



## **Fact Sheet # 60: Application of the Federal Child Labor Provisions of the Fair Labor Standards Act (FLSA) to the Employment of Lifeguards**

[The Fair Labor Standards Act \(FLSA\)](#), administered by the U.S. Department of Labor's Wage and Hour Division (WHD), requires that most employees be paid at least the applicable federal minimum wage and [overtime pay](#) for all hours worked at time and one-half the regular rate of pay after 40 hours in a workweek. The FLSA also includes child labor and [recordkeeping provisions](#). While some seasonal and recreational establishments such as outdoor swimming pools may be exempt from the minimum wage and overtime requirements of the FLSA if they meet certain tests, this exemption does not apply to the child labor or record keeping provisions of the FLSA.

### **Child labor Provisions of the FLSA**

The federal child labor provisions were enacted to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being.

#### **18 years of age**

Once a minor reaches 18 years of age, the federal child labor provisions no longer apply to their employment.

#### **16 and 17 years of age**

Sixteen and 17-year-olds employed as lifeguards may perform any nonhazardous job, for unlimited hours. The Secretary of Labor has declared 17 Hazardous Occupations Orders (HOs) which restrict the types of jobs and/or industries in which youth under 18 years of age may be employed. Although not exhaustive, the following list represents some common tasks which occur at establishments that employ lifeguards. Under the federal child labor provisions, workers under 18 years of age generally may **not**:

- Operate or assist to operate, clean, oil, set up, adjust, or repair certain power-driven woodworking, metalworking, bakery, meat processing, and paper products machinery - including meat slicers, compactors, balers, mixers, and saws.
- Drive or serve as an outside-helper on a motor vehicle on a public road; but 17-year-olds who meet certain specific requirements may drive automobiles and trucks that do not exceed 6,000 pounds gross vehicle weight for limited amounts of time during daylight hours as part of their job ([see Fact Sheet #34](#)).

- Operate power-driven hoists such as elevators, cranes, derricks, and high-lift trucks. However, 16- and 17-year-olds may operate and assist in the operation of most water amusement park and recreation establishment rides.
- Load, operate, or unload power-driven balers and compactors used in the disposal of waste. A limited exemption exists that permits the loading, but not the operating or unloading, of certain scrap paper balers and paper box compactors under certain specific conditions ([see Fact Sheet #57](#)).

### **14 and 15 years of age**

Fifteen-year-olds, but not youth less than 15 years of age, may be employed as lifeguards at traditional swimming pools and most facilities of water amusement parks. Such employment must meet the following conditions:

- The 15-year-old must be trained and certified by the American Red Cross, or a similar certifying organization, in aquatics and water safety; and
- The 15-year-old must be employed in compliance with all the other applicable provisions of the federal child labor rules contained in Child Labor Regulations No. 3 ([see Subpart C of 29 CFR Part 570](#)), including the restrictions on the hours and times of day that 15-year-olds may be employed as discussed below; and
- The federal child labor rules require that 15-year-olds who are employed to teach or assist in teaching others how to swim must also be certified as swimming instructors by the American Red Cross or some other similar certifying agency.

The occupation of *lifeguard*, as per 29 C.F.R. § 570.34(l), encompasses the duties of rescuing swimmers in danger of drowning, the monitoring of activities at a swimming pool to prevent accidents, the teaching of water safety, and providing assistance to patrons. Lifeguards may also help to maintain order and cleanliness in the pool and pool areas, conduct or officiate at swimming meets, and administer first aid. Additional ancillary lifeguard duties may include checking in and out such items as towels, rings, watches and apparel. Properly certified 15-year-old lifeguards are also permitted to use a ladder to access and descend from the lifeguard chair; use hand tools to clean the pool and pool area; and test and record water quality for temperature and/or pH levels, using all of the tools of the testing process including adding chemicals to the test water sample. Such youth would, however, be prohibited from entering or working in any chemical storage areas, including any areas where the filtration and chlorinating systems are housed.

