

Title 11. Labor and Industrial Relations

Chapter III. Generally, Department of Labor and Licensing

Subchapter A. Generally

Part 12. Child Labor

Subpart 1. General

11 CAR § 12-101. Definitions.

As used in this part:

- (1) "Child" or "children" means any person under the age of seventeen (17) years, unless more narrowly defined within the context of a specific rule;
- (2) "Department" means the Department of Labor and Licensing;
- (3) "Director" means the Director of the Division of Labor of the Department of Labor and Licensing;
- (4) "Division" means the Division of Labor of the Department of Labor and Licensing;
- (5) "Employ" includes to suffer or permit to work;
- (6) "FLSA" means the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.;
- (7) "Nonschool days" means days that school is not in session in the district where a child resides;
- (8) "Occupation" means any type of work performed or service rendered in connection with any type trade, vocation, or other business, including agriculture;
- (9) "Remunerative occupation" means any occupation in which compensation for services is made, anticipated, or required by contract or by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq., or the Minimum Wage Act of the State of Arkansas, Arkansas Code § 11-4-201 et seq.;
- (10)(A) "School vacation" means any period, other than a weekend, in which school is not in session in the district where a child resides.
 - (B) This includes:
 - (i) Summer break;

(ii) Christmas break; and

(iii) Spring break; and

(11) "Section" means the Labor Standards Section, Division of Labor, Department of Labor and Licensing.

11 CAR § 12-102. Minimum age standards.

(a) No child sixteen (16) years of age shall be subject to this part if the child:

(1) Is a graduate of any:

(A) High school;

(B) Vocational school; or

(C) Technical school; or

(2) Is married; or

(3) Is a parent.

(b) No child under the age of fourteen (14) years shall be employed or permitted to work in any remunerative occupation, except as follows:

(1) During school vacation, children under fourteen (14) years may be employed by their parents or guardians in occupations owned or controlled by them;

(2)(A) Except as provided in this subdivision (b)(2), a child under the age of fourteen (14) years may be employed or may enter into contract upon written approval of the parent or guardian of the minor to buy, sell, and deliver and to collect for newspapers during the school term or during vacation, if the child is attending school as required by law and does not engage in the employment or activity except at times when his or her presence is not required at school.

(B)(i) Subdivision (b)(2)(A) of this section shall be applicable only if provision is made by the employer or newspaper company contractor to provide insurance or indemnity for injury to or death of the minor arising out of bodily injury caused by an accident when the accident hazard arises while the minor is on the business of the employer or performing the activities set out in the contract.

(ii)(a) The schedule of benefits under the program of insurance or indemnity shall provide at least ten thousand dollars (\$10,000) for accidental death of

the minor, and the sum shall be reasonably and equitably prorated for dismemberment of the minor.

(b) The insurance or indemnity shall further provide blanket medical coverage for all hospital and medical expenses up to five thousand dollars (\$5,000) resulting from an accident.

(c) The hospital and medical expense protection shall be excess insurance coverage or indemnity over and above any other collectable insurance;

(3)(A) A child under the age of fourteen (14) years may be employed or may enter into a contract, upon written approval of the parent or guardian of the minor, to serve as and perform the duties of a "batboy" or "batgirl" for a professional baseball club during the school term or during vacation, if the child is attending school as required by law and does not engage in the employment or activity except at times when his or her presence is not required at school.

(B) The provisions of subdivision (b)(3)(A) of this section shall be applicable only if provision is made by the employer or professional baseball club to provide insurance or indemnity for injury to or death of the minor arising out of bodily injury caused by an accident when the accident hazard arises while the minor is on the business of the employer or performing the activities set out in the contract.

(C) No child shall be employed or permitted to work pursuant to the provisions of subdivision (b)(3)(A) of this section for more than ten (10) hours in any day or after 11:00 p.m. on nights preceding school days or after 1:00 a.m. on nights preceding nonschool days; and

(4) A child under the age of fourteen (14) years may be employed in the entertainment industry provided such employment is in compliance with the provisions of Arkansas Code §§ 11-12-101 – 11-12-105 and 11 CAR § 12-401 et seq.

(c) No child under the age of sixteen (16) years shall be employed or permitted to work in certain enumerated occupations prohibited by Arkansas Code §§ 11-6-105 – 11-6-107 or determined to be hazardous by the director under 11 CAR §§ 12-301 – 12-304.

(d) Except as provided in subsection (c) of this section, a child under the age of

sixteen (16) years may be employed or permitted to work:

(1) Pursuant to an entertainment work permit issued and maintained under Arkansas Code § 11-12-104 and 11 CAR § 12-402;

(2) As a newspaper carrier pursuant to subdivision (b)(2) of this section; and

(3) As a "batboy" or "batgirl" pursuant to subdivision (b)(3) of this section.

(e) No person under the age of twenty-one (21) years shall operate any taxicab or bus service for hire, or otherwise, in a city of the first class or drive a bus or taxicab as an employee, partner, or otherwise, for another, Arkansas Code § 14-57-402.

