



# in our own backyard

THE HIDDEN PROBLEM OF  
CHILD FARMWORKERS IN AMERICA

<http://www.ourownbackyard.org>

Part II: How Can This Happen?

## **Child Labor Laws and Enforcement**

Historical and legal background from the U.S. Department of Labor  
in *The Report on the Youth Labor Force*.

*Source: U.S. Department of Labor, November 2000,*  
<http://www.bls.gov/opub/rylf/pdf/chapter2.pdf>



## Chapter 2.

# Child Labor Laws and Enforcement

The Report on the Youth Labor Force was revised in November 2000.

### Introduction

This chapter looks briefly at the history of child labor in the United States, and discusses how that history influences youth employment today. It then examines the current Federal child labor provisions, provides a comparison of State child labor laws, and discusses other government programs that directly affect the employment of young workers. The chapter concludes with a discussion of the U.S. Department of Labor's strategy for combating oppressive child labor and the effectiveness of its compliance strategy.

### History of child labor in the United States

Children have worked in America, contributing to the well-being of the family unit, since the arrival of the first colonists. European settlers, bringing social values with them that equated idleness with pauperism, were quick to pass laws that actually required children to work. For example, in 1641, the court of Massachusetts Bay ordered all households to work on wild hemp for clothing, and it was expected that "children should be industriously implied (sic)."<sup>1</sup> Adopting "poor laws" similar to the English laws, the colonies required the apprenticeship of poor children—some at ages as young as 3 years. Children worked on family farms and in family cottage industries. The institution of slavery also encompassed the labor of children born or sold into servitude.

The industrial revolution ushered in the modern factory system and changed a predominately rural populace into an

urban one. Factory towns grew up dependent on a labor supply of women and children, the children working not necessarily as apprentices but as factory labor. Children were seen as a cheap and manageable source of labor. Newspaper advertisements of the day reflected the fact that factory managers preferred to hire families with several children, and widows with children were especially favored.

Child labor in this country was so widespread, and so much a part of economic reality in the early part of the 19th century, that no one looked toward or expected its abolition. But as the number of factories multiplied and the child workforce grew, the social conscience began to stir—not against child labor itself, but against some features of the factory system as they affected the children.

The earliest concerns were that factory children were growing up without receiving even a modest education. Long workdays and workweeks left little time for study. In 1813, Connecticut enacted a law encouraging manufacturers to provide young employees with lessons in reading, writing, and arithmetic, but the law was ineffective. It was not until 1836 that Massachusetts passed this country's first child labor law—legislation that required children under the age of 15 employed in manufacturing to spend at least 3 months each year in school. A few States soon adopted similar laws.

After the Civil War, industry expanded and became increasingly mechanized. The textile industry flourished in the South and with it, oppressive child labor. Children as young as

6 or 7 years were recruited to work 13-hour days, for miniscule wages, in hot and dusty factories. Proposals to change these conditions met with stiff opposition. By the turn of the century, only a few southern States had passed laws limiting the number of hours that children could work.

The early 1900s saw a growing acceptance of the concept that States should provide for the general protection of children. In 1909, the Bureau of Labor Statistics issued a landmark report on working women and children. This 19-volume report confirmed that more children were employed in the South than in New England. The report also found that, in a substantial number of cases, children's earnings were essential to meeting their families' needs, but that in other cases, families would not have suffered financial hardships if child labor were forbidden.<sup>2</sup>

By 1913, all but nine States had fixed 14 years as the minimum age for factory work, and a majority of the States had extended this minimum to stores and other specified places of employment.<sup>3</sup> Although Congress had made several attempts to restrict oppressive child labor, the attempts had failed, usually on constitutional grounds. It was not until 1938, with the passage of the Fair Labor Standards Act (upheld by the Supreme Court in 1941) that meaningful Federal child labor legislation was enacted. The Fair Labor Standards Act (FLSA) remains the Federal law governing minimum wages, overtime, child labor, and recordkeeping. The child labor provisions of the FLSA

establish a minimum age of 16 years for covered nonagricultural employment. However, they allow 14- and 15-year-olds to be employed in occupations other than in mining and manufacturing if the Secretary of Labor determines that the employment is confined to periods that will not interfere with their schooling and to conditions that will not interfere with their health and well-being. The FLSA also prohibits minors under age 18 from working in occupations that the Secretary of Labor declares to be particularly hazardous for such youths or detrimental to their health or well-being.

The nature of child labor in the United States has changed over the last 50 years. Child labor now means, almost exclusively, teenagers—teenagers who are generally full-time students and part-time employees. But even with the increased emphasis on education and the improved economic conditions that this century has brought, the Nation's young people are still working today, and in large numbers.

The unique history of the United States, which both fostered and overcame some of the most oppressive types of child labor, still helps to create an environment conducive to youth employment that differs considerably from that of other industrialized nations. The most often cited difference is that the proportion of teens who work is relatively high in the United States compared with other developed countries.<sup>4</sup> Americans have always tenaciously believed in the value of work, for themselves and for their children. They believe that positive work experiences during the teenage years can benefit a person's development, maturity, and sense of responsibility. Conversely, idleness is associated with delinquency.

Another difference lies in the reasons why teenagers, who have not yet completed their formal educations, seek employment. For the most part, the jobs held by U.S. teens are not conceived as stepping-stones on a life career path. Other developed countries, such as Germany, Denmark, and Switzerland, have long included adolescent

employment as part of formal apprenticeship, School-to-Work, and Work Experience and Career Exploration Programs that are closely linked to the educational process and lead to specific adult jobs. Only in the last two decades has there been a concerted effort in the United States to link adolescent work experiences with school curricula to facilitate the transition from student to worker. The little research that has been done on why U.S. teens seek paying jobs suggests that the primary reason is money, not the value of the work experience.<sup>5</sup> E. Greenberger and G. Steinberg reported in 1986 that 74 percent of employed high school students in their sample said money was the primary reason for having a job.<sup>6</sup> Most working teens spend their earnings as discretionary income, rather than helping to meet family expenses. And the size and impact of that discretionary income is enormous.

The Nation's roots also affect the types of jobs legally available to young workers. The United States began as a nation of farmers, and agriculture continues to enjoy a special place in the perceptions of its citizens. Growing up on the family farm, learning the value of hard work in the fresh air, is still viewed by many as the perfect childhood. Federal and State child labor laws governing agricultural employment reflect this belief—they are much less restrictive than those applied to other industries.<sup>7</sup> Children working on farms owned or operated by a parent are completely exempt from Federal agricultural child labor provisions, and other teenage farmworkers are permitted to perform hazardous jobs at younger ages than are their counterparts who work in other industries.

### International child labor

Although this report concentrates on child labor in the United States, it is both important and appropriate to mention the circumstances of child workers in other countries. The dichotomy that exists between industrialized countries and developing coun-

tries is especially apparent when one looks at child labor. As previously noted, child labor in industrialized countries almost exclusively means adolescents who are full-time students with part-time jobs. But child labor often wears a much different face in developing countries.

The International Labor Organization (ILO) estimates that more than 250 million children are working around the world, often in occupations that are "detrimental to their physical, mental and emotional well-being."<sup>8</sup> An estimated 120 million children work full time, with no opportunities for education and the accompanying promise of a better future. These youths have been found working as miners; as laborers in rug, textile, glass, and brick manufacturing establishments; as domestic servants; and as prostitutes.

But there is cause for hope. Over the past few years, child labor has grabbed the attention of the international community, provoking worldwide discussion of this issue. Numerous international organizations, governments in both developing and industrialized countries, and advocacy groups are creating and implementing strategies and initiatives to address child labor.

The United States has taken the lead on a number of fronts. The Department of Labor's Bureau of International Labor Affairs has studied and reported on international child labor in its *By the Sweat and Toil of Children* series. The United States also is supporting direct action to improve the lives of working children around the world by committing \$37.1 million to fund activities that address international child labor, including nearly \$30 million in Fiscal Year 1999 to support the ILO's International Program on the Elimination of Child Labor (ILO-IPEC). IPEC initiatives strive to take children out of the workplace and place them in the classroom without jeopardizing family units and incomes.

### Federal child labor laws

As mentioned earlier, the Fair Labor

Standards Act of 1938 (FLSA) is the framework for Federal child labor provisions. The Wage and Hour Division of the U.S. Department of Labor's Employment Standards Administration is charged with the enforcement of the FLSA.

To be subject to the provisions of the FLSA, an employee must be employed by a covered enterprise<sup>9</sup> or individually engaged in interstate commerce or in the production of goods for interstate commerce, or in any closely related process or occupation directly essential to such production. Not all employment of young workers is covered under the FLSA. In addition, some jobs held by youths, such as delivering newspapers and performing in motion pictures and theatrical, radio, and television productions, are specifically exempted from the child labor provisions of the FLSA.

**Nonagricultural employment.** Under the FLSA, 16 is the minimum age for nonagricultural employment, but 14- and 15-year-olds may be employed for certain periods—which do not interfere with their schooling—in jobs that the Secretary of Labor has determined will not interfere with their health and well-being. Children under 14 years of age are generally too young for formal employment unless they meet a specific exemption.<sup>10</sup> However, these youths may perform tasks where no covered employment relationship arises—such as babysitting on a part-time, irregular basis or performing minor chores around private homes. The Secretary has promulgated child labor provisions governing the employment of 14- and 15-year-olds; these are found in Subpart C of Regulations, 29 CFR Part 570 (Child Labor Reg. 3). Exhibit 2.1 displays the Federal child labor provisions governing the nonagricultural employment of 14- and 15-year-olds. There are some exceptions to these provisions for students enrolled in a State Work Experience and Career Exploration Program (WECEP) that have been authorized by the U. S. Department of Labor. The special child labor provisions governing the em-

ployment of WECEP participants are listed in exhibit 2.2.

Teenagers 16 years of age and older may work at any time of the day and for unlimited hours. The FLSA prohibits workers under 18 years of age from performing those nonagricultural occupations that the Secretary of Labor declares to be particularly hazardous for the employment of children under 18 years of age or detrimental to their health or well-being. There are currently 17 Hazardous Occupations Orders (HOs), which are contained in Subpart E of Regulations, 29 CFR Part 570 (Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age or Detrimental to Their Health or Well-Being). Exhibit 2.3 displays the industries and occupations covered by the current Hazardous Occupations Orders. Certain of the HOs contain limited exemptions that permit bona-fide apprentices and student learners to perform otherwise prohibited work as part of their on-the-job training.

**Agricultural employment.** Unlike the rules governing nonagricultural employment, most of the child labor provisions applicable to agricultural employment are statutory. Under Federal law:

- A child working in agriculture on a farm owned or operated by his or her parent is exempted from Federal agricultural child labor provisions.
- Young farmworkers who are not the children of the farmer employing them are subject to Federal child labor provisions that differ by age:
  - Youths are no longer subject to the Federal agricultural child labor provisions when they reach 16 years of age.
  - Children aged 14 or 15 may perform any nonhazardous farm job outside of school hours, and, with proper training and certifi-

cation, they also may perform certain hazardous duties.

- Children aged 12 or 13 may be employed outside of school hours in nonhazardous jobs, but only on the farm on which their parent works or with the written consent of a parent.
- Children under 12 may be employed outside of school hours in nonhazardous jobs on farms *not* subject to the Fair Labor Standards Act (FLSA) minimum wage<sup>11</sup> if their parent also is employed on that farm, or with parental consent.
- Children aged 10 or 11 may be employed to hand-harvest short-season crops outside of school hours under special waivers granted by the U.S. Department of Labor.<sup>12</sup>

As directed by the FLSA, the Secretary of Labor has found and declared certain agricultural tasks to be particularly hazardous for employees below the age of 16. The Agriculture Hazardous Occupations Orders (HO/As), listed in exhibit 2.4, are contained in section 570.71 of Regulations, 29 CFR Part 570. As noted, farmworkers as young as 14 years of age may perform some tasks otherwise prohibited by the Agricultural Hazardous Occupations Orders after completing, and in some cases participating in, certain vocational training programs. The FLSA prohibits hired farmworkers under 16 years of age from working during school hours, but does not give the Secretary of Labor authority to prohibit their employment during other times of the day or limit the number of daily or weekly hours they may be employed.

### Other child labor standards

There are other labor standards laws, both State and Federal, that regulate the hours of work, types of jobs, and working conditions of children and adolescents.

## Exhibit 2.1.

### Federal Limits on the Hours and the Type of Work That 14- and 15-Year-Olds May Perform<sup>1</sup>

Youths 14 and 15 years of age may be employed outside school hours in a variety of nonmanufacturing and nonhazardous jobs under specified conditions. There are limits on both the duties these youths may perform and the hours they may work.

#### Occupation restrictions

Banned from performing most work but may be employed in retail, food service, and gasoline service establishments.

Banned from working in manufacturing, processing, or mining, or in any workroom or workplace in which goods are manufactured, processed, or mined.

Banned from performing any work the Secretary has declared to be hazardous for young workers by issuing Hazardous Occupations Orders (HOs).

Banned from occupations involving transportation, construction, warehousing, or communication, or occupations involving the use of power-driven machinery.

May perform some cooking at snack bars and in fast-food places in full sight of customers, but banned from performing baking.

#### Hours restrictions

The Regulations limit the hours and times of day during which 14- and 15-year-olds may work to:

- outside school hours;
- not more than 40 hours in any one week when school is not in session;
- not more than 18 hours in any one week when school is in session;
- not more than 8 hours in any day when school is not in session;
- not more than 3 hours in any day when school is in session; and
- between 7 a.m. and 7 p.m., except during the summer (June 1 through Labor Day), when the evening work limit is 9 p.m.

<sup>1</sup> Limited exceptions to the hours and occupations standards are permissible for students participating in bona fide Work Experience and Career Exploration Programs. See exhibit 2.2.

## Exhibit 2.2.

### **Work Experience and Career Exploration Programs (WECEP) Federal Limits on the Hours and the Type of Work That Participants May Perform**

The WECEP is designed to provide a carefully planned work experience and career exploration program for 14- and 15-year-old youths, including students enrolled in School-to-Work curricula, who can benefit from a career-oriented educational program. The WECEP is especially conducive to helping youths to become reoriented and motivated toward education, and to prepare for the world of work.

#### **Occupation restrictions**

WECEP participants are subject to the same child labor rules governing the employment of all 14- and 15-year-olds, but the WECEP regulations do allow participants to be employed in certain occupations otherwise prohibited for minors in this age group, after receiving a variance from the Administrator of the U.S. Department of Labor's Wage and Hour Division.

#### **Hours restrictions**

The WECEP Regulations permit participants to work more hours and at different times than other 14- and 15-year olds. WECEP participants may work:

- during school hours;
- not more than 40 hours in any one week when school is not in session;
- not more than 23 hours in any one week when school is in session;
- not more than 8 hours in any day when school is not in session;
- not more than 3 hours in any day when school is in session; and
- between 7 a.m. and 7 p.m., except during the summer (June 1 through Labor Day), when the evening hour is 9 p.m.

The rules governing WECEPs are found in §570.35a of Regulations, 29 CFR Part 570. Approval to operate a WECEP is granted to State departments of education by the Administrator of the Wage and Hour Division for a 2-year period. In order to participate, youths must be 14 or 15 years of age and be identified by their teachers, counselors, or other school officials as being able to benefit from the program.

### Exhibit 2.3.

#### **The Hazardous Occupations Orders Federal Ban on the Work Activities of 16- and 17-Year-Olds in Nonagricultural Employment**

The Fair Labor Standards Act establishes an 18-year minimum age for those occupations that the Secretary of Labor finds and declares to be particularly hazardous for 16- and 17-year-old minors, or detrimental to their health or well-being. The rules for the Hazardous Occupations Orders (HOs) are provided for in Subpart E of Regulations, 29 CFR Part 570 (§§570.50 through 570.68). There are currently 17 HOs, which include a partial or total ban on the following:<sup>1</sup>

Working with explosives and radioactive materials;

Operating motor vehicles or working as outside helpers on motor vehicles (except in very limited circumstances);

Mining activities, including coal mining; metal mining; and other mining, including sand and gravel operations;

Operating most power-driven woodworking, and certain metalworking, machines;

Operating power-driven bakery, meat processing, and paper products machinery, including meat slicers and most paper balers and compactors;

Operating various types of power-driven saws and guillotine shears;

Operating most power-driven hoisting apparatus, such as nonautomatic elevators, forklifts, and cranes;

Most jobs in slaughtering and meatpacking establishments;

Most jobs in excavation, logging, saw-milling, roofing, wrecking, demolition, and ship-breaking; and

Most jobs in the manufacturing of bricks, tiles, and similar products.

<sup>1</sup> §570.50 provides a limited exemption from certain of the HOs for bona fide apprentices and student-learners who are at least 16 years of age.

---

## Exhibit 2.4.

### The Hazardous Occupations Orders in Agriculture Federal Ban on Work Activities of Minors Under Age 16 in Agricultural Work

The Fair Labor Standards Act establishes a 16-year minimum age for those occupations in agriculture that the Secretary of Labor finds and declares to be particularly hazardous. The Hazardous Occupations Orders in Agriculture (HO/A) are contained in §570.71 of Subpart E-1 of Regulations, 29 CFR Part 570, and ban the following work activities in agricultural employment:<sup>1</sup>

Operating a tractor of over 20 horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor;

Operating or assisting to operate any of the following machines:<sup>1</sup> corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, mobile pea viner, feed grinder, crop dryer, forage blower, auger conveyor, the unloading mechanism of a gravity-type self-unloading wagon or trailer, trencher, forklift, potato combine, power post-hole digger, power post driver, nonwalking type rotary tiller, and power-driven circular, band, or chain saws;

