioner pursuant to subdivision 2, or for an order enjoining and restraining violations of this chapter or rules adopted pursuant to section 181A.09.

**History:** 1974 c 432 s 8; 1979 c 202 s 1; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 444; 1987 c 384 art 2 s 1

### 181A.09 POWER TO MAKE RULES.

Subdivision 1. **General.** The commissioner shall make, revise and promulgate such rules, including definitions of terms, as the commissioner shall deem appropriate to carry out the purposes of sections 181A.01 to 181A.12 and to prevent the circumvention or evasion thereof.

Subd. 2. **List of hazardous occupations.** The commissioner shall, by rule, establish a list of those occupations which the commissioner finds to be particularly hazardous for the employment of children, or detrimental to their health or well-being.

Subd. 3. **Public hearing; publication.** Rules shall be adopted by the department only after a public hearing held upon due publication of notice, at which any interested person may be heard and of which a record shall be made. Rules shall be published by the department and shall take effect upon publication and filing with the secretary of state and the Department of Administration. Such rules shall have the force and effect of law upon filing as provided herein.

**History:** 1974 c 432 s 9; 1985 c 248 s 70; 1986 c 444

### 181A.10 JUDICIAL REVIEW.

Subdivision 1. **Petition.** Any person who may be aggrieved by any administrative rule issued pursuant to section 181A.09 may obtain a review thereof in the district court for Ramsey County, by filing in such court a written petition for declaratory judgment praying that the rule be modified or set aside. A copy of such petition shall be served upon the department. The department's findings of fact, if any, shall be conclusive upon the court if supported by substantial evidence. The court shall determine whether the rule is in accordance with law.

If the court determines that such rule is not in accordance with law, it shall remand the case to the department with directions to modify or revoke such rule. If application is made to the court by any aggrieved party for leave to adduce additional evidence, such party shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence before the department. If the court finds that such evidence is material and that reasonable grounds exist for the failure to the aggrieved party to adduce such evidence in prior proceedings, the court may remand the case to the department with directions that such additional evidence be taken by the department. The department may modify its findings and conclusions, in whole or in part, by reason of such additional evidence.

Subd. 2. **Hearings; review.** Hearings in the district court on all appeals taken under subdivision 1 shall be privileged and take precedence over all matters, except matters of the same character. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final except that the same shall be subject to review on appeal as in other civil cases.

Subd. 3. **Effect.** The commencement of proceedings under subdivision 1 shall not, unless specifically ordered by the court, operate as a stay of an administrative rule issued pursuant to section 181A.09.

**History:** 1974 c 432 s 10; 1983 c 247 s 79; 1985 c 248 s 70

#### **181A.11 AGRICULTURAL EMPLOYMENT.**

Nothing in sections 181A.01 to 181A.12 shall prohibit a person from employing a child in any agricultural pursuit permitted under the United States Code, title 29, section 213(c)(2).

**History:** 1974 c 432 s 11

#### **181A.115 PROHIBITED EMPLOYMENT RELATING TO PRESENCE OF LIQUOR.**

No minor under the age of 18 shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquors are served or consumed or in any tasks involving the serving, dispensing, or handling of such liquors that are consumed on the premises except that:

(1) minors who have reached the age of 16 may be employed to perform busing, dishwashing, or hosting services in those rooms or areas of a restaurant, hotel, motel, or resort where the presence of intoxicating liquor is incidental to food service or preparation;

(2) minors who have reached the age of 16 may be employed to perform busing, dishwashing, or hosting services or to provide waiter or waitress service in rooms or areas where the presence of 3.2 percent malt liquor is incidental to food service or preparation;

(3) minors who have reached the age of 16 may be employed to provide musical entertainment in those rooms or areas where the presence of intoxicating liquor and 3.2 percent malt liquor is incidental to food service or preparation; and

(4) minors are not prevented from working at tasks which are not prohibited by law in establishments where liquor is sold, served, dispensed, or handled in those rooms or areas where no liquor is consumed or served.

**History:** 2007 c 135 art 2 s 21

#### **181A.12 PENALTIES.**

Subdivision 1. **Fines; penalty.** (a) Any employer who hinders or delays the department or its authorized representative in the performance of its duties under sections 181A.01 to 181A.12 or refuses to admit the commissioner or an authorized representative to any place of employment or refuses to make certificates or lists available as required by sections 181A.01 to 181A.12, or otherwise violates any provisions of sections 181A.01 to 181A.12 or any rules issued pursuant thereto shall be assessed a fine to be paid to the commissioner for deposit in the general fund. The fine may be recovered in a civil action in the name of the department brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office. Fines are in the amounts as follows:

(1)	employment of minors under the age of 14 (each employee)	\$	500
(2)	employment of minors under the age of 16 during school hours while school is in session (each employee)		500
(3)	employment of minors under the age of 16 before 7:00 a.m. (each employee)		500
(4)	employment of minors under the age of 16 after 9:00 p.m. (each employee)		500
(5)	employment of a high school student under the age of 18 in violation of section 181A.04, subdivision 6 (each employee)		1,000
(6)	employment of minors under the age of 16 over eight hours a day (each employee)		500
(7)	employment of minors under the age of 16 over 40 hours a week (each employee)		500
(8)	employment of minors under the age of 18 in occupations hazardous or detrimental to their well-being as defined by rule (each employee)		1,000
(9)	employment of minors under the age of 16 in occupations hazardous or detrimental to their well-being as defined by rule (each employee)		1,000
(10)	minors under the age of 18 injured in hazardous employment (each employee)		5,000
(11)	minors employed without proof of age (each employee)		250

(b) An employer who refuses to make certificates or lists available as required by sections 181A.01 to 181A.12 shall be assessed a \$500 fine.

Subd. 2. **Misdemeanor.** An employer or other person violating any provision of sections 181A.01 to 181A.12 excluding section 181A.04, subdivision 6, or any rules issued pursuant thereto or assisting another in such violation is guilty of a misdemeanor.

Subd. 3. **Gross misdemeanor.** An employer who engages in repeated violations of sections 181A.01 to 181A.12 excluding section 181A.04, subdivision 6, is also guilty of a gross misdemeanor. An employer who engages in a single violation of sections 181A.01 to 181A.12 excluding section 181A.04, subdivision 6, is guilty of a gross misdemeanor if the violation results in the death of the minor or substantial bodily

harm to the minor. For purposes of this subdivision, "substantial bodily harm" has the meaning given in section 609.02, subdivision 7a.

**History:** *1974 c 432 s 12; 1983 c 301 s 154; 1984 c 608 s 2; 1985 c 248 s 70; 1Sp1985 c 13 s 295; 1986 c 444; 1993 c 261 s 2; 2000 c 488 art 2 s 10*