Subpart 2. [Reserved]

Subpart 3. Hazardous Occupations

11 CAR § 12-301. Hazardous occupations generally.

(a) Arkansas Code §§ 11-6-105 – 11-6-107 provide that children under sixteen (16) years shall not be employed and shall not be permitted to work in certain enumerated occupations found by the General Assembly to be hazardous, specifically including:

(1) Adjusting any belt to any machinery;

(2) Sewing or lacing machine belts in any workshop or factory;

(3) Oiling, wiping, or cleaning machinery or assisting therein;

(4) Operating or assisting in operating any of the following machines:

(A) Circular or band saws;

(B) Wood shapers;

(C) Wood jointers;

(D) Planers;

(E) Sandpaper or wood polishing machinery;

(F) Wood turning or boring machinery;

(G) Picker machines or machines used in picking wool;

(H) Carding machines;

(I) Job or cylinder printing presses operated by power other than foot

power;

(J) Boring or drill presses;

(K) Stamping machines used in metal or in paper or leather

manufacturing;

(L) Metal or paper cutting machines;

(M) Corner staying machines in paper box factories;

(N) Steam boilers;

(O) Dough brakes or cracker machinery of any description;

(P) Wire or iron straightening or drawing machinery;

(Q) Rolling mill machinery;

(R) Washing, grinding, or mixing machinery; or

(S) Laundering machinery;

(5) In proximity to any hazardous or unguarded:

(A) Belt;

(B) Machinery; or

(C) Gearing;

(6) Upon any railroad, whether:

(A) Steam;

(B) Electric; or

(C) Hydraulic; or

(7) In any saloon, resort, or bar where intoxicating liquor of any kind is sold or dispensed.

(b) The following occupations are determined by the Director of the Division of Labor to be sufficiently dangerous to life or limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom:

(1) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed;

(2) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

- (3) The operation of motor vehicles or service as helpers on such vehicles;
- (4) Public messenger service;
- (5) Occupations in connection with:

- (A) Transportation of persons or property by:

- (i) Rail;
 - (ii) Highway;
 - (iii) Air;
 - (iv) Water;
 - (v) Pipeline; or
 - (vi) Other means;

- (B) Warehousing and storage;

- (C) Communications and public utilities; and

- (D) Construction (including demolition and repair), except such office (including ticket office) work or sales work in connection with subdivisions (b)(5)(A) – (C) of this section and this subdivision (b)(5)(D), as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations;

(6) Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components except where such work is performed in a nonexplosive area according to the following definitions:

(A) "Explosives" and "articles containing explosive components" mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives by the federal United States Department of Transportation regulations 49 C.F.R. pts. 171 – 180 as they exist on the effective date of this part;

(B) "Nonexplosive area" means an area which meets all the following criteria:

- (i) None of the work performed in the area involves the handling or use of explosives;

- (ii) The area is separated from the explosives area by a distance not

less than that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under sixteen (16) years of age within the area from entering any area in or about the plant which does not meet the criteria of subdivisions (b)(6)(B)(i) – (iii) of this section and this subdivision (b)(6)(B)(iv); and

(C) "Plant or establishment manufacturing or storing explosives or articles containing explosive component" means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components;

(7) Occupations in logging and in the operation of any:

(A) Sawmill;

(B) Lath mill;

(C) Shingle mill; or

(D) Cooperage stock mill;

(8) Occupations in or about slaughtering and meat packing establishments or rendering plants; and

(9) Occupations in proximity to pin-setting machinery or gearing in bowling alleys.

11 CAR § 12-302. Occupations in retail, food service, and gasoline service establishments.

(a) The following occupations are permissible for the employment of children fourteen (14) and fifteen (15) years of age, provided there is compliance with the hour restrictions provided in 11 CAR § 12-501:

(1) Office and clerical work, including the operation of office machines;

(2) Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;

- (3) Price marking and tagging by hand or by machine, assembling orders, packing, and shelving;
- (4) Bagging and carrying out customers' orders;
- (5) Errand and delivery work by:
 - (A) Foot;
 - (B) Bicycle; and
 - (C) Public transportation;
- (6) Clean-up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power-driven mowers or cutters;
- (7) Except for cooking, baking, and food preparation as provided by subdivisions (b)(5) and (9) of this section, kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as but not limited to:
 - (A) Dishwashers;
 - (B) Toasters;
 - (C) Dumbwaiters;
 - (D) Popcorn poppers;
 - (E) Milk shake blenders; and
 - (F) Coffee grinders;
- (8) Work in connection with cars and trucks if confined to the following:
 - (A) Dispensing gasoline and oil;
 - (B) Courtesy service;
 - (C) Car cleaning, washing, and polishing; and
 - (D) Other occupations permitted by this subsection, but not including work involving the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring; and
- (9) Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing, and stocking goods when performed in areas physically separate from those where the work described in subdivision (b)(7) of this section is performed.

(b) Subsection (a) of this section shall not be construed to permit the application of

this section to any of the following occupations in retail, food service, and gasoline service establishments:

(1) All occupations listed in 11 CAR § 12-301 except occupations involving processing, operation of machines, and work in rooms where processing the manufacturing takes place which are permitted by subsection (a) of this section;

(2) Work performed in or about boiler or engine rooms;

(3) Work in connection with maintenance or repair of the establishment, machines, or equipment;

(4) Outside window washing that involves working from windowsills, and all work requiring the use of ladders, scaffolds, or their substitutes;

(5) Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria service counters) and baking;

(6) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven:

(A) Food slicers and grinders;

(B) Food choppers and cutters; and

(C) Bakery-type mixers;

(7) Work in freezers and meat coolers and all work in the preparation of meats for sale except as described in subdivision (a)(9) of this section;

(8) Loading and unloading goods to and from:

(A) Trucks;

(B) Railroad cars; or

(C) Conveyors; and

(9) All occupations in warehouses except office and clerical work.

(c) This section shall not prohibit the employment of a child below the age of sixteen (16) by his or her parent or guardian in an occupation owned or controlled by such parent or guardian.

11 CAR § 12-303. Occupations in agriculture.

(a) The following occupations in agriculture are particularly hazardous for the

employment of children below the age of sixteen (16):

(1) Operating a tractor of over twenty power take-off (20 PTO) horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor;

(2) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(A) Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(B) Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or

(C) Power post-hole digger, power post driver, or nonwalking type rotary tiller;

(3) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(A) Trencher or earthmoving equipment;

(B) Forklift;

(C) Potato combine; or

(D) Power-driven circular, band, or chain saw;

(4) Working on a farm in a yard, pen, or stall occupied by a:

(A) Bull, boar, or stud horse maintained for breeding purposes; or

(B) Sow with suckling pigs or cow with newborn calf (with umbilical cord present);

(5) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches (6");

(6) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over twenty feet (20');

(7) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper;

(8) Working inside:

(A) A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

(B) An upright silo within two (2) weeks after silage has been added or when a top unloading device is in operating position;

(C) A manure pit; or

(D) 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 classified by the federal Environmental Protection Agency as Category I of toxicity, identified by the word "poison" and the skull and crossbones on the label, or Category II of toxicity, identified by the word "warning" on the label (see 40 C.F.R. pt. 156);

(10) Handling or using a blasting agent, including but not limited to:

(A) Dynamite;

(B) Black powder;

(C) Sensitized ammonium nitrate;

(D) Blasting caps; and

(E) Primer cord; and

(11) Transporting, transferring, or applying anhydrous ammonia.

(b) Exemptions.

(1) This section shall not apply to the employment of a child below the age of sixteen (16) by his or her parent or guardian on a farm owned or controlled by such parent or guardian.

(2) **Student-learners.** The prohibitions in subsection (a) of this section shall not apply to the employment of any child as a vocational agriculture student-learner in any of the occupations described in subdivision (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section when each of the following requirements are met:

(A) The student-learner is enrolled in a:

(i) Vocational education training program in agriculture under a recognized state or local educational authority; or

(ii) Substantially similar program conducted by a private school;

(B) The student-learner is employed under a written agreement which provides:

(i) That the work of the student-learner is incidental to his or her training;

(ii) That the work shall be intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) That safety instruction shall be given by the school and correlated by the employer with on-the-job training;

(iv) That a schedule of organized and progressive work processes to be performed on the job have been prepared; and

(v) The name of the student-learner and is signed by the employer and by a person authorized to represent the educational authority or school; and

(C) Copies of each such agreement are kept on file by both the educational authority or school and by the employer.

(3)(A) **Federal Extension Service.** The prohibitions in subsection (a) of this section shall not apply to the employment of a child under sixteen (16) years of age in those occupations in which he or she has successfully completed one (1) or more training programs described in subdivision (b)(3)(B), (b)(3)(C), or (b)(3)(D) of this section, or described in Section 33f04(b) of the United States Department of Labor Wage and Hour Field Operations Handbook by the local county agricultural extension agent as part of the 4-H Club program, provided the minor is identified by showing a copy of his or her certificate of training and the employer retains a copy of the certificate of training on file, and provided further he or she:

(i) Has been instructed by his or her employer on safe and proper operation of the specific equipment he or she is to use; and

(ii) Is continuously and closely supervised by the employer where feasible or, where not feasible, in work such as cultivating, his or her safety is checked by the employer at least at:

(a) Midmorning;

(b) Noon; and

(c) Midafternoon.

(B) **4-H tractor operation program.** The child is qualified to be employed in an occupation described in subdivision (a)(1) of this section, provided:

(i) He or she is a 4-H member;

(ii) He or she is fourteen (14) years of age or older;

(iii) He or she is familiar with the normal working hazards in agriculture;

(iv) He or she has completed a ten-hour training program which includes the following units from the manuals of the 4-H tractor program conducted by, or in accordance with, the requirements of the cooperative extension service of a land grant university:

(a) First Year Manual:

(1) Unit 1 – Learning How to be Safe;

(2) Unit 4 – The Instrument Panel;

(3) Unit 5 – Controls for Your Tractor;

(4) Unit 6 – Daily Maintenance and Safety Check; and

(5) Unit 7 – Starting and Stopping Your Tractor;

(b)(1) Second Year Manual.

(2) Unit 1 – Tractor Safety on the Farm; and

(c) Third Year Manual:

(1) Unit 1 – Tractor Safety on the Highway; and

(2) Unit 3 – Hitches, Power Take-off, and Hydraulic Controls;

(v) He or she has passed a written examination on tractor safety and has demonstrated his or her ability to operate a tractor safely with a two-wheeled trailed implement on a course similar to one of the 4-H tractor operator's contest courses; and

(vi) His or her employer has on file with the child's records kept pursuant to 11 CAR § 12-601 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Section of the Division of Labor, signed by

the leader who conducted the training program and by an extension agent of the cooperative extension service of a land grant university to the effect that the child has completed all the requirements specified in subdivisions (b)(3)(B)(i) – (v) of this section.

(C) **4-H machine operation program.** The child is qualified to be employed in an occupation described in subdivision (a)(2) of this section, provided:

(i) He or she completed the Tractor Operation Program specified in subdivisions (b)(3)(B)(i) – (v) of this section;

(ii) He or she has completed an additional ten-hour training program on farm machinery safety, including 4-H Fourth Year Manual, Unit 1, Safe Use of Farm Machinery;

(iii) He or she has passed a written and practical examination on safe machinery operation; and

(iv) His or her employer has on file with the child's records kept pursuant to 11 CAR § 12-601 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Section, signed by the leader who conducted the training program and by an extension agent of the cooperative extension service of a land grant university, to the effect that the child has completed all of the requirements specified in subdivision (b)(3)(C)(i) – (iii) of this section.

(D) **Tractor and machine operation program.** The child is qualified to be employed in an occupation described in subdivisions (a)(1) and (2) of this section, provided:

(i) He or she is fourteen (14) years of age or older;

(ii) He or she has completed a four-hour orientation course familiarizing himself or herself with the normal working hazards in agriculture;

(iii) He or she has completed a twenty-hour training program on safe operation of tractors and farm machinery, which covers all material specified in subdivisions (b)(3)(B)(iv) and (b)(3)(C)(ii) of this section;

(iv) He or she has passed a written examination on tractor and farm machinery safety, and has demonstrated his or her ability to operate a tractor with a

two-wheeled trailed implement on a course similar to a 4-H tractor operator's contest course, and to operate farm machinery safely; and

(v) His or her employer has on file with the child's records kept pursuant to 11 CAR § 12-601 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Section, signed by the volunteer leader who conducted the training program and by an extension agent of the cooperative extension service of a land grant university, to the effect that all of the requirements of subdivisions (b)(3)(C)(i) – (iv) of this section have been met.

(4) **Vocational agriculture training.** The findings and declarations of fact in subsection (a) of this section shall not apply to the employment of a vocational agriculture student under sixteen (16) years of age in those occupations in which he or she has successfully completed one (1) or more training programs described in subdivision (b)(4)(A) or (b)(4)(B) of this section or described in Section 33f04(c) of the United States Department of Labor Wage and Hour Division Field Operations Handbook provided by local vocational agriculture teachers on the safe use of tractors and farm machinery provided the student is identified by showing a copy of his or her certificate of training and the employer retains a copy of the certificate of training on file, and who has been instructed by his or her employer in the safe and proper operation of the specific equipment he or she is to use, who is continuously and closely supervised by this employer where feasible or, where not feasible, in work such as cultivating, whose safety is checked by the employer at least at midmorning, noon, and midafternoon, and who also satisfies whichever of the following program requirements are pertinent:

(A) **Tractor operation program.** The student is qualified to be employed in an occupation described in subdivision (a)(1) of this section provided:

(i) He or she is fourteen (14) years of age or older;

(ii) He or she is familiar with the normal working hazards in agriculture;

(iii)(a) He or she has completed a fifteen-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, United States Department

of Health, Education, and Welfare and acceptable by the United States Department of Labor.

(b) The training program is outlined in Special Paper No. 8, April 1969, prepared at Michigan State University, East Lansing, MI, for the Office of Education.

(c) Copies of this training program outline may be obtained from the Office of Education, United States Department of Health, Education, and Welfare, Washington, D.C., 20202;

(iv) He or she has passed both a written test and a practical test on tractor safety including a demonstration of his or her ability to operate safely a tractor with a two-wheeled trailed implement on a test course similar to that described in the Vocational Agriculture Training Program in Safe Tractor Operation, outlined by the Office of Education, United States Department of Health, Education, and Welfare; and

(v) His or her employer has on file with the child's records kept pursuant to 11 CAR § 12-601 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Section, signed by the vocational agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in subdivisions (b)(4)(A)(i) – (iv) of this section; or

(B) **Machinery operation program.** The student is qualified to be employed in an occupation described in subdivision (a)(2) of this section provided he or she has completed the Tractor Operation Program described in subdivision (b)(4)(A) of this section and:

(i) He or she has completed an additional ten-hour training program which includes the required units specified in the Vocational Agriculture Training Program in Safe Farm Machinery Operation, outlined by the Office of Education, United States Department of Health, Education, and Welfare and approved by the United States Department of Labor;

(ii) He or she has passed both a written test and a practical test on safe machinery operation similar to that described in the Vocational Agriculture Training

Program in Safe Farm Machinery Operation, outlined by the Office of Education, United States Department of Health, Education, and Welfare; and

(iii) His or her employer has on file with the child's records kept pursuant to 11 CAR § 12-601 (basically, name, address, and date of birth) a copy of a certificate acceptable by the Labor Standards Section, signed by the vocational agriculture teacher who conducted the program to the effect that the student has completed all the requirements specified in subdivisions (b)(4)(B)(i) and (ii) of this section.

11 CAR § 12-304. Work experience and career exploration programs.

(a)(1) This section creates an exception to the application of some of the hazardous occupations provisions of this subpart to the employment of children under sixteen (16) years of age who are enrolled in and employed pursuant to a school-supervised and school-administered work experience and career exploration program which meets the requirements of subsection (b) of this section in the occupations permitted under subsection (c) of this section.

(2) With these safeguards, such employment is found not to interfere with the schooling of the child or with their health and well-being and therefore is not deemed to be hazardous.

(b) A school-supervised and school-administered work experience and career exploration program shall meet the standards of and be approved by the Department of Education and the United States Department of Labor as provided in 29 C.F.R. § 570.36.

(c) Employment of children enrolled in a program approved pursuant to the requirements of this section shall be permitted only in the following occupations:

(1) Occupations in retail, food service, and gasoline service establishments permitted by 11 CAR § 12-302; and

(2) Occupations in agriculture permitted by 11 CAR § 12-303.

11 CAR § 12-305. Studies and investigations — Reports.

(a)(1) The Director of the Division of Labor shall be assisted by the Labor Standards Section of the Division of Labor in making studies and investigations to discover the occupations which are sufficiently dangerous to life and limb or injurious to the health or morals of children under sixteen (16) years of age to justify their exclusion therefrom.

(2) All interested persons and organizations are invited to cooperate with the director and the Labor Standards Section by making suggestions and requests and providing pertinent information to the Labor Standards Section concerning employment hazards to children.

(3) Submissions should be mailed to:

Labor Standards Section
Division of Labor
900 West Capitol, Suite 400
Little Rock, Arkansas 72201

(4) In addition, the Labor Standards Section shall have authority to obtain information by holding conferences to which they may invite various persons who have had experience or expert knowledge concerning occupational hazards to children.

(b)(1) The Labor Standards Section shall from time to time prepare and submit to the director reports of investigations with respect to any occupations or group of occupations which he or she has reason to believe should be added to, or deleted from, the list of those found and declared to be particularly hazardous for the employment of children under sixteen (16) years of age or detrimental to their health or well-being.

(2) Each such report shall contain an explanation of the hazards involved and the reasons why children below the age of sixteen (16) are, or are not, particularly susceptible to them.

(3) Copies of such reports shall be made available to the public at the offices of the Labor Standards Section.

(c)(1) Whenever warranted, the director, on recommendation of the Labor

Standards Section or on his or her own motion, shall initiate proceedings to make, amend, or revoke a determination regarding a hazardous occupation in this part.

(2) Notice of such proceedings as well as any rulemaking shall comply with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(d)(1) Any person may at any time file with the Labor Standards Section a written application, petition, or other request in connection with any proceeding to make, amend, or revoke a hazardous occupation determination.

(2) In the event the petition is denied, the petitioner will be advised promptly with a simple statement of reasons.

(e) Any person adversely affected or aggrieved by the procedure provided in this section may file a petition for a change with the Labor Standards Section, Division of Labor, 900 West Capitol, Suite 400, Little Rock, AR, 72201, expressing the change desired with supporting reasons.

Subpart 4. Entertainment Industry

11 CAR § 12-401. Definitions.

As used in this subpart:

- (1) "Child" means any minor under sixteen (16) years of age;
- (2) "Department" means the Department of Labor and Licensing;
- (3) "Director" means the Director of the Division of Labor, Department of Labor and Licensing;
- (4) "Employ" means to use the services of an individual in any remunerative occupation;
- (5) "Employer" means any individual, company, firm, partnership, association, or corporation employing or seeking to employ a child in the entertainment industry;
- (6) "Entertainment industry" means any individual, partnership, corporation, association, or group of persons using the services of a child in:
 - (A) Motion picture productions;
 - (B) Television or radio productions;

- (C) Theatrical productions;
- (D) Modeling productions;
- (E) Horse shows;
- (F) Rodeos; or
- (G) Musical performances;

(7) "Guardian" means an individual who legally has the care and management of the person and the estate of a child during the child's minority;

(8) "Nurse" means any registered nurse or licensed practical nurse;

(9) "Studio teacher" means an on-site individual who is qualified to provide age-appropriate educational instruction to a child; and

(10) "Stunt coordinator" means an individual qualified by training and experience in the planning, staging, performance, and type of stunt involved.

11 CAR § 12-402. Entertainment work permit.

(a)(1) No child may be employed in the entertainment industry without an entertainment work permit issued by the Director of the Division of Labor.

(2) No entertainment work permit shall be issued without the following:

(A) An application for an entertainment work permit on a form provided by the director;

(B) One (1) of the following as proof of age:

(i) Birth certificate;

(ii) Record of baptism or confirmation;

(iii) Passport or certificate of arrival in the United States;

(iv) Insurance policy at least one (1) year old;

(v) A bona fide contemporary record of birth in the family bible; or

(vi) Certified school record;

(C) The written consent of the child's parent or guardian for the issuance of the entertainment work permit;

(D) Except as provided in subdivision (a)(2)(D)(ii)(b) of this section, a written statement from the school in which the child is enrolled as to the academic

standing of the child, the advisability of allowing the child to work, and the arrangements for meeting the state's compulsory attendance law, unless:

(i) The child is not enrolled in school (children ages seven (7) through sixteen (16)) inclusive must be enrolled in school); or

(ii)(a) The child will not be employed during a time school is in session.

(b) Parents of home-schooled children may provide the information required by subdivision (a)(2)(D)(ii)(a) of this section upon verification that the child is enrolled in home school;

(E) A written statement from the employer as to:

(i) The length of time, including dates and hours, the child will be employed; and

(ii) The child's rate of pay;

(F)(i) A written statement from a doctor licensed to practice medicine in the State of Arkansas as to the health of any child under six (6) years of age and the advisability of allowing the child to work.

(ii) If the child is not a resident of Arkansas, a written statement from a doctor licensed to practice medicine in the state of the child's residence may be submitted; and

(G) Proof of workers compensation coverage or insurance coverage as required by 11 CAR § 12-404.

(b) The director may refuse to issue an entertainment work permit or may suspend or revoke any entertainment work permit for cause, including without limitation:

(1) That the child, the child's parent or guardian, or the employer has knowingly submitted false information to the Division of Labor;

(2) That the child, the child's parent or guardian, or the employer has violated any provisions of Arkansas Code § 11-12-101 et seq., or any rules lawfully promulgated thereunder;

(3) That the work for which an application for an entertainment work permit is sought is hazardous or detrimental to the health, safety, morals, education, or welfare

of the child; or

(4) That the child is lawfully removed from the custody of the parent or guardian who consented to the issuance of the entertainment work permit.

