

## Blog Post

# Child Labor Law Violations On the Rise – What Should Employers Do?

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Anyone who has been watching the news lately has probably noticed a recent uptick in stories about child labor. What is causing this increased attention? The Department of Labor’s (DOL) increased focus on child labor is probably a significant factor; the DOL has identified as one of its key efforts “hold[ing] all employers accountable” to ensure child labor is removed from supply chains. Perhaps as a result of this increased focus, child labor law violations at high profile businesses are making news around the country. At the same time as the federal government is pushing back against child labor, some states are actually rolling back child labor protections under their own laws, creating tension with the tightening of enforcement at the federal level.

Many employers are asking why they should be worried about this since they are “certain” they are not violating child labor laws. Well, the truth is, no matter what an employer does, there is never a “certainty” that they are not violating child labor laws, particularly with the growing use of high-quality false identification documents. However, there are best practices employers can follow to help minimize risk.

## Current Federal Law

The federal labor laws are designed to ensure that children are not working in such a way that it harms

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their well-being but also to ensure that they are getting an education. The Fair Labor Standards Act (FLSA) generally prohibits the employment of minors under the age of 14, restricts the hours and types of work that can be performed by minors under 16, and prohibits the employment of minors under the age of 18 in any hazardous occupation. There are currently 17 Hazardous Occupation Orders (HO) which establish an 18-year minimum age for certain occupations that are declared particularly hazardous. The HOs include a partial or total ban on the occupations or industries they cover; such as manufacturing or storing explosives, coal mining, power-driven hoisting apparatus, power-driven meat-processing machines, and roofing operations, among other occupations.

## State Law Initiatives

While the federal government is increasing its focus on enforcing child labor laws and citing violators, many states across the country are actually trying to weaken child labor protections, even in the face of increased violations. In just the past two years, 10 states have introduced, considered, or passed legislation rolling back protections for young workers.

For example, in Arkansas, Governor Sarah Huckabee Sanders recently signed legislation repealing restrictions on work for 14- and 15-year-olds. The new law no longer requires children under 16 to provide an employment certificate from the Division of Labor verifying proof of age and parental consent to work. A proposed bill in Iowa has generated national headlines. As introduced, the bill proposed lifting restrictions on hazardous work to allow children as young as 14 to work in meat coolers and industrial laundries, teens as young as 15 to work on assembly lines, and 16- and 17-year-olds to serve alcohol, among a long list of changes.

In some respects, these proposed relaxations of state child labor laws directly contradict federal standards

designed to protect young people. It is tremendously important for employers to keep in mind that the FLSA sets a floor on child labor standards; state laws can certainly provide more protection than federal statutes mandate, but they cannot provide less. Thus, ultimately, employers operating in these states may have no less compliance burden because they are still subject to more protective federal law and operate under the watchful eye of DOL and other federal agencies.

While some states are weakening child labor laws, others are taking the opposite approach and strengthening them. In those states, all employers need to be aware of those changes. Employers must be mindful of states they operate in that have stronger child labor laws to ensure compliance with those increased obligations.

### Employer Best Practices

With that background in mind, how can employers minimize risks of violating child labor laws? As mentioned above, there is no perfect solution, and there is also no safe harbor, but there are numerous best practices employers can engage in to help avoid child labor law violations.

- **Leadership and Policies.** It starts off at the top of every company—there must be a strong corporate commitment and leadership in place when it comes to workforce verification and dealing with child labor laws. One way to show that commitment is through strong policies. Employers must have zero tolerance policies for violations of child labor laws.
- **Post Warnings and Signage Throughout the Workplace.** Employers who legally hire employees under the age of 18 should post warnings throughout the workplace that identifies equipment or areas off-limits to minors. Employers should also ensure they display the required state and federal child labor law posters

in easily viewable areas of facilities. If a facility has a high population of non-English speaking workers, make sure to also post translations for the languages primarily represented by the employer's workforce, which ensures that everyone in the workforce is aware of the federal and state laws.

- **Provide Different Nametags and Spotlight Dangerous Equipment.** Employers who legally hire employees under the age of 18 should provide workers under the age of 18 with a different color nametag or a nametag with some distinguishing characteristic so that workers under the age of 18 can be easily identified. Also, place a sticker or sign on equipment the DOL deems hazardous for use by minors.
- **Ensure Vendors and Contractors Meet Comparable Standards.** Research the past practices of any vendors and contractors and avoid using any vendors or contractors that have historically engaged child labor. Require that all contracts include detailed disclosure requirements, such as that the contractor has no right to subcontract without authorization and validation by your company's leadership team. Also, employers should include a strong indemnification provision in the event child labor occurs.
- **Training.** It is imperative that training is provided to managers and supervisors on child labor requirements. Managers and supervisors must know what to look for and how to enforce the company's policies and comply with the law.
- **E-Verify.** E-Verify is far from a perfect solution, but all employers should be using E-Verify to confirm employment authorization.

Again, there is no guaranteed way to avoid child labor law violations, but using these best practices can certainly help minimize risk. For any labor or

workforce concerns, contact your Akerman attorney for further information and guidance.

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