

New Jersey

Child Labor Law Abstract

Post this notice in a conspicuous place.

This notice is for ready reference only. For full text, consult N.J.S.A. 34:2-21.1 et seq. and N.J.A.C. 12:58 et seq.

Kind of Employment	Minimum Age	Hours of Work Not to Exceed ^{1,3}	Prohibited Hours	Certificate or Permit Required ²
Theatrical: Professional employment in a theatrical production, including stage, motion pictures, and television performances and rehearsals.	None, but minors under 16 must be accompanied at all times by an adult who is a parent, guardian, or representative of employer.	Under 16: No more than 2 shows or productions ⁴ daily or 8 weekly, 5 hours daily, 24 hours weekly, 6 days a week. (Includes rehearsal time. Combined hours of school and work not to exceed 8 hours daily.) ⁵	Under 16 Before 7 a.m. After 11:30 p.m. ⁶⁾	Under 16 Special Theatrical Permit
Agriculture: No restriction on work performed outside school hours in connection with minor's own home and directly for the minor's parent or legal guardian.	12 years old Outside school hours 16 years old During school hours	10 hours daily 6 days a week 10 hours daily 6 days a week	None	12-15 years old only Special Agricultural Permit
Newspaper Carriers: Minors who deliver, solicit, sell and collect for newspapers outside of school hours on residential routes.	11 years old	Combined hours of school and work not to exceed 8 hours daily, 40 hours weekly, 7 days	11-13 years old Before 6 a.m. After 7 p.m. 14-17 years old Before 5:30 a.m. After 8 p.m.	11-17 years old NJ publishers may issue Special Newspaper Carrier Permit or local issuing officer may issue: Special Permit (11-15 years old) or Employment Certificate (16-17 years old).
Street Trades: Minors who sell, offer for sale, solicit for, collect for, display, or distribute any articles, goods, merchandise, commercial service, posters, circulars, newspapers or magazines or in blacking shoes on any street or other public place or from house to house.	14 years old Outside school hours 16 years old During school hours	When school is in session: 3 hours per day 18 hours per week. During school vacation: 8 hours per day 40 hours per week 6 days per week. 8 hours per day 40 hours per week 6 days per week	14-15 years old Before 7 a.m. After 7 p.m. 16-17 years old Before 7 a.m. After 7 p.m.	Special Street Trades Permit or Employment Certificate Employment Certificate
General Employment: Includes mercantile establishments, golf caddy, private bowling alleys, offices, gas stations, garages, and other places or means of gainful occupations unless otherwise specified.	14 years old 16 years old	When school is in session: 3 hours per day 18 hours per week. During school vacation: 8 hours per day 40 hours per week 6 days per week. 8 hours per day 40 hours per week 6 days per week	14-15 years old Before 7 a.m. After 7 p.m. ⁷ 16-17 years old Before 6 a.m. After 11 p.m. Exceptions: 1. School vacation season. 2. Days not preceding a school day, with special written permission of parent or guardian.)	Employment Certificate Employment Certificate
Restaurant and Seasonal	Same as for General Employment except that minors at least 16 years old may be employed after midnight during regular school vacation season, if work begins before 11 p.m. on the previous day, or on work date that do not begin on a school day, with special written permission from a parent or guardian. May not be employed after 3 a.m. or before 6 a.m. on a day before a school day.			
Public Bowling Alleys	Same as for General Employment except that minors who are at least 16 years old may be employed as pinsetters, lane attendants, or bus-persons until 11:30 p.m. – but during the school term the minor must have a special permit.			
Domestic Services in Private Homes: No restriction on work performed outside school hours in connection with minor's own home and directly for the minor's parent or legal guardian.	14 years old Outside of school hours 16 years old During school hours	No Restrictions Except minors under 16 are limited to 3 hours per day, 18 hours per week when school is in session	None	Employment Certificate
Messengers for Communications Companies Under Supervision and Control of the F.C.C.	14 years old Outside of school hours 16 years old During school hours	No Restrictions	None	Employment Certificate
Factory	16 years old	8 hours per day 40 hours per week 6 days per week	When school is in session: After 11 p.m. During school vacation season: Before 6 a.m. and After 11 p.m.	Employment Certificate

Punishment for Violations of Child Labor Law

Whoever employs or permits or suffers any minor to be employed or to work in violation of this act, or of any order or ruling issued under the provisions of this act, or obstructs the Department of Labor and Workforce Development, its officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act, shall be guilty of an offense.

If a defendant acts knowingly, an offense under this section will be a crime of the fourth degree. Otherwise it will be a disorderly persons offense and the defendant will, upon conviction, be punished by a fine of at least \$100 (up to \$2,000) for an initial violation, and at least \$200 (up to \$4,000) for each subsequent violation.

Each day during which any violation of this act continues will constitute a separate and distinct offense, and the employment of any minor in violation of the act will, with respect to each minor so employed, constitute a separate and distinct offense.

