

Appendix A

WORK CONTRACTS, CHILD LABOR LAWS, LIABILITY & INSURANCE

WORK CONTRACTS

Education Training Agreement -

Students and employers participating in an approved youth apprenticeship program must have a **signed Education/Training Agreement (ETA) on file with both the school and the employer**. Employers without a valid ETA may be assessed (a) double compensation in the event of injury on the job, and/or (b) fines ranging from \$25 to \$1,000 for every day without a permit for a first offense to \$250 to \$5,000 for every day without a permit for a second offense within a five year period. The Local Youth Apprenticeship Coordinator will provide the employer with a copy of the ETA. This form is also available from the Department of Workforce Development at http://dwd.wisconsin.gov/youthapprenticeship/forms_pubs.htm.

Work Permits -

A work permit is required for youth apprentices for work performed *outside* of this program. Employers without a valid work permit (if applicable) may be assessed (a) double compensation in the event of injury on the job, and/or (b) fines ranging from \$25 to \$1,000 for every day without a permit for a first offense to \$250 to \$5,000 for every day without a permit for a second offense within a five year period.

CHILD LABOR LAWS

Youth apprentices enrolled in approved youth apprenticeship programs and their employers are subject to all state and federal child labor laws regarding the employment of minors. The Department of Workforce Development (DWD) will review all statewide youth apprenticeship curriculum for compliance with the child labor laws and will clarify the laws whenever necessary to allow for program implementation. Youth apprentices **are allowed** to work in **some prohibited** occupations because they meet the criteria of "**student learner**" **AND** the work performed is **incidental** to their training **and** is for **intermittent and for short periods of time** (Wis. Admin. Code DWD 270.14(3)(c)1 at (http://docs.legis.wisconsin.gov/code/admin_code/dwd/270.pdf)). However, they are **not exempt** from the child labor laws by virtue of being enrolled in a youth apprenticeship program.

While DWD can interpret the law, DWD cannot exonerate employers from liability should an accident occur on the job which results in injury to an employee and a subsequent lawsuit. Determining liability for an accident can only be settled in a court of law. DWD can assure employers that they will not be cited (by DWD) for illegally employing a minor in a prohibited occupation as long as the students are enrolled in a DWD approved youth apprenticeship program and a signed Education/Training Agreement is on file with both

the student's high school and the employer. This means that employers will not be assessed treble fines should an injury occur which results in the employer being cited.

Readers should refer to DWD 270.12 and 270.14 [Child Labor Laws](https://dwd.wisconsin.gov/labor_standards_bureau/child_labor_law.htm) (https://dwd.wisconsin.gov/labor_standards_bureau/child_labor_law.htm) and the [Guide to Wisconsin's Child Labor Laws](http://dwd.wisconsin.gov/dwd/publications/erd/pdf_erd_17231_p.pdf) (http://dwd.wisconsin.gov/dwd/publications/erd/pdf_erd_17231_p.pdf) for descriptions and definitions of the occupations or activities which are normally prohibited to minors.

Agriculture-

Youth apprentices who are 16-17 years old can perform the following tasks, *only after appropriate operation/safety training AND only as indicated below*. The **student learner exception** limits the minor to **using hazardous equipment** on an **incidental** basis [less than 5% of their work time] and only **occasionally** [can't be a regular part of their job]. For example, the student learner exception may apply in a situation, such as carpentry, where most of the work is acceptable but once in a while you might need the minor to use a portable saw to cut a piece to fit. Further interpretation or clarification of Child Labor Laws should be directed to the Department of Workforce Development (DWD) Labor Standards Bureau at 608-266-6860.

- **Agricultural Occupations_ (DWD 270.13(6) and 29 CFR 570.71)**
Minors under 16 are prohibited from performing several tasks pursuant to federal law, which state law incorporates). These tasks ARE allowed for student learners, as described above.
- **Agricultural Product Processing-**
- **MEAT PROCESSING (DWD 270.12(18))**
Minors **cannot perform** the *following tasks*:
 - Tasks on the killing floor, in curing cellars, and in hide cellars, **except** the work of messengers, runners, hand-truckers, and similar occupations that require entering such workrooms or workplaces infrequently and for short periods of time.
 - Tasks involved in the recovery of lard and oils, **except** packaging and shipping of such products and the operation of lard-roll machines.
 - Tasks involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.
 - Tasks involved in setting-up, adjusting, operating, repairing, oiling, feeding, or cleaning power-driven meat-processing machines, regardless of the product being processed:
 - **Boning Occupations.**
 - Tasks that involve the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.
 - Tasks involving hand-lifting or hand-carrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

- "*Boning occupations*" means the removal of bones from meat cuts. "Boning" does NOT include work that involves cutting, scrapping, or trimming meat from cuts containing bones.
- "*Curing cellar*" includes a workroom or workplace that is primarily devoted to the preservation and flavoring of meat by curing materials. "Curing cellar" does NOT include a workroom or workplace where meats are smoked.
- **SECONDARY FOOD/FIBER PROCESSING**
 - The skills and competencies related to further processing food and fiber raw materials into products would be found under the Manufacturing Youth Apprenticeship program.
- **Animal Diagnostic Testing-** ([DWD 270.12\(23\)](#))
 - Minors **cannot** take radiographs (x-rays).
- **Dehorning-**
 - Dehorning is not currently prohibited by Child Labor Laws.
- **Family Farms-** ([DWD 270.15](#))
 - Normally, Child Labor Laws do not apply to farm work performed at the minor's own home farm; however, if the student is participating in a YA program on their family farm, child labor laws and wages do apply.
- **Motor Vehicle Driver and Outside Helper-** ([DWD 270.12\(21\)](#))
 - Minors **under age 17 cannot drive** as part of their job. A minor, age 17, **may operate a motor vehicle** as a part of employment if:
 - the vehicle does not exceed 6,000 pounds gross weight;
 - driving is done during daylight hours only;
 - the driving amounts to no more than 20% of the work week or 1/3 of the work day;
 - the student has attended drivers' education training and holds a valid driver's license;
 - the driving takes place within a 30-mile radius of the minor's place of employment;
 - the minor has no record of any moving violations at the time of hire; and
 - the driving does not involve: towing of vehicles, route deliveries or sales, transportation for hire, urgent time-sensitive deliveries, transporting more than 3 passengers who are employees of employer at one time.
- **Pesticides-**
 - Pesticides can only be prepared, handled and applied by licensed professionals.

- **Tractors-** [\(DWD 270.13\(6\)\)](#)
 - No minor under the age of 16 years should operate a farm tractor or self-propelled implement of husbandry *on the highway* for their employer unless the minor has been certified as successfully completing a tractor and machinery operation safety training course. This certification is NOT required *to cross over the highway*.
- **Veterinary Services-**
 - In Veterinarian settings, observations, measurements, sample collections, and evaluations must be completed under the direct supervision of a licensed veterinarian or designated licensed veterinarian technician.
- **OTHER Possible Water Treatment Plant, Farm, Greenhouse, and Landscaping Tasks-**
- **CONFINED SPACE** [\(DWD 270.12\(7\)\)](#)
 - Minors **cannot** work in spaces that have limited openings for entry and egress, have unfavorable natural ventilation, or have dangerous air contaminants or produce dangerous air contaminants.
- **EXCAVATION OPERATIONS** [\(DWD 270.12\(9\) & 270.12\(7\)\)](#)
 - Minors **cannot perform** any of the following tasks in excavation operations:
 - Excavating, working in, or backfilling trenches, **except** manually excavating or manually backfilling trenches that do not exceed 4 feet in depth at any point, or working in trenches that do not exceed 4 feet in depth at any point.
 - Excavating for buildings or other structures or working in such excavations, **except** manually excavating to a depth not exceeding 4 feet below any ground surface adjoining the excavation, or working in an excavation not exceeding such depth, or working in an excavation where the side walls are shored or sloped to the angle of repose.
 - Working within tunnels prior to the completion of all driving and shoring operations.
 - Working within shafts prior to the completion of all sinking and shoring operations.
- **HOISTS AND HOISTING APPARATUS** [\(DWD 270.12\(12\)\)](#)
 - Students age 16 and 17 years old **cannot**:
 - operate an elevator, crane, derrick, hoist or high-lift truck (including hoists commonly used on tow trucks and other hoists), **except** operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one-ton capacity;
 - perform work that involves riding on a man lift or on a freight elevator, **except** a freight elevator operated by an assigned operator;

