

# Child Labor Laws-Employing Students

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Each academic year as the spring term winds down, many members of our educational community consider hiring students as employees for various summer positions. To aid in the hiring process and to ensure the safety and wellbeing of all parties involved – including schools, staff, and, most importantly, students – we often invite those who are contemplating hiring students to think through such questions as, a) “Have you read or referred to the child labor laws?” b) “How old are the students in question?” and, c) “What kind of work exactly would the jobs entail?”

Though not exhaustive, the following document offers answers to such inquiries as these and thus serves as a starting point for those schools which might be entering into an employee/employer relationship with students in their district.

## Relevant laws

Two sets of Child Labor Laws apply to children in Montana. The first is the Montana Child Labor Standards Act of 1993 (Montana Codes Annotated, Title 41, Chapter 2). This act protects young workers from employment that might interfere with their educational opportunities or that could be detrimental to their health and well being.<sup>1</sup> The second is the Fair Labor Standards Act (FLSA), a federal standard that establishes child labor standards (as well as minimum wage, overtime pay, equal pay, whistleblower/non-retaliation protection, and record-keeping standards).

Like Montana’s standard, the FLSA sets minimum ages for jobs that can be particularly hazardous; it likewise sets minimum ages for all other jobs, meaning those not considered hazardous; and, finally, it limits the hours that children are permitted to work.<sup>2</sup> As in all standards wherein a state and a federal mandate applies, the more stringent of the two standards takes precedent.

## Assessing the student’s age and job duties

Strictly speaking, children under the age of 14 are not to hold any job. Students 14-15 years old may work only limited hours during the school year. They are restricted to office and clerical-type work and some types of ground maintenance work, not involving such things as ladders and power equipment, including mowers and trimmers. Students 16-17 years old do not have the hour limitations and can generally perform a wider range of jobs but are still subject to restrictions in terms of operating motor vehicles and certain types of power equipment.<sup>3</sup>

Let’s look at an example of these laws govern and guide decision involving student workers. The graphic below shows the age at which a student can operate certain lawn care equipment.

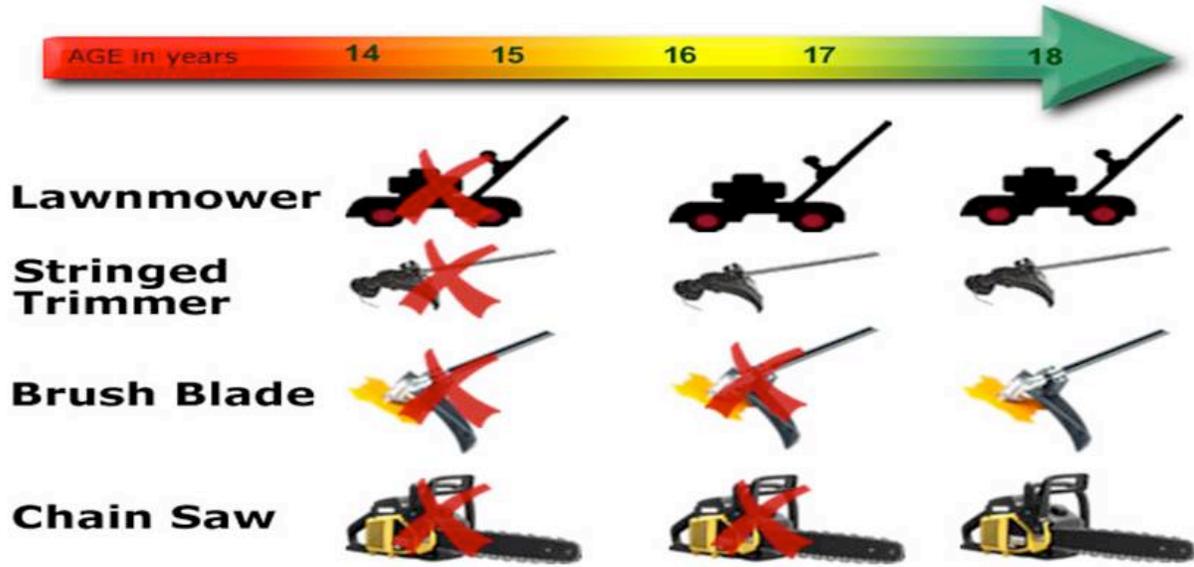
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<sup>1</sup> Montana Codes Annotated Title 41, Chapter 2 – Montana Child Labor Standards Act of 1993

<sup>2</sup> Fair Labor Standards Act (FLSA) found on [www.dol.gov/compliance/audience/youth.htm](http://www.dol.gov/compliance/audience/youth.htm) and [www.youthrules.dol.gov/index.htm](http://www.youthrules.dol.gov/index.htm) and [www.stopchildlabor.org/USchildlabor/fact1.htm](http://www.stopchildlabor.org/USchildlabor/fact1.htm)

<sup>3</sup> Jeff Hindoiën while Senior Counsel for MTSBA; Legal E-NEWSLETTER – July 19, 2007

## Minors Operating Lawncare Equipment



There is also a time limitation specific to the hours that students may work, and governs the hours of day that they may work.<sup>4</sup> These standards may also apply to school-to-work programs and other work-based learning experiences. As you can see, this gets very complicated very quickly.

While we do encourage phone calls and emails placed to our offices about this topic, we also encourage contacting the MTSBA legal staff. They are highly versed in these issues and will gladly walk you through this process. They may be reached at 406-442-2180.

<sup>4</sup> Youthrules Fact Sheet #43: Youth Employment Provisions of the Fair Labor Standards Act (FLSA) for Nonagricultural Occupations, Revised July 2010, <http://www.youthrules.dol.gov>