Working on a farm in a yard, pen, or stall occupied by a bull, boar, or stud horse maintained for breeding purposes; or a sow with suckling pigs; or a cow with newborn calf;

Felling, buckling, skidding, loading, or unloading timber with a butt diameter of more than 6 inches;

Working from a ladder or scaffold at a height of over 20 feet;

Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper;

Working inside a fruit, forage, or grain storage designed to retain an oxygen-deficient or toxic atmosphere; in an upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position; in a manure pit; or in a horizontal silo while operating a tractor for packing purposes;

Handling (including performing certain related duties) or applying pesticides and other agricultural chemicals classified as Category I or II of toxicity by the Federal Insecticide, Fungicide, and Rodenticide Act;

Handling or using a blasting agent, including dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or

Transporting, transferring, or applying anhydrous ammonia.

<sup>1</sup> §570.52 permits certain vocational agricultural student-learners and those who have successfully completed approved training courses to perform certain tasks otherwise prohibited by the Agricultural Hazardous Occupations Orders when they are 14 years of age.



*State child labor laws.* The adoption of compulsory school attendance laws by the States has done much to curb oppressive child labor in America. Every State also has a child labor law, usually enforced by a State labor department, that strives to preserve the health, education, and well-being of young workers. These laws, which often share extensive overlap in coverage with the FLSA, vary in the level of protection afforded young workers for both agricultural and nonagricultural employment. Within any State law, there may be some provisions that are more or less restrictive than provisions of the Federal law. If both the State and Federal law apply to the same employment situation, the more stringent standard of the two must be obeyed. The level of enforcement of State laws also varies widely.

While the laws differ from State to State in the standards prescribed, in the range of occupations covered, and in the age brackets to which they apply, Federal law is generally more stringent than the State laws with respect to prohibiting work in occupations involving physical hazards and assessing penalties for violations. This is true for both agricultural and nonagricultural employment. Federal law also is the same or more restrictive with respect to the minimum age for general employment. On the other hand, many State laws mandate standards that are absent from Federal law, such as maximum hours and night work restrictions for 16- and 17-year-olds, prohibitions on employment in occupations or in places detrimental to morals (hotel and liquor service), and mandatory work permits or age certificates.

Unlike the FLSA, more than half of the States regulate the daily or weekly number of hours that 16- and 17-year-olds may be employed, or restrict the evening hours during which 16- and 17-year-olds may work, or both. State hours and time-of-work regulations on the whole, however, tend to be less restrictive for minors under the age of 16 than are the Federal regulations. Many States do not

further limit the number of hours that youths under 16 years of age can work during a school day or week while school is in session. Of those that do limit work during the school year, many permit longer hours of work than allowed by the FLSA. Still other States allow teenagers to work later in the evening than permitted by Federal rules.

Seventeen States (primarily in the South) either exempt agricultural employment entirely or do not identify it as a covered industry under the State's child labor laws.<sup>13</sup> Eight States place restrictions on agricultural employment similar to Federal standards.<sup>14</sup> Eight States have restricted daily or weekly hours of work, or both, for minors under the age of 18 employed in agriculture.<sup>15</sup> Twelve States impose a higher age standard than do the Federal provisions and prohibit 16- and 17-year-olds from working in certain hazardous occupations; some restrictions may apply to agriculture.<sup>16</sup> In some cases, States have specifically adopted standards for agriculture that are more stringent than those of the Federal government. For example, Florida prohibits youths under age of 18 from operating or assisting in the operation of tractors over 20 PTO (power take-off) horsepower, earth-moving equipment, and other related machinery. Oregon precludes anyone under 18 years of age from operating power-driven farm equipment of any kind. A more detailed discussion and comparison of State and Federal child labor provisions, for both agricultural and nonagricultural employment, can be found on the U.S. Department of Labor's Website at <http://www.dol.gov/dol/esa/public/programs/whd/state/state.htm>.

Though not conceived as labor standards legislation, State laws that establish minimum ages and other criteria for operating motor vehicles on public roads also affect youth employment and the types of jobs available to teens. These rules apply equally to on-the-job driving and to personal, non-employment situations. Automobile crashes have remained a leading cause of teen occupational and nonoccupa-

tional deaths since the 1980s.<sup>17</sup> Many States have adopted systems of "graduated licensing" as a strategy to reduce automobile crashes involving teens.<sup>18</sup> Graduated licensing is a system that phases young beginners into full driving privileges as they mature and demonstrate that they have acquired driving skills.

