

BUREAU OF LABOR AND INDUSTRIES
Wage and Hour Division

OREGON ADMINISTRATIVE RULES
Chapter 839, Division 021

2008 Edition
Rules Regulating the Employment of Minors in Oregon

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Note: These rules reflect all changes, adoptions and amendments in effect January 1, 2008, and replace all rules printed in Chapter 839, Division 021 prior to this date.

Note: These rules do not include all the rules regulating the employment of minors, but only those rules pertaining specifically to the employment of minors in agriculture. Complete child labor rules may be accessed from BOLI's website at www.oregon.gov/boli or obtained by contacting any BOLI office.

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Employment of Minors in Agriculture

839-021-0276

Employment Certificates

(1) The provisions addressing Employment Certificates, OAR 839-021-0220 to 839-021-0221, do not apply to the employment of minors in agriculture except as follows:

(a) Minors employed to operate or assist in the operation of power-driven farm machinery;

(b) Minors employed to ride in or on power-driven farm machinery; and

(c) Minors employed to ride in or on equipment, trailers, or similar conveyances connected to power-driven farm machinery for the purpose of transporting, sorting, delivering, or otherwise processing farm products.

(d) Employment Certificates are not required under (a), (b) or (c) if a minor is employed by their parent or person standing in the place of their parent as provided by OAR 839-021-0297.

(2) The Employment Certificate application must be submitted to the Child Labor Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 N.E. Oregon Street #35, Portland, OR 97232.

(3) Employers employing minors to operate power-driven farm machinery, to ride in or on power-driven farm machinery or to ride in or on equipment, trailers, or similar conveyances which are connected to power-driven farm machinery must not permit the minor to operate power-driven farm machinery, assist in the operation of the machinery, to ride in or on the machinery or to ride in or on equipment, trailers or similar conveyances which are connected to power-driven farm machinery, until the

employer has complied with OAR 839-021-0280 or 839-021-0282.

Stat. Auth.: ORS 653.307(1), ORS 653.305 & ORS 653.525

Stats. Implemented: ORS 653.307(1) & ORS 653.365
Hist.: BL 5-1987, f. & ef. 2-20-87; BL 6-1988, f. & cert. ef. 4-12-88; BL 11-1991, f. & cert. ef. 10-31-91; BL 4-1995, f. & cert. ef. 11-3-95; BLI 4-1998, f. & cert. ef. 3-5-98; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02

Power-Driven Farm Machinery

839-021-0280

Operation or Assisting in the Operation of Power-Driven Farm Machinery

(1) As used in this rule, "assist(ing) in the operation of power-driven farm machinery," includes starting, stopping, adjusting, feeding or any other activity involving physical contact associated with the operation of the machinery.

(2) Minors may not be employed to operate or assist in the operation of power-driven farm machinery unless:

(a) An Employment Certificate has been issued pursuant to OAR 839-021-0220; or

(b) The minor(s) has obtained a "Certificate of Training" on tractor operation or tractor and machinery operation issued by a 4-H Extension Service Program, or an approved secondary vocational agriculture program.

(A) The employer must obtain proof that the minor has a "Certificate of Training" on the operation of tractors or tractors and machinery operation; and

(B) The employer must retain a copy of such proof for two years from the date the minor was employed.

(3) In the event that neither a 4-H Extension Service nor vocational agricultural

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safety training program for the "Certificate of Training," as required in section (2)(b) of this rule, is available within 35 miles of a minor's residence, a 16 or 17 year-old minor may be employed to operate or assist in the operation of power-driven farm machinery otherwise prohibited if all of the following conditions are met:

(a) The minor is 16 or 17 years of age and the employer has verified the minor's age;

(b) The employer has completed an Employment Certificate application, pursuant to OAR 839-021-0220; and

(c) The minor, the minor's parent or guardian, and the employer of the minor sign a statement on a form prescribed by the commission certifying to all of the following:

(A) The training is not available within 35 miles of the minor's residence;

(B) The employer has provided to the minor not less than eight hours of instruction, four hours of which must be "hands-on" training under the supervision of an adult experienced in the safe and proper operation of the specific equipment the minor is to use before the minor begins work including, but not limited to, training related to the normal working hazards in agriculture, the equipment's instrument panel, equipment controls, daily maintenance and safety checks, starting and stopping the equipment, control of the equipment on different terrain, and the safe operation of hitches, power take-off and hydraulic controls, where applicable; and

(C) The employer agrees to supervise the minor continuously and closely while the minor operates the power-driven farm machinery, or, where such supervision is not feasible, agrees to check on the safety of the minor at intervals of

no more than two hours during the operation of the equipment by the minor.

(4) The requirements for obtaining an Employment Certificate and a Certificate of Training do not apply to a minor employed by their parent(s) or person standing in the place of their parent as provided by OAR 839-021-0297.

Stat. Auth.: ORS 653.305 & ORS 653.525

Stats. Implemented: ORS 653.307 & ORS 653.365

Hist.: BL 5-1987, f. & ef. 2-20-87; BL 6-1988, f. 4-12-88, cert. ef. 1-1-89; BL 4-1990, f. & cert. ef. 3-12-90; BL 11-1991, f. & cert. ef. 10-31-91; BL 4-1995, f. & cert. ef. 11-3-95; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02

839-021-0282

Riding In or On Conveyances Connected to Power-Driven Farm Machinery

(1) A minor may not be employed to ride in or on equipment, trailers or similar conveyances which are connected to power-driven farm machinery for the purpose of transporting, sorting, delivering or otherwise processing farm products unless:

(a) An Employment Certificate has been issued pursuant to OAR 839-021-0220; or

(b) The minor(s) has obtained a "Certificate of Training" issued by a 4-H Extension Service Program, or an approved secondary vocational agriculture program as referred to in OAR 839-021-0280(2)(b).

(2) A minor 14 years of age or older who has not obtained a "Certificate of Training" as required by OAR 839-021-0280(2)(b) may be employed to ride in or on equipment, trailers or similar conveyances which are connected to power-driven farm machinery for the purpose of transporting, sorting, delivering, or otherwise processing farm products, if all of the following conditions are met:

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(a) The employer has verified the minor's age;

(b) The employer has completed an Employment Certificate application, pursuant to OAR 839-021-0220; and

(c) The employer has provided to the minor not less than two hours of safety training as required by OR-OSHA rules and these rules relating to the specific machinery which the minor will be employed to ride in or on before the minor begins work including, but not limited to, training related to the normal working hazards in agriculture, safe equipment mounting and dismounting, unsafe practices, and safety features of the machinery; and

(d) The employer must closely supervise the minor while the minor rides in or on conveyances pulled by power-driven machinery. The employer must check on the safety of the minors at intervals of not less than two hours.

(3) The requirements for obtaining an Employment Certificate and a Certificate of Training do not apply to a minor employed by their parent(s) or person standing in the place of their parent as provided by OAR 839-021-0297.

Stat. Auth.: ORS 653
Stats. Implemented: ORS 653.307 & ORS 653.365
Hist.: BL 5-1987, f. & ef. 2-20-87; BL 6-1988, f. 4-12-88, cert. ef. 1-1-89; BL 4-1990, f. & cert. ef. 3-12-90; BL 4-1995, f. & cert. ef. 11-3-95; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02

**Applicability of Other Rules to
Employment of Minors in Agriculture**

839-021-0285

Compliance with Other Rules

Employers employing minors in agriculture shall comply, unless specifically

excluded by ORS 653.305 to 653.370 or these rules, with all rules pertaining to the employment of minors, including, but not limited to:

(1) Rules pertaining to rest periods (OAR 839-021-0072);

(2) Rules pertaining to meal periods (OAR 839-021-0072);

(3) Rules pertaining to working conditions and weight lifting (OAR 839-021-0087 and 839-021-0092);

(4) Rules pertaining to hazardous occupations for minors under 16 years of age (OAR 839-021-0102);

(5) Rules pertaining to hazardous occupations for minors between 16 and 18 years of age (OAR 839-021-0104);

(6) Notwithstanding the provisions of subsection (5) of this rule and the provisions of **Title 29 CFR, Part 570.52**, minors 16 and 17 years of age employed in agriculture as defined in OAR 839-021-0006(1) may be employed as motor-vehicle drivers and outside helpers.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 653.252
Stats. Implemented: ORS 653.305
Hist.: BL 5-1987, f. & ef. 2-20-87; BL 1-1989, f. & cert. ef. 2-6-89; BL 6-1991(Temp), f. & cert. ef. 6-21-91; BL 11-1991, f. & cert. ef. 10-31-91; BLI 3-1999, f. & cert. ef. 6-16-99

**Employment of Minors in Agricultural
Warehouses**

839-021-0287

Agricultural Warehouses

(1) Minors under 16 years of age may not be employed in any room or place in an agricultural warehouse where power-driven

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machinery is used to process agricultural commodities.

(2) Minors 16 and 17 years of age may be employed to operate or assist in the operation of power-driven machinery in an agricultural warehouse provided:

(a) The employment is in connection with the processing of the agricultural commodity produced by the farmer for whom the minor is employed; and

(b) The employment is performed on the farm and for the farmer for whom the minor is employed; and

(c) The minor has been trained in the safe operation of the machinery as required by this rule.

(3) As used in section (2) of this rule:

(a) "Operate(ing)" power-driven machinery includes driving a motorized vehicle;

(b) "Assisting in the operation of power-driven machinery" includes starting, stopping, adjusting, feeding or any other activity involving physical contact associated with the operation of the machinery.

(4) Prior to the employment of minors 16 and 17 years of age to operate or assist in the operation of power-driven machinery in an agricultural warehouse, the employer must obtain proof that the minor has been trained in safe handling and operation of the machinery as required by OR-OSHA and these rules. The proof of training may be a document issued by a public or private entity other than the farmer attesting to the training. Employers must retain a copy of such proof for two years from the date the minor was employed.

(5) In the event that the safety training required by this rule is not available within 35 miles of the minor's residence, a 16 or 17 year

old minor may be employed to operate or assist in the operation of power-driven machinery in an agricultural warehouse provided that the following conditions are continuously met:

(a) The employment is in connection with the processing of the agricultural commodity produced by the farmer for whom the minor is employed;

(b) The employment is performed on the farm and for the farmer for whom the minor is employed; and

(c) The employer provides to the minor before the minor begins work not less than six hours of instruction, two hours of which must be "hands on" training under the supervision of an adult experienced in the safe operation of the specific machinery the minor is to use. The training should include, but not be limited to, training related to the normal working hazards in the warehouse, the machinery's instrument panel, the machinery's controls, daily maintenance and safety checks, starting and stopping the machinery, control of the machinery, and the safe operation of hitches, power take-off and hydraulic controls, where applicable.

(6) The employer must provide close supervision of minors operating or assisting in the operation of the power-driven machinery.

(7) As used in this rule, an "agricultural warehouse" includes a building in which the processing of agricultural commodities is performed. Processing of agricultural commodities includes cleaning, packaging, storing and shipping of the commodities. For purposes of this paragