

SCHOOL'S OUT FOR SUMMER....¹

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...well, almost. Given the number of snow days this winter, the school year is extending a little longer than usual. However, as employers are gearing up for the summer hiring season, we thought this would be an opportune time to review the laws governing the employment of individuals under the age of 18.

- **Which Laws Govern Youth Employment:** The federal law is the Fair Labor Standards Act ("FLSA"), New Hampshire Youth Employment Law, and Massachusetts Child Labor Laws.
- **Who Is a "Youth":** Any individual under the age of 18.
- **When Does the Law Prohibit the Employment of a Youth:** In general, any youth under the age of 14 may not work. Additionally, most youths may not perform "hazardous" work, such as, but not limited to, commercial driving, excavation, manufacturing explosives, and operating many types of power-driven equipment. In Massachusetts, youths may not work alone after 8:00 p.m., and must have either adult supervision or a security service on the premise.
- **Permissible Work/Hours:**
 1. **14 and 15 Year-Olds:**
 - o Youths who are 14 and 15 years of age may work in various non-manufacturing, non-mining, and non-hazardous jobs.
 - o They are permitted to work 3 hours on a school day and a total of 18 hours during the school week.
 - o **On non-school days, they may work 8 hours per day. During the summer vacation, they may work six (6) days per week, but not to exceed 40 hours (MA) or 48 hours per week (NH) .**

¹ Alice Cooper, "Schools Out" album, 1972.

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- **Lastly, they may only work between 7:00 a.m. and 7:00 p.m., except from June 1st through Labor Day, when they are permitted to work until 9:00 p.m. (For Massachusetts, hours are extended to 9:00 p.m. from July 1st through Labor Day.)**

2. 16 and 17 Year-Olds:

- They are not permitted to work more than 6 consecutive days during the school calendar week, which is Sunday through Saturday **(MA and NH)**.
- They may not work more than 30 **(NH)** or 48 **(MA)** hours per week during the school calendar week.
- They may not work more than 9 hours per day **(MA)** or more than 10 hours a day at manual or mechanical labor in any manufacturing establishment or more than 10 ¼ hours a day at manual or mechanical labor in any other employment that is not exempt by statute **(NH)**.
- **From June 1st through Labor Day (“vacation weeks”), these minors may not work more than 6 consecutive days or 48 hours in any one week (NH and MA).**
- **In New Hampshire, they may not work more than 8 hours in 24 hours or more than 48 hours during the week if performing night work.**
- **In Massachusetts, they may not work before 6:00 a.m. or past 10:00 p.m. (or midnight if working at a restaurant, as long as school is not in session the next day).**
- **In Massachusetts, the work schedule for minors should be posted, with start times, stop times and meal breaks shown on the schedule. A list of all minor employees must be maintained in the workplace.**

3. 16 and 17 Year-Olds Not Enrolled in School (NH):

- They may not work more than 10 hours a day or 48 hours a week at manual or mechanical labor in any manufacturing establishment.
- They may not work more than 10 ¼ hours a day or 54 hours a week at manual or mechanical labor in any other employment that is not exempt by statute.
- They may not work more than 8 hours in 24 hours or more than 48 hours during the week if performing night work.

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Exception: In general , the minimum age requirements do not apply to minors employed by their parent or by a person acting as their guardian.

- **Certificates:** New Hampshire requires most youths under the age of 16 to acquire a New Hampshire Youth Employment Certificate from the school district within 3 business days of the first day of employment. For 16 and 17 year-olds, the employer must obtain a signed written document from the youth's parent or legal guardian permitting the youth's employment. Employers are required to keep these respective written documents on file.

Massachusetts employers must keep certificates from the school districts for youths ages 16 and 17, and must maintain employment permits for youths ages 14 and 15.

Employers must be mindful that the state and federal laws can differ, so when consulting with agencies about youth employment laws it is important to inquire on both the state and federal level and to follow the more stringent requirement. As with many other laws, there are many exceptions to the federal and state youth employment law, and you should seek legal advice if you have any questions or concerns about youth employment.

The Devine, Millimet & Branch Labor, Employment and Employee Benefits Group offers this free Friday E-Mail Alert service to provide information on recent developments in labor, employment and employee benefits law. If you have any questions about this e-mail, or if you know of anyone else who may be interested in receiving these alerts, please send us an e-mail at employment@devinemillimet.com.

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