As an alternative to or in addition to any other sanctions provided by law for violations of P.L. 1940, c.153 (C.34:2-21.1 et seq.), when the Commissioner of Labor and Workforce Development finds that an individual has violated that act, the commissioner is authorized to assess and collect administrative penalties of up to \$500 for a first violation, up to \$1,000 for a second violation, and up to \$2,500 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner will consider factors including the history of an employer's previous violations, the seriousness of the violation, the good faith of the employer, and the size of the employer's business.

No administrative penalty will be levied pursuant to this section unless the Commissioner of Labor and Workforce Development provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days of receiving the notice.

If a hearing is requested, the commissioner will issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice will become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.).

NOTES

¹ A minor who is at least 17 years old and a graduate of a vocational school approved by the Commissioner of Education may engage in those pursuits in which the minor majored in said vocational school during those hours permitted for persons 18 years of age and over, if an employment certificate (or certified copy) accompanies the minor's diploma.

² When schools in the minor's district are not in session, no certificate or permit is required for minors at least 14 years old employed at agricultural fairs, horse, dog, or farm shows that last no more than 10 days.

No certificate is required for minors 15 and older during school vacation for first 14 days of employment in food service, restaurant, retail operations, or seasonal amusement occupations.

³ Does not apply to minors 16 or 17 years of age employed during June, July, August, or September by a summer resident camp, conference or retreat operated by a nonprofit or religious corporation or association, unless the employment is primarily general maintenance work or food service activities.

⁴ Where the professional employment is reasonably separable into discrete shows or productions.

⁵ In **Theatrical** employment, the combined time spent on a set or on call and performance time shall not exceed 8 hours in any one day.

⁶ In certain cases of **Theatrical** employment, the commissioner has the authority to change the hours of the day when a minor may work, but not the total number of hours.

⁷ In **General Employment** 14- and 15-year-old minors may work until 9 p.m., with written permission of parent or guardian, from the last day of the minor's school year until Labor Day.

General Information

Breaks

Minors under 18 years old must get a 30-minute meal break after 5 consecutive hours of work.

Work during school hours

Minors under 16 may not work during the hours they are required to attend school.

Employment certificate (also called working papers) & age certificate

Minors who are gainfully employed must have an employment certificate. Some employers may also ask for an age certificate from minors between the ages of 18 and 21. This tells employers a minor is old enough to do certain types of work.

To get working papers or an age certificate, minors must apply in person to the issuing officer of the school district where they live.

Read working papers carefully. They contain information that is important to you. Papers are valid only for the period of time and conditions stated thereon.

Required Records

Employers must keep certain records for all employees under age 18. Required records are:

- Name
- address
- date of birth
- start and ending hours of daily work and meal periods
- number of hours worked each day
- wages paid to each minor.

Required records for Newspaper Carriers are:

- Name
- address
- date of birth
- date they began and stopped delivering newspapers
- number of newspapers sold
- general description of the route area served.

These records are not required to be kept for:

- those engaged in domestic service in private homes
- those engaged in agricultural pursuits
- minors 16-18 years old employed by a summer resident camp, conference or retreat operated by a nonprofit or religious corporation or association during June, July, August or September.

Minimum Wage Requirements

The minimum wage rate does not apply to minors under 18 years of age except as provided in N.J.A.C. 12:56-11, 12:56-13, 12:56-14 and N.J.A.C. 12:57, Wage Orders for Minors.

NOTE: Employers subject to the Fair Labor Standards Act (FLSA) would be required to pay the federal minimum wage to minors not covered by a wage order.

Work Prohibited to Minors

Exemptions to some of these prohibitions apply:

- > to work done by students under the supervision and instruction of officers or teachers
- > to work done by minors who are at least 17 years old, doing work related to their major field of study, under the conditions of the special vocational school graduate permit
- > to work done by minors in junior achievement programs.

The kind of work that students in these programs may do is limited by the Department of Education. Employers should check these prohibitions with the coordinator of each program.

No minor under 18 years of age may be employed, suffered, or permitted to work in, about, or in connection with the following:

- Making or packing paints, colors, white lead, or red lead
- Handling dangerous or poisonous acids or dyes; injurious quantities of toxic or noxious dusts, vapors or fumes
- Work involving exposure to benzol or any benzol compound that is volatile or can penetrate the skin
- Making, transporting or using explosives or highly inflammable substances.

The wording "the manufacture, transportation or use of explosives or highly inflammable substances" as used in the prohibited occupations section of the Child Labor Act does not include filling the gasoline tanks of gasoline motor-driven vehicles by using a hose connected to automatic or manual-powered pumping equipment commonly used for that purpose in gasoline service stations.

This interpretation does not in any way affect any prohibition contained in the Child Labor Law concerning power-driven or hazardous machinery or hazardous occupations.

