

should contain the minor's name, the name and address of the school, the date the school closed for the current year, the date the statement was signed, and the title of the school official signing the statement.

(c) Attention is directed to the fact that by virtue of the parental exemption provided in section 3(l) of the Act, children under 16 years of age are permitted to work, for their parents on their parents' farms at any time provided they are not employed in a manufacturing or mining occupation.

(d) The orders (subpart E of this part) declaring certain occupations to be particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being do not apply to employment in agriculture, pending study as to the hazardous or detrimental nature of occupations in agriculture.³³

[16 FR 7008, July 20, 1951, as amended at 23 FR 3062, May 8, 1958. Redesignated at 28 FR 1634, Feb. 21, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971]

§ 570.124 Delivery of newspapers.

Section 13(d) of the Act provides an exemption from the child labor as well as the wage and hours provisions for employees engaged in the delivery of newspapers to the consumer. This provision applies to carriers engaged in making deliveries to the homes of subscribers or other consumers of newspapers (including shopping news). It also includes employees engaged in the street sale or delivery of newspapers to the consumer. However, employees engaged in hauling newspapers to drop stations, distributing centers, newsstands, etc., do not come within the exemption because they do not deliver to the consumer.

§ 570.125 Actors and performers.

Section 13(c) of the Act provides an exemption from the child labor provisions for "any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions." The term "performer" used in this provision is obviously more inclusive than the term "actor." In regulations issued pursuant

to section 7(d)(3) of the Act, the Administrator of the Wage and Hour Division has defined a "performer" on radio and television programs for purposes of that section.³⁴ The Secretary will follow this definition in determining whether a child is employed as a "performer" in radio or television productions for purposes of this exemption. Moreover, in many situations the definition will be helpful in determining whether a child qualifies as a "performer" in motion pictures or theatrical productions within the meaning of the exemption.

§ 570.126 Parental exemption.

By the parenthetical phrase included in section 3(l)(1) of the Act, a parent or a person standing in place of a parent may employ his own child or a child in his custody under the age of 16 years in any occupation other than the following: (a) Manufacturing; (b) mining; (c) an occupation found by the Secretary to be particularly hazardous or detrimental to health or well-being for children between the ages of 16 and 18 years. This exemption may apply only in those cases where the child is exclusively employed by his parent or a person standing in his parents' place. Thus, where a child assists his father in performing work for the latter's employer and the child is considered to be employed both by his father and his father's employer, the parental exemption would not be applicable. The words "parent" or a "person standing

³⁴Section 550.2(b) of this title provides:

(b) The term "performer" shall mean a person who performs a distinctive, personalized service as a part of an actual broadcast or telecast including an actor, singer, dancer, musician, comedian, or any person who entertains, affords amusement to, or occupies the interest of a radio or television audience by acting, singing, dancing, reading, narrating, performing feats of skill, or announcing, or describing or relating facts, events and other matters of interest, and who actively participates in such capacity in the actual presentation of a radio or television program. It shall not include such persons as script writers, stand-ins, or directors who are neither seen nor heard by the radio or television audience; nor shall it include persons who participate in the broadcast or telecast purely as technicians such as engineers, electricians and stage hands.

³³See note to subpart E of this part.

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in place of a parent” include natural parents, or any other person, where the relationship between that person and a child is such that the person may be said to stand in place of a parent. For example, one who takes a child into his home and treats it as a member of his own family, educating and supporting the child as if it were his own, is generally said to stand to the child in place of a parent. It should further be noted that occupations found by the Secretary to be hazardous or detrimental to health or well-being for children between 16 and 18 years of age, as well as manufacturing and mining occupations, are specifically excluded from the scope of the exemption.

ENFORCEMENT

§ 570.127 General.

Section 15(a)(4) of the Act makes any violation of the provisions of sections 12(a) or 12(c) unlawful. Any such unlawful act or practice may be enjoined by the United States District Courts under section 17 upon court action, filed by the Secretary pursuant to section 12(b) and, if willful will subject the offender to the criminal penalties provided in section 16(a) of the Act.³⁵

§ 570.128 Good faith defense.

A provision is contained in section 12(a) of the Act relieving any purchaser from liability thereunder who ships or delivers for shipment in commerce goods which he acquired in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with section 12, and which he acquired for value without notice of any violation.³⁶

³⁵ Section 16(a) provides:

Any person who willfully violates any of the provisions of section 15 shall upon conviction thereof be subject to a fine of not more than \$10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this subsection except for an offense committed after the conviction of such person for a prior offense under this subsection.

³⁶ For a complete discussion of this subject see part 789 of this title, General Statement on the Provisions of section 12(a) and section 15(a)(1) of the Fair Labor Standards Act, as amended, relating to Written Assurances.

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§ 570.129 Relation to other laws.

Section 18 provides, in part, that “no provision of this act relating to the employment of child labor shall justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established under this act.” The child labor requirements of the Fair Labor Standards Act, as amended, must be complied with as to the employment of minors within their general coverage and not excepted from their operation by special provision of the act itself regardless of any State, local, or other Federal law that may be applicable to the same employment. Furthermore, any administrative action pursuant to other laws, such as the issuance of a work permit to a minor or the referral by an employment agency of a minor to an employer does not necessarily relieve a person of liability under this act. Where such other legislation is applicable and does not contravene the requirements of the Fair Labor Standards Act, however, nothing in the act, the regulations or the interpretations announced by the Secretary should be taken to override or nullify the provisions of these laws. Although compliance with other applicable legislation does not constitute compliance with the act unless the requirements of the act are thereby met, compliance with the act, on the other hand, does not relieve any person of liability under other laws that establish higher child labor standards than those prescribed by or pursuant to the act. Moreover, such laws, if at all applicable, continue to apply to the employment of all minors who either are not within the general coverage of the child labor provisions of the act or who are specifically excepted from their requirements.

PART 575—WAIVER OF CHILD LABOR PROVISIONS FOR AGRICULTURAL EMPLOYMENT OF 10 AND 11 YEAR OLD MINORS IN HAND HARVESTING OF SHORT SEASON CROPS

- Sec.
- 575.1 Purpose and scope.
- 575.2 Definitions.