

SPECIAL REPORT

ILLEGAL YOUTH EMPLOYMENT CAN CREATE SEVERE PENALTIES

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The Michigan Workers' Compensation Act provides severe uninsurable penalties for employers who knowingly or unknowingly violate the Michigan Department of Labor Youth Employment Standards (Public Act 90) by illegally employing a minor who is subsequently injured.

THE PENALTY

Double compensation (indemnity / lost time payments, not medical / benefits) is mandated for the illegal employment of minors. The insurance carrier is required to pay the double benefit but then is entitled to reimbursement from its insured.

If the insured does not make repayment, then the carrier is entitled to cancellation and to sue the employer for the penalty portion of the payment to the minor.

WHO IS A "MINOR"?

According to the Michigan Department of Labor's Youth Employment Standards a minor "... is any person under 18 except:

- 1) someone 16 or older having completed requirements for high school [not necessarily graduated];
- 2) someone 17 or older having passed a GED test;
- 3) an emancipated individual [Act 280, 1975, "...married; armed forces; or court order/16 years or older..."]

EXEMPTIONS:

- 1) a student 14 or older with “working papers”;
- 2) a minor:
 - a) working in a parent’s / guardian’s business;
 - b) working in a school where enrolled;
 - c) working as a domestic in a private residence;
 - d) selling / distributing newspapers, magazines, political / advertising matter;
 - e) shining shoes;
 - f) involved in citizenship/character-building activities which do not displace hired employees.

HOW DOES A “MINOR” QUALIFY TO WORK?

He or she must obtain “working papers” prior to employment.

WHAT OCCUPATIONS ARE PROHIBITED TO A MINOR?

In general:

- any / all construction, contracting, demolition;
- metal working / forming;
- wood working / forming;
- bakery machinery operation;
- meat packing / slaughtering / tanning, including retail;
- logging / sawmill;
- mining / quarry;
- vehicles (either inside / outside a cab);
- ladder / scaffolding use;
- power hoisting exposure;
- respiratory equipment use (no “contained spaces”);
- hazardous substance exposures (contaminants);
- toxins, corrosives exposures (flammables);
- silica / clay product exposures;
- radioactivity exposures;
- occupations listing in 1500/1600/1700 SIC codes.

EXCEPTIONS?

An employer must apply to the Michigan Department of Labor for a “deviation.”

Under no circumstances should a “minor” be allowed to begin work, or, if already employed, continue to work unless he/she qualifies with “working papers” (unless exempt) or if his/her occupation is prohibited (unless a “deviation” is approved by the Department of Labor).

An employer’s failure to abide by the Youth Employment Standards and injury/illness to an illegally employed minor invites a “double compensation” workers’ compensation penalty.

The penalty portion of this penalty is not covered by insurance.

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