PROHIBITED SUBSTANCES

- Carcinogenic substances
- Pesticides
- Radioactive substances and ionizing radiation
- Corrosive material
- Toxic or hazardous substances

PROHIBITED TYPES OF WORK

- Demolishing buildings, ships, or heavy machinery
- Fabricating or assembling ships
- Fueling aircraft, either commercial or private
- Oiling, wiping, or cleaning machinery in motion or assisting therein
- Operating or repairing elevators or other hoisting apparatus
- Posing nude or without generally accepted attire
- Servicing single-piece or multi-piece rimwheels
- Serving beverages out of any bar service area, including outside bars at pools or other recreational facilities
- Transporting payrolls other than within the employer's premises
- Construction work (exemptions include minors doing volunteer work in affordable housing).

"Construction work" means:

- erecting, altering, repairing, renovating, demolishing or removing any building or structure
- excavating, filling and grading sites
- excavating, repairing or paving roads and highways, and
- any function performed within 30 feet of the above operations.

"Construction work" does not include the repair or painting of fences, buildings and structures up to 12 feet tall. Most occupations in slaughtering, meat packing, processing, or rendering, including operating slicing machines used in delicatessens and restaurants for cutting or slicing any food product.

PROHIBITED MACHINES/EQUIPMENT

No minor under 16 years of age may be employed, permitted, or suffered to work in, about, or in connection with power-driven machinery.

Power-driven machinery includes, but is not limited to:

- Calendar rolls or mixing rolls in rubber manufacturing
- Centrifugal extractors or mangles in laundries or dry cleaning establishments

Enforced by: NJ Department of Labor and Workforce Development

Division of Order and Hour Compliance, PO Box 389, Trenton NJ 08625-0389 - 609-292-2305

This and other required employer posters are available free online at nj.gov/labor, or from the Office of Constituent Relations, PO Box 110, Trenton, NJ 08625-0110 - 609-777-3200.

If you need this document in Braille or large print, call 609-292-2305. TTY users can contact this department through the New Jersey Relay: 7-1-1

Department of Labor and Workforce Development

NEW JERSEY LAW PROHIBITS WORKER MISCLASSIFICATION NOTICE OF EMPLOYEE RIGHTS & EMPLOYER RESPONSIBILITIES

WHAT IS MISCLASSIFICATION?

- Misclassification is the practice of an employer improperly classifying employees as independent contractors.
- Misclassification may illegally deprive workers of basic rights, protections, and benefits guaranteed to employees such as the right to be paid the **minimum wage**, the right to **overtime pay, time and mode of pay** protections, the protection against **illegal deductions** from pay, **unemployment compensation, temporary disability benefits, family leave insurance benefits, workers' compensation, family leave and earned sick leave**.
- Often when workers are paid in cash "off the books", it may be a method to hide misclassification or other employment related legal obligations.

AM I AN EMPLOYEE OR AN INDEPENDENT CONTRACTOR?

- Under New Jersey's Unemployment Compensation Law, Wage and Hour Law, Wage Payment Law, Wage Collection Law, Temporary Disability Benefits Law (including sections providing for Family Leave Insurance) and Earned Sick Leave Law, if you perform a service and are paid, you are presumed to be an employee, unless the employer can prove all three of the following:
 - You have been and will continue to be free from control or direction over performance of the service, both under a contract of service and in fact; and
 - The service is either outside the usual course of the business for which such service is performed, or the service is performed outside of all the places of business of the enterprise for which such service is performed; and
 - You are customarily engaged in an independently established trade, occupation, profession or business.
- This is referred to in New Jersey as the "**ABC Test**" for independent contractor status.
- Please go to www.myworkrights.nj.gov to learn about the factors considered for each of the three above tests.

DO I HAVE TO PROVE THAT I AM AN EMPLOYEE?

- No. If you worked and were paid, you are presumed to be an employee. It is the employer's burden to show that all three parts of the ABC test are met.
- If the employer can't meet its burden to establish all three parts of the ABC test, then you are deemed to be an employee, entitled to the rights, protections, and benefits of an employee under the above-cited New Jersey laws.
- If you believe you are misclassified, email misclass@nj.dol.gov.

DOES IT MATTER IF I RECEIVED AN IRS FORM 1099, AS OPPOSED TO IRS FORM W-2?

- No. It does not matter which federal tax form the employer uses to report earnings.
- What matters are the facts surrounding your working relationship with the employer and the application of the ABC test to those facts.

REPORTING MISCLASSIFICATION

If you have been misclassified and would like to file a claim, you can do so here: <https://wagehour.dol.state.nj.us/default.htm>

To seek further information:

EMAIL: misclass@nj.dol.gov	CALL: 609-292-2321	FAX: 609-292-7801	WRITE: EMPLOYER ACCOUNTS SUBJECT – MISCLASSIFICATION NJ DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT 1 JOHN FITCH PLAZA P.O. BOX 942 TRENTON, NJ 08625-0942
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- Whichever way you chose to reach out, multilingual staff will be able to assist you and translation assistance made available as needed
- You can also visit www.myworkrights.nj.gov to learn more about misclassification.

DISPLAY THIS POSTER IN A CONSPICUOUS PLACE

THE NEW JERSEY DEPARTMENT OF
LABOR & WORKFORCE DEVELOPMENT

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MW-899

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