*Occupational Safety and Health Administration and Worker's Compensation Provisions.* The Occupational Safety and Health Act (29 U.S.C. Chapter 15, Section 651 et seq.), enacted in 1970, requires that employers provide work and places of employment that comply with specific safety and health standards and that are free from other recognized hazards that may cause serious physical harm. Working children and adolescents are entitled to the same protections as adults but, in most cases, receive no additional protection.<sup>19</sup> The Occupational Safety and Health Act, administered by the Occupational Safety and Health Administration (OSHA), requires that State regulations be as protective as the Federal rules. Some States have adopted rules that are more protective than the Federal rules. Most Federal and State occupational safety and health rules do not apply to agricultural employment.

State workers' compensation programs also affect the health and safety of working youths. Many programs provide, or have the potential to provide, incentives for employers to improve working conditions for all employees. State workers' compensation agencies also provide a range of services to help employers identify and correct real or potential workplace hazards.

### **Current strategy for ensuring compliance**

Protecting the health and safety of young workers, while helping them enjoy positive work experiences, remains a high priority of the U.S. Department of Labor. Consistent with

her goal of assuring every U.S. worker—and especially young workers—a safe, healthful, and fair workplace, Secretary of Labor Alexis Herman launched the Department's *Safe Work/Safe Kids* initiative last June. *Safe Work/Safe Kids* is designed to focus public attention on the issues of child labor and both educate and mobilize all those who can positively affect youth employment.

In order to help teens have safe and constructive early work experiences, *Safe Work/Safe Kids* employs a comprehensive strategy of enhanced, targeted *enforcement*; increased compliance *education and outreach*; construction of strong *partnerships*; and creation of heightened *public awareness*. These four components, employed simultaneously, greatly magnify the positive compliance effects that would be obtained if any were employed independent of the others. Effective, credible, and targeted enforcement, which serves to detect, remedy, penalize, and deter violations, is a key component of the compliance strategy. Industries targeted for enforcement initiatives in 1999 included agriculture, through the "*Salad Bowl*" initiative; retail trade, especially restaurants; garment manufacturing; and health care. The use of the "hot goods" provisions of the FLSA,<sup>20</sup> injunctions, and consent judgements are being emphasized for cases in which child labor violations are found. Civil money penalties—"fines" computed in proportion to the severity of the violations—are assessed to affect the future compliance behavior of employers. The child-labor civil money penalty system now provides for a fine of \$10,000 for each violation contributing to the death or serious injury of a minor.<sup>21</sup> The FLSA also contains criminal sanctions of up to 6 months imprisonment after a second conviction for violations of child labor regulations.

The second component of the compliance strategy is to educate all those who affect teen employment—employers, parents, teachers, other government agencies, and the working teens

themselves—about the child labor provisions and the importance of compliance. In June of 2000, the Wage and Hour Division of the U.S. Department of Labor will launch its fifth annual *Work Safe This Summer* education campaign, timed to reach both young workers and employers at the end of the school year when the number of teen workers swells. Concurrently, the Department's agricultural initiative, *Fair Harvest/Safe Harvest* will continue to provide hired farmworkers with important information about their rights in the workplace. This bilingual campaign also includes a colorful children's book designed to teach safety on the farm in an appealing and easily understood manner.

The Department continues to make available over the Internet important information about the child labor provisions. The Wage and Hour Division's *Youth Home Page* is designed to teach elementary school children about child labor and workplace safety. Extensive compliance information, including all the Federal child labor regulations, also is available on the Internet. In December 1998, the Department's *elaws* system—an interactive electronic information source—was expanded to include the child labor laws. Modules designed for employers, parents, teens, and other interested parties provide important information in a quick and user-friendly manner.

The Wage and Hour Division seeks to create partnerships with all parties that can contribute to increasing and maintaining compliance with the child labor provisions to help keep working children safe and in school. The Division's partners include employers, employer associations, child labor advocacy groups, community-based groups, and other government bodies. Some partnership agreements are the result of enforcement efforts or litigation, but most spring from the voluntary efforts of employers and other organizations coming together with the common goal of protecting young workers.

The National Institute for Occupational Safety and Health (NIOSH) and the National Consumers League have

been important partners in the *Work Safe This Summer* and *Fair Harvest/Safe Harvest* campaigns since their inception. In addition, the Department of Labor is working closely with NIOSH to develop more effective interventions that better protect young workers and help prevent teen occupational injuries and deaths. The Department also is partnering with State Departments of Labor, including them in the strategic planning process, to promote coordinated enforcement and educational outreach activities. Enhanced coordination and cooperation between Federal and State agencies can only strengthen the effectiveness of efforts to increase compliance.