(c) No child under the age of fifteen (15) days shall be issued an entertainment work permit.

(d)(1) An entertainment work permit shall be issued for the period designated on the face of the permit, not to exceed six (6) months.

(2) Application for renewal of an entertainment work permit shall be made in the same manner and under the same conditions as the original permit.

(e)(1) Prior to the issuance of the entertainment work permit, the director may require a physical examination of the child to ensure that the child's physical condition permits the minor to perform the work or activity called for by the application for an entertainment work permit without danger to the child's health, safety, or welfare.

(2) The director may require a personal interview with the child, the parent or guardian, or the employer for the same purpose.

11 CAR § 12-403. Hours and rest time.

(a) No child shall be permitted at the place of employment, except in compliance with the following:

(1)(A) Children who have reached the age of fifteen (15) days but have not reached the age of six (6) months may be at the place of employment for a maximum of two (2) hours between the hours of 9:00 a.m. and 4:30 p.m.

(B) The day's work shall not exceed twenty (20) minutes, and under no circumstances shall the child be exposed to bright lights for more than thirty (30) seconds at any one (1) time;

(2) For children under six (6) weeks of age, one (1) nurse shall be provided for each three (3) children or fraction thereof;

(3) For children from age six (6) weeks to age six (6) months, one (1) nurse shall be provided for each ten (10) children or fraction thereof;

(4) Children who have reached the age of six (6) months but have not reached

the age of two (2) years may be at the place of employment for a maximum of four (4) hours per workday, with two (2) hours for work and two (2) hours for rest and recreation;

(5) Children who have reached the age of two (2) years but have not reached the age of six (6) years may be at the place of employment for a maximum of six (6) hours per workday, with three (3) hours for work and three (3) hours for rest and recreation;

(6)(A) Children who have reached the age of six (6) years but have not reached the age of nine (9) years may be at the place of employment a maximum of eight (8) hours per workday.

(B) The eight-hour period shall consist of not more than four (4) hours of work, with four (4) hours for school, rest, and recreation;

(7)(A) Children who have reached the age of nine (9) years but have not reached the age of sixteen (16) years may be at the place of employment a maximum of nine (9) hours per workday.

(B) The nine-hour period shall consist of not more than five (5) hours of work, with four (4) hours for school, rest, and recreation;

(8) On days when school is not in session, school-age children may work an additional two (2) hours per day;

(9) On all days, school-age children must have at least one (1) hour of rest and recreation;

(10) In cases involving a studio teacher, by prior arrangement with the teacher, up to two (2) hours of school may be banked (stored) to offset additional work hours on other days; and

(11) At least one (1) hour of school shall be given each day the child's regular school is in session.

(b)(1) No child shall be required to report for work before 5:00 a.m.

(2)(A) No child shall be at the place of employment later than 10:00 p.m.

(B) The 10:00 p.m. restriction may be extended to 12:30 a.m. on nights preceding nonschool days.

(C)(i) Special requests for a child to work other hours may be granted by the director for night exteriors shot as exteriors, live television, musical, or theatrical performances, or for other reasons.

(ii) Each such request must be submitted in writing at least two (2) working days prior to the time needed.

(c)(1) With the exception of children under six (6) months of age, all of the hours in which a child may be at the place of employment are exclusive of meal periods, which must be of at least one-half (1/2) hour and no more than one (1) hour duration.

(2) In no event may a child be at the place of employment for a period longer than six (6) hours without a meal break.

(d)(1) A child shall receive a twelve-hour rest break at the end of his or her workday and prior to the commencement of his or her next day of work for the same employment.

(2) Special requests for a child to receive a ten-hour rest break may be granted by the director for one-time performances, provided such requests are submitted in writing at least two (2) working days prior to the time needed.

(e) The time spent by children in rehearsals and in learning or practicing any of the arts, such as singing or dancing, for or under the direction of a motion picture studio, theater, or television studio, shall be counted as work time when such learning or practicing is connected with or is in contemplation of particular pictures or shows.

(f) School-age children may not be employed in violation of any state or local school attendance requirements applicable to the child.

11 CAR § 12-404. Insurance.

(a) An entertainment work permit will not be issued unless provision is made by the employer to provide workers compensation coverage or insurance for injury or death caused by an accident when the accident hazard arises while the child is on the business of the employer or performing activities required by the employer.

(b) If insurance apart from workers compensation is provided, the schedule of benefits will be as follows:

(1) At least fifty thousand dollars (\$50,000) for accidental death, and this sum shall be reasonably and equitably prorated for dismemberment; and

(2) Blanket medical coverage for all hospital and medical expenses up to twenty-five thousand dollars (\$25,000) and this hospital and medical expense protection shall be excess insurance coverage or indemnity over and above any other collectable insurance.

11 CAR § 12-405. Safety and supervision.

(a)(1) The parent or guardian of a child must be present at all times the child is at the place of employment, and will accompany the child to wardrobe, makeup, hairdressing, and dressing room facilities.

(2) The parent or guardian may designate an individual, other than an agent of the employer, to accompany the child during times the child is at the place of employment, provided the designation is made in writing, signed by the parent or guardian, and presented to the employer prior to the child's scheduled work.

(3) A copy of the written designation must be immediately mailed by the employer to the Division of Labor.

(b) The employer:

(1) Must designate one (1) individual on each set, stage, or other place of employment to coordinate all matters relating to the welfare of children; and

(2) Shall notify the parent or guardian of each child of the name of such individual.

(c)(1) A child must be provided a suitable place to rest or play.

(2) Under no circumstances will a car, van, or truck constitute a suitable place to rest or play.

(3) However, this prohibition does not include recreational vehicles and mobile homes or trailers fully equipped for the comfort and safety of the child.

(d)(1) No child shall be required to work in a situation which places the child in clear and present danger to life or limb.

(2) If a child believes himself or herself to be in such a dangerous situation

after having discussed the matter with his or her parent or guardian and the employer or stunt coordinator, then the child shall not be required to perform in such situation, regardless of the validity or reasonableness of his or her belief.

(e) No child shall be required to work with an animal which a reasonable person would regard as dangerous in the circumstances, unless an animal trainer or handler qualified by training and experience is present.

(f)(1) If scripted or unscripted stunts or other potentially hazardous activity involve a child, a stunt coordinator shall be engaged and present.

(2) No child shall be required to perform a stunt without prior consultation between the:

- (A) Child;
- (B) Child's parent or guardian; and
- (C) Stunt coordinator.

(g) The prior written consent of the child's parent or guardian must be obtained for the performance of any:

- (1) Unusual physical, athletic, or acrobatic activity;
- (2) Stunts;
- (3) Work involving special effects; or
- (4) Other potentially hazardous activity.

(h)(1) When any unusual physical, athletic, or acrobatic activity, stunts, special effects, or other potentially hazardous activity involving a child is contemplated, the employer shall have available a person qualified to administer medical assistance on an emergency basis and transportation to the nearest medical facility providing emergency services.

(2) First-aid kits shall always be available at a child's place of employment.

(i) No child shall work in close proximity to explosives or the functioning parts of unguarded and dangerous moving equipment, aircraft, or vessels, or of functioning blades or propellers.

11 CAR § 12-406. Schooling.

An entertainment work permit does not authorize a child to be absent from school in violation of the requirements of state law or administrative rules or policies of the:

- (1) State Board of Education;
- (2) Department of Education; or
- (3) Local school board.

Subpart 5. Hours of Employment

11 CAR § 12-501. Children under sixteen (16) years of age.

No child under the age of sixteen (16) years shall be employed, permitted, or suffered to work:

- (1) More than six (6) days in any week;
- (2) More than forty-eight (48) hours in any week;
- (3) More than eight (8) hours in any day; or
- (4) Before 6:00 a.m. or after 7:00 p.m., except that on nights preceding nonschool days, children under sixteen (16) years may be employed until 9:00 p.m.

11 CAR § 12-502. Children sixteen (16) years of age.

(a) No child sixteen (16) years of age shall be employed, permitted, or suffered to work:

- (1) More than six (6) days in any week;
- (2) More than fifty-four (54) hours in any week;
- (3) More than ten (10) consecutive hours in any day;
- (4) More than ten (10) hours in a twenty-four-hour period; or
- (5) Before 6:00 a.m. or after 11:00 p.m., except that children sixteen (16) years of age may be employed until 12:00 midnight on nights preceding nonschool days.

(b) Children sixteen (16) years of age may be employed between the hours of 12:00 midnight and 6:00 a.m. on nights preceding nonschool days, except in the occupations or circumstances listed below and provided the work is not otherwise

prohibited by state or federal law:

(1) In any convenience or retail store of less than four thousand five hundred square feet (4,500 ft²);

(2) In any restaurant, except that a child sixteen (16) years of age may work in a locked restaurant or fast food restaurant if only the drive-through window is open to the general public;

(3) In any business where a child would be working without direct supervision by an adult twenty-one (21) years of age or older;

(4) In any business which serves alcohol;

(5) In any business which provides adult entertainment, including nude or topless entertainment;

(6) At any truck stop or service station;

(7) At any racetrack or gambling establishment;

(8) As a security guard;

(9) As a delivery person; or

(10) In violation of any local curfew ordinance.

(c) For the purpose of determining compliance and assessing penalties, the Division of Labor shall enforce the prohibition against more than ten (10) hours of work in a twenty-four-hour period provided by Arkansas Code § 11-6-110(4) and subdivision (a)(4) of this section, in the following manner:

(1) If a child sixteen (16) years of age has a rest break between shifts or periods of work of at least ten (10) hours, the division will determine compliance by the hours worked between midnight of one (1) calendar day and midnight of the following calendar day; and

(2) If a child sixteen (16) years of age does not have a rest break between shifts or periods of work of at least ten (10) hours, the division will determine compliance by the hours worked in any twenty-four-hour period.

Subpart 6. Recordkeeping

11 CAR § 12-601. Records to be maintained.

(a) Every employer of a child under seventeen (17) years of age, whether partially or fully exempted from the Minimum Wage Act of the State of Arkansas, Arkansas Code § 11-4-201 et seq., shall maintain complete and accurate records which must contain the following for each employee under seventeen (17) years of age:

- (1) Name in full;
- (2) Home address, including zip code and telephone number;
- (3) Date of birth;
- (4) Occupation;
- (5) Rate of pay;
- (6) Entertainment work permit issued pursuant to 11 CAR § 12-402 herein;
- (7) Hours worked each workday, including starting time and ending time; and
- (8) Total hours worked each workweek.

(b) The records required by subsection (a) of this section are in addition to and not in lieu of other records or writings required by the Minimum Wage Act of the State of Arkansas, Arkansas Code §§ 11-4-201 – 11-4-219, and any rules promulgated thereunder, including without limitation records or writings concerning:

- (1) Gross wages;
- (2) Wage deductions;
- (3) Cost of meals and lodging;
- (4) Tip credits; or
- (5) Commissions.

11 CAR § 12-602. Record accessibility.

(a) All records required by 11 CAR § 12-601 shall be open for inspection or transcription by the Director of the Division of Labor or his or her authorized representative during normal business hours at the place of employment.

(b) Any entertainment work permit issued pursuant to 11 CAR § 12-402 shall be maintained and accessible to any authorized representative of the Department of Education or any local school official, in addition to the Division of Labor.

11 CAR § 12-603. Record retention.

(a) All records required by 11 CAR § 12-601 shall be retained by employers for a period of three (3) years.

(b) Any entertainment work permit issued pursuant to 11 CAR § 12-402 must be retained by employers for a period of three (3) years following the termination of the child's employment.

Subpart 7. Civil Money Penalties

11 CAR § 12-701. Civil penalties.

(a)(1) Any person, firm, corporation, partnership, association, parent, guardian, or custodian who violates Arkansas Code § 11-6-101 et seq., or Arkansas Code § 11-12-101 et seq., or any rules issued thereunder, shall be subject to a civil penalty of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) for each violation.

(2) Each day the violation continues shall constitute a separate offense.

(b) The amount of all civil penalties will be determined in accordance with 11 CAR § 12-702.

(c) In civil penalty cases, the Labor Standards Section of the Division of Labor shall notify the person, firm, corporation, partnership, or association charged with the violation or violations by certified and first-class mail of the following:

(1) The nature of the violation;

(2) The date or dates of the violation;

(3) The name of the child or names of the children;

(4) The amount of the civil penalty;

(5) That the civil penalty determination shall be final, unless within fifteen (15) days after receipt of this notice, the person, firm, corporation, partnership, or association charged with the violation or violations notifies the Director of the Division of Labor in writing that he or she contests the penalty; and

(6) The procedure for contesting a civil penalty as provided in 11 CAR § 12-703.

(d) If the person, firm, corporation, partnership, or association charged with the violation has not filed notice that he or she contests the civil penalty within fifteen (15) days after receiving notice in accordance with subsection (c) of this section, the penalty assessment by the Labor Standards Section becomes the final determination of the director.

(e) Notice of the civil penalty may also be delivered in the same manner as summons in civil cases.

11 CAR § 12-702. Civil penalty assessment.

(a) If upon inspection or investigation, the Labor Standards Section of the Division of Labor finds that a person, firm, partnership, or association has violated any of the provisions of Arkansas Code § 11-6-101 et seq., or Arkansas Code § 11-12-101 et seq., or any rules issued thereunder, the Labor Standards Section may assess a civil penalty for each violation.

(b)(1) The maximum amount of a civil penalty will be based on the nature and the gravity of the violation or violations.

(2) Matters which are indications of the gravity of a violation and which justify maximum civil penalty assessments are:

(A) The likelihood of injury and the seriousness of the potential injuries to which the child has been exposed;

(B) Multiplicity of violations by a business or employer;

(C) Recurring violations;

(D) Employment of any child in a hazardous or detrimental occupation;

(E) Violations involving youths under fourteen (14) years of age;

(F) A substantial number of hours worked in excess of the statutory limits;

(G) Falsification or concealment of information regarding the employment of children in violation of state or federal law; and

(H) Failure to assure future compliance.

(c)(1) Reduction in the penalty amount may be made based on the size of the business.

(2) The size of the business includes the number of employees and the gross volume of sales.

(d) Assessment of a civil penalty shall be made no later than three (3) years from the date of the occurrence of the violation.

11 CAR § 12-703. Contesting a civil penalty.

(a)(1) An individual or entity may contest the imposition of a civil penalty by filing a written request for a hearing with:

Director of the Division of Labor
900 West Capitol, Suite 400
Little Rock, Arkansas 72201

(2) The written request shall be made within fifteen (15) days after the employer's receipt of notification of the civil penalty or the assessment will become final.

(b) A written request for a hearing shall be referred to a hearing officer designated by the Director of the Division of Labor.

(c)(1) The individual or entity shall be provided at least twenty (20) days' notice of the hearing.

(2) Such notice shall include:

(A) A statement of the time, date, place, and nature of the hearing;

(B) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(C) A short and plain statement of the matters of fact and law asserted;

and

(D) A statement that the individual or entity may, upon written request, obtain the issuance of a subpoena by the director for the attendance and testimony of

witnesses and the production of documents.

(d)(1) The designated hearing officer shall, after consideration of the evidence, issue a decision setting forth findings of fact and conclusions of law.

(2) Such decision shall become final unless judicial review is sought within thirty (30) days pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-212.

Subpart 8. Criminal Referrals, Prosecutions, and Investigations

11 CAR § 12-801. Criminal referrals, prosecutions, and investigations.

(a) Any individual or entity that violates Arkansas Code § 11-6-101 et seq. is subject to criminal penalties under Arkansas Code § 11-6-103.

(b) The Labor Standards Section of the Division of Labor may refer any child labor violation to a state or federal law enforcement authority or prosecutor.

(c) No criminal investigation, prosecution, or proceeding shall prevent the Labor Standards Section from pursuing civil penalties or taking any other action.