As mentioned, a core and defining duty of a lifeguard is the rescuing of swimmers in danger of drowning, often by entering the water and physically bringing the swimmer to safety. Under 29 C.F.R. § 570.34(l), any employee under the age of 16 whose duties include this core duty—such as a “junior lifeguard” or a “swim-teacher aide”—or whose employment could place him or her in a situation where the employer would reasonably expect him or her to perform such rescue duties, would be performing the duties of a lifeguard while working in such a position. For such employment to comply with these

child labor provisions, the employee would have to be at least 15 years of age and possess the proper certification.

A traditional *swimming pool* means a water tight structure of concrete, masonry, or other approved materials located either indoors or outdoors, used for bathing or swimming and filled with a filtered and disinfected water supply, together with buildings, appurtenances and equipment used in connection therewith. A *water amusement park* means a facility that not only encompasses the features of a traditional swimming pool, but also includes such additional attractions as *wave pools*, *lazy rivers*, *activities areas* and *elevated water slides*.

Properly certified 15-year-olds may be employed as lifeguards at water amusement park *wave pools*, *lazy rivers*, and *activities areas*, but not at the top of *elevated water slides*. Generally, all youth under 16 years of age are prohibited from operating or tending power-driven equipment and may not assist the public as they enter, “ride,” and leave water-park or amusement-park-type rides. Thus, minors under 16, even if properly certified as lifeguards, may not be employed as dispatchers, attendants, or slide monitors at the top of elevated water slides. Fifteen-year-olds who are properly certified may be employed as lifeguards stationed at the splashdown pools located at the bottom of elevated water slides.

Youth under 16 years of age may not be employed as lifeguards at natural environment facilities such as rivers, streams, lakes, ponds, quarries, reservoirs, wharfs, piers, or ocean-side beaches.

### **Hours Limitations:**

The employment of 14- and 15-year-olds, including those 15-year-olds employed as lifeguards, is generally limited to:

- Outside of school hours;
- 3 hours on a school day, including Fridays;
- 8 hours on a nonschool day;
- 18 hours in a week that school is in session;
- 40 hours in a week that school is not in session.

Also, such youth may not work before 7 a.m. or after 7 p.m. (except from June 1 through Labor Day when the evening limit is extended to 9 p.m.).

### **Occupations Limitations:**

Fourteen- and 15-year-olds, including properly certified 15-year-olds who are employed as lifeguards, may not be employed in the following occupations that are often found at establishments that have traditional swimming pools:

- Work involving the operation or tending of any power-driven machinery and hoists (except office machinery). This prohibition includes work involving most

- amusement park and recreation establishment rides – including dispatchers on elevated water slides – and power-driven lawn mowers and trimmers.
- All baking and most cooking. These minors may perform cooking with electric and gas grilles that does not involve cooking with open flames. They may also cook with deep fryers that are equipped with and utilize devices that automatically lower and raise the fryer baskets into and out of the hot oil or grease. They may not operate NEICO broilers, pressure cookers, ovens or rotisseries.
  - The cleaning of cooking equipment and the filtering, transporting, and disposing of hot oil and grease when the surfaces or hot oil or grease exceed 100° F.
  - All work in construction, including demolition and repair.
  - All work involving the use of ladders or scaffolding, except properly certified 15-year-old lifeguards may use a ladder to access and descend from the lifeguard chair.
  - All work in freezers, but they may enter freezers equipped with safety latches, for brief periods of time, to retrieve items.

### **13 years of age and younger**

Youth under 14 years of age are generally not allowed to work in nonagricultural occupations. However, the FLSA does allow a parent who is the sole-owner of a business to employ his or her child in any occupations other than mining, manufacturing or those declared to be hazardous by the Secretary of Labor.

### **Where to Obtain Additional Information**

For more information on the FLSA child labor provisions, including a complete list of all hazardous occupation orders, visit the YouthRules! Web site at [www.youthrules.dol.gov](http://www.youthrules.dol.gov).

For additional information on the Fair Labor Standards Act, visit the Wage and Hour Division Web site: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

When state child labor laws differ from the federal provisions, an employer must comply with the higher standard. Links to your state labor department can be found at [http://www.dol.gov/whd/contacts/state\\_of.htm](http://www.dol.gov/whd/contacts/state_of.htm).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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