



Application of the Pennsylvania Child Labor Act to Agriculture

Special coverage rules under the Child Labor Act apply to children working in agriculture in Pennsylvania. In situations when child labor on a farm is not covered under the federal Fair Labor Standards Act (FLSA) it is also not covered under the Pennsylvania Child Labor Act (CLA).

FLSA COVERAGE GENERALLY

- The FLSA's prohibitions against certain child labor apply to farms that are consider covered under the FLSA. Farms may fall under either the FLSA's individual or enterprise coverage for those child labor prohibitions to apply.
 - **Individual Coverage:** A child worker is covered under the FLSA's individual coverage if the child's work regularly involves commerce between states — that is, if the child works with goods that will be sent out of state, makes telephone calls to persons out of state, or handles records of interstate transactions such as credit card transactions.
 - **Enterprise Coverage:** A farm is covered by the FLSA's child labor provisions if it has at least two employees and has an annual dollar volume of sales or business done of at least \$500,000.
- Most farms in Pennsylvania meet either the individual or enterprise coverage requirements under the FLSA. If a farm does not meet either the individual or enterprise coverage requirements under FLSA, then the FLSA and CLA do not apply.

ADDITIONAL EXEMPTIONS FROM COVERAGE FOR CHILD LABOR ON FARMS

- Even if a farm qualifies for FLSA individual or enterprise coverage, certain exemptions from coverage might exist, meaning the child labor prohibitions of both the FLSA and CLA do not apply to the farm.¹
- Whether a farm is exempt from the child labor prohibitions of the FLSA and CLA depends on, among other things, the age of the minor, when the work occurs, and whether the work has been designated as hazardous by the FLSA.

Note: The chart below only pertains to the agricultural child labor requirement of the FLSA. Other FLSA provisions may apply.

Agricultural Work Performed During Non-School Hours		
Age of minor	FLSA Non-Hazardous Occupation	FLSA Hazardous Occupation
Ages 16-17	FLSA and CLA requirements do not apply ²	
Ages 14-15	FLSA and CLA do not apply ³	Unless employed by a parent on the parent's farm, FLSA and CLA apply ⁴
Ages 12-13	If the minor has parental consent, then FLSA and CLA do not apply ⁵	Unless employed by a parent on the parent's farm, FLSA and CLA apply ⁶
Under 12	Unless (1) employed by a parent on the parent's farm, or (2) have parental consent and other farm employees are minimum wage exempt, FLSA and CLA apply ⁷	Unless employed by a parent on the parent's farm, FLSA and CLA apply ⁸

For Work Performed During School Hours		
Age of minor	FLSA Non-Hazardous Occupation	FLSA Hazardous Occupation
Ages 16-17	FLSA and CLA do not apply ⁹	
Under 16	FLSA and CLA apply ¹⁰	



Hazardous Occupations on Farms under the FLSA

- The following are examples of agricultural occupations deemed hazardous under the FLSA. These actions cannot be performed by any child below the age of 16, unless the child is employed by their parent on the parent's farm:
 - Operating a tractor of over 20 PTO horsepower
 - Riding on a tractor as a passenger or helper
 - Operating or assisting with operating certain heavy machinery, including a corn picker, forklift, or earthmoving equipment.
 - Working from a ladder or scaffolding at a height of over 20 feet
 - Driving a bus, truck, or automobile when transporting passengers
 - Working inside storage designed to retain an oxygen-deficient or toxic atmosphere
 - Working inside a manure pit
 - Handling or applying agricultural chemicals
 - Handling or using a blasting agent such as dynamite
- The full list of agricultural occupations designated under the FLSA as hazardous is available at 29 C.F.R. § 570.71.
- The PA CLA regulations also prohibit several occupations for minors under 18 years of age at 34 Pa. Code §§ 11.21–85.

For child labor on a farm that is not exempted by the FLSA, the CLA applies in its entirety.

- If it is determined that the agricultural provisions of the CLA apply to a farm because it is not exempt from coverage under the FLSA, all the requirements of the CLA apply to the farm. For example, if a farm is deemed to be covered by the FLSA's child labor prohibitions, it will also be deemed to be covered by the CLA, which has a separate set of requirements. Therefore, an employment permit may be required even if the FLSA does not require a permit under the same circumstances.





Family Farms

- Note that there is no blanket exemption for “family farms” under either the FLSA or the CLA. Certain exemptions exist for children employed by a parent on a farm, including, for example, that a child under 12 who would otherwise be prohibited from working may work on a farm outside of school hours if employed by their parent. For this exemption to apply, the parent must be the owner of the farm.

Non-Agricultural Work

- The FLSA defines “agriculture” to include “farming in all its branches.” This means a child performs agricultural work if the child engages in, among other things: the cultivation and tillage of soil; dairying; the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities; or the raising of livestock, bees, fur-bearing animals, or poultry.
- When a child performs non-agricultural work, the CLA and FLSA apply unless another exemption applies. Additionally, the CLA and FLSA apply if the child spends any part of the workweek performing work that is not “agriculture” as defined by the FLSA.¹¹
- Just because work is performed on or near a farm does not mean that it is “agriculture.” For example, minors who engage in the sale of produce or other goods at a farmer’s market are not engaged in agricultural work and the FLSA and CLA prohibitions apply.

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This fact sheet does not have the force and effect of law and is intended only to provide clarity to the public regarding existing requirements.

¹43 P.S. § 40.13(b)
²29 U.S.C. § 213(c)(1)(C).
³29 U.S.C. § 213(c)(1)(C).
⁴29 U.S.C. § 213(c)(2).
⁵29 U.S.C. § 213(c)(1)(B).
⁶29 U.S.C. § 213(c)(2).
⁷29 U.S.C. § 213(c)(1)(A).
⁸29 U.S.C. § 213(c)(2).

⁹29 C.F.R. § 570.2(b). USDOL retains the authority to declare an occupation hazardous for employees between the ages of sixteen and eighteen years but has only made such a declaration for employees under sixteen. See 29 U.S.C. § 203(l); 29 C.F.R. § 570.71(a).
¹⁰29 U.S.C. § 203(l).
¹¹29 C.F.R. § 570.122(b).