Further, the Wage and Hour Division also is seeking to create "corporate compliance partnerships" with those employers that agree to take extraordinary, proactive steps toward ensuring the safety and well-being of their young workers. Important national partnerships have already been forged with such enterprises as Kmart; H. J. Heinz; Toys "R" Us; Sears, Roebuck and Company; Newman's Own; and Smith Food and Drug Centers, Inc.

By heightening public awareness of youth employment issues and the Department's commitment to ensuring that safe and positive work experiences are available for teens, the Wage and Hour Division fosters an environment that encourages compliance with the child labor laws. Public awareness also can stimulate interest and, it is hoped, research in such areas as injury prevention, the effects of teen employment on academic performance, and identification of hazardous occupations.

### Child labor enforcement trends

Recorded child labor violations were on a steep increase in the late 1980s. In response to this trend, the Department of Labor and several States took aggressive action, and there appears to have been an increase in child labor compliance over the last decade. The U.S. Department of Labor believes

that its comprehensive compliance strategy is making a difference.

The Wage and Hour Division's enforcement experience suggests that fewer young people who work are working in violation of the child labor provisions. For example, despite the expenditure of a comparable proportion of enforcement resources on child labor compliance, the total number of investigations in which the Division found child labor violations decreased from a high of 5,889 in 1990 to 1,273 in 1998. The number of investigations in agriculture that found child labor violations likewise fell from 138 in 1990 to 33 in 1998. The number of young workers whose employment was in violation of the Federal child labor provisions, which reached nearly 40,000 in 1990, dropped to 5,500 in 1998. Even more indicative of increased compliance is the fact that the number of teens found illegally employed *per case* dropped from 6.8 in 1990 to 4.5 in 1998.

This trend in Federal enforcement data is supported by independent research. Douglas Kruse, in a study conducted for the *Associated Press*, derived estimates suggesting that, despite a significant increase in the *population* of working age youths—the “baby boom echo”—the proportion of youths who are illegally employed has dropped nearly 40 percent, from 1.3 percent in the 1970s to about 0.8 percent in the 1990s.<sup>22</sup>

It appears that the Nation's teens also are “working safer” than they did earlier in this decade. Data compiled by the National Institute for Occupational Safety and Health indicate that the risk of injury to working teens, as measured by cases treated in emergency rooms, decreased more than 10 percent between 1992 and 1996.<sup>23</sup> As noted in chapter 6 of this report, there was a 49-percent cumulative decrease in the number of injuries resulting in lost workdays to workers 17 years of age and younger from 1992 to 1997.

Such trends are encouraging, but we cannot become complacent. First and foremost, child labor remains a safety issue—and it is still the case that too many children are injured and killed on the job. NIOSH, using data from the National Electronic Injury Surveillance System, estimates that between 210,000 and 315,000 adolescents are injured on the job annually.<sup>24</sup>

As discussed in chapter 6, data from the BLS Survey of Occupational Injuries and Illnesses show an estimated 11,248 cases of injuries resulting in lost workdays to workers 17 and under in 1997. On average, according to the Census of Fatal Occupational Injuries, also discussed in chapter 6, 67 youths died on the job annually during the years 1992-97.<sup>25</sup>

Child labor is also an education issue. We must ensure that our youths, this country's most precious asset, find positive and safe work experiences that complement, rather than compete with, the educational process.

This chapter was contributed by Art Kerschmer, Jr., leader, Child Labor and Special Employment Team, Employment Standards Administration.

<sup>1</sup> Wage and Hour and Public Contracts Division, *Child Labor Laws Historical Development* (Washington, U.S. Department of Labor, 1968), p. 2.

<sup>2</sup> Bureau of Labor Statistics, *Report on Conditions of Women and Child Wage-Earners in the United States* (61G, 2S, Senate Doc. 645, 1909).

<sup>3</sup> For a more detailed history of child labor in America, see Wage and Hour and Public Contracts Division, *Child Labor Laws*.

<sup>4</sup> *Protecting Youth at Work* (Washington, Institute of Medicine/National Research Council, 1998), p. 27.

<sup>5</sup> *Protecting Youth at Work*, p. 25.

<sup>6</sup> E. Greenberger and G. Steinberg, *When Teenagers Work: The Psychological and Social Costs of Adolescent Employment* (New York, Basic Books, 1986).

<sup>7</sup> Janice Windau, E. Sygnatur, and G. Toscano, “Profile of Work Injuries Incurred by Young Workers,” *Monthly Labor Review*, June 1999, pp. 3-10.

<sup>8</sup> *New ILO Child Labour Convention Receives First Ratification*, ILO/99/30 (Geneva, International Labor Organization, September 1999).

<sup>9</sup> A covered enterprise consists of the related activities performed through unified operation or common control by any person or persons for a common business purpose and 1) whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated); or 2) that is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill who reside on the premises; a school for mentally or physically disabled or gifted children; a preschool, an elementary or secondary school, or an institution of higher education (whether operated for profit or not for profit); or 3) that is an activity of a public agency.

<sup>10</sup> The following types of youth employment are exempt from the child labor provisions of the FLSA: 1) children under 16 who are employed by their parents in occupations other than mining, manufacturing, or those declared hazardous by the Secretary of Labor; 2) children

employed as actors or performers in motion pictures or theatrical, radio, or television productions; 3) children engaged in the delivery of newspapers to the consumer; 4) homeworkers engaged in the making of wreaths composed of natural holly, pine, cedar, or other evergreens.

<sup>11</sup> Farmworkers who are employed by agricultural employers who did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural labor are exempt from the FLSA minimum wage requirements. This roughly equates to about seven employees in any quarter.

<sup>12</sup> A court injunction currently blocks the Department from issuing these waivers because employers are unable to provide absolute proof that the health or well-being of young workers would be at zero risk from exposure to pesticides or other chemicals.

<sup>13</sup> Agricultural employment is exempted from or is not listed among the covered sectors in the child labor laws of Alabama, Delaware (nonhazardous employment), Georgia, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Montana, Nebraska (covers only work in beet fields), North Carolina, Oklahoma, Rhode Is-

land, Tennessee, Texas, West Virginia, and Wyoming.

<sup>14</sup> New Jersey, New York, Ohio, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

<sup>15</sup> Arkansas, California, Colorado, Florida, Michigan, New Hampshire, Pennsylvania, and Washington.

<sup>16</sup> Alaska, Colorado, Connecticut, Florida, Iowa, Michigan, Minnesota, New Jersey, Oregon, Utah, Virginia, and Washington.

<sup>17</sup> D. Castillo, D. Landen, and L. Layne, "Occupational Injury Deaths of 16- and 17-Year-Olds in the United States," *American Journal of Public Health*, April 1994.

<sup>18</sup> In a press release dated January 20, 1999, the Insurance Institute for Highway Safety reported that 24 States have enacted some form of graduated licensing since 1994.

<sup>19</sup> Only one standard—that dealing with exposure to ionizing radiation—establishes a lower permissible exposure level for workers under 18 years of age than for adults.

<sup>20</sup> The FLSA bars the shipment or deliv-

ery for shipment in commerce of "hot goods" produced in an establishment in or about which oppressive child labor is being employed or was employed in the past 30 days.

<sup>21</sup> The Department of Labor has proposed, in a Notice of Proposed Rulemaking published in the *Federal Register* on December 12, 1998, to increase the maximum child labor civil money penalty to \$11,000 (63 FR71405). This proposal was made to meet the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990. A final rule has yet to be promulgated.

<sup>22</sup> D. Kruse, *Illegal Child Labor in the United States* (New Brunswick, NJ, School of Management and Labor Relations, Rutgers University and National Bureau of Economic Research, November 1997). However, it should also be noted that, over the period from the late 1970s to the late 1990s, the percentage of 15- to 17-year-olds who worked declined from 30 to 25 in school months and from 43 to 34 in summer months.

See chapter 4, table 4.1 in this report.

<sup>23</sup> NIOSH reported rates for work-related injuries treated in emergency departments for 16- to 17-year-old males and females in 1996 to be 6.0 and 3.9 injuries per 100 full-time equivalent workers, respectively. See D. Castillo, L. Davis, and D. Wegman, "Young Workers," *Occupational Medicine: State of the Art Reviews*, July-September 1999. NIOSH reported work-related injuries treated in emergency departments for 16- to 17-year-old males and females in 1992 to be 7.0 and 4.4 injuries per 100 full-time equivalent workers, respectively. See L. Layne, D. Castillo, N. Stout, and P. Cutlip, "Adolescent Occupational Injuries Requiring Hospital Emergency Department Treatment: A Nationally Representative Sample," *American Journal of Public Health*, vol. 84, 1994, pp. 657-60.

<sup>24</sup> Castillo and others, "Young Workers."

<sup>25</sup> Michael H. Cimmi, "Fatal Injuries and Young Workers," *Compensation and Working Conditions*, Summer 1999, pp. 27-29.