- assist in the operation of a crane, derrick or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers and like occupations.
 - Students under age 18 **may operate** an automatic elevator and an automatic signal operation elevator under certain conditions. Refer to DWD 270.12(12)(b) for exceptions and definitions of the terms used in this section.
 - Minors 16 and 17 years of age **may operate** floor jacks, hand jacks, drive-on lifts, and arm lifts used in conjunction with repairing or servicing motor vehicles. They may also use air compressors, tire changers, truck tire changers and wheel balancers as long as there are automatic safety features which lock vehicles to the lifts.
- ROOFING OR ON OR ABOUT A ROOF ([DWD 270.12\(24\)](#))
 - Minors **cannot perform** roofing operations or on or about a roof.
 - "*On or about a roof*" includes all work performed upon a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and coating of existing roofs; the construction of the sheathing or base of roofs; gutter and downspout work; the installation and servicing of heating, ventilation and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed upon or about roofs.
- SAWS AND GUILLOTINE SHEARS USE ([DWD 270.12\(25\)](#))
 - Minors **cannot use** the following:
 - Power-driven fixed or portable machines, **except machines equipped with full automatic feed and ejection.**
 - Circular saws.
 - Band saws.
 - Guillotine shears.
 - Chain saws.
 - "*Machines equipped with full automatic feed and ejection*" means machines that are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.
- WOODWORKING POWERDRIVEN MACHINES USE ([DWD 270.12\(27\)](#))
 - Minors **cannot operate** power-driven woodworking machines:
 - Operator of power-driven woodworking machines, including supervising or controlling the operation of these machines, feeding material into these machines, and helping the operator to feed material into these machines **except** placing of material on a moving chain or in a hopper or slide for automatic feeding.
 - Off-bearing from circular saws and from guillotine-action veneer clippers.
 - "*Power-driven woodworking machines*" means all fixed or portable machines or tools driven by power and used or designed for cutting,

shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

Student Learner Criteria -

In order to be considered a student learner, youth apprentices must meet the following criteria:

1. They are enrolled in a youth apprenticeship program approved by DWD;
2. They are enrolled in school and receiving school credit for program participation;
3. They receive appropriate safety instruction at the school and at the workplace;
4. The work performed is under direct and close supervision of a qualified and experienced person;
5. The **work performed in any occupation declared hazardous** is incidental to their training and is for intermittent and short periods of time ([DWD 270.14\(3\)\(c\)1](#)); and
6. There is a schedule of organized and progressive work processes to be performed on the job (i.e. the worksite is following the state curriculum).

Hours of Work -

The hours an apprentice spends working in the program *during* the hours school is in session during the day **DO NOT COUNT** towards the limitation on total hours a minor may work. See the DWD [Child Labor](#) web site for applicable hours and times of the day that minors may work in Wisconsin.

LIABILITY AND INSURANCE

As employees of the company, youth apprentices are covered by worker's compensation in the event of injury on the job. Employers should review their specific liability coverage to ensure there are no restrictions on employing minors and/or on coverage of minors operating particular machinery. Schools are not allowed to cover youth apprentices through their own workers' compensation policy while the youth apprentice is an employee of the local business.

As stated previously, DWD and/or local schools cannot exonerate employers from liability if a youth apprentice is injured on the job and a subsequent lawsuit is filed against the employer. Determining liability for an accident can only be settled in a court of law and will be based on the specific circumstances for each case. It is important that a signed ETA be on kept on file by both the school and the employer to ensure that employers will not be cited for illegally employing a minor in a prohibited occupation.

General Liability –

An employer is liable for the service provided at their facility. In general an employer has adequate general liability and workers compensation coverage, no additional

liability is required as a result of the Youth Apprenticeship program. However, before participating in the program, an employer may wish to consult with their insurance carrier.

Transportation –

In general, the party responsible for transportation is liable in case of an accident. Youth apprentices responsible for their own transportation to and from the worksite are responsible for their own insurance. In instances where the school provides transportation for the youth apprentices, the school is responsible for insurance coverage. Only if the facility provides transportation to and from work for the youth apprentice is the facility responsible for this insurance coverage.

Workers Compensation –

Once a youth apprentice becomes a paid employee they must be covered by the employer's workers compensation coverage.

Unemployment Compensation –

If a youth apprentice is enrolled full-time in a public educational institution and receives school credit for their participation in the YA program, then they are generally NOT eligible to file for unemployment compensation from the employer. Youth apprentices who do NOT meet these criteria may be eligible for unemployment compensation benefits.

Worker Displacement –

No employer may hire a youth apprentice who will displace any currently employed worker, including a partial displacement, such as reduction in the hours of non-overtime work, wages, or employment benefits.

Layoffs/Strikes –

A youth apprentice cannot be hired when any other individual is on temporary layoff, with the clear possibility of recall, from the same or equivalent job OR if the employer has terminated the employment of any regular employee, or otherwise reduced the workforce, with the intention of filling the vacancy created with a youth apprentice. Local bargaining units should determine the status of youth apprentices already working in the facility in the event of a layoff. Youth apprentices may be laid off or transferred to work areas to take the place of laid off workers. Child labor laws prohibit youth apprentices from working in a company where a strike or lockout is in active progress.

Collective Bargaining Agreements –

The youth apprenticeship program should not impair existing contracts for services or collective bargaining agreements. Any youth apprenticeship program that would be inconsistent with the terms of a collective bargaining agreement shall be approved only with the written concurrence of the labor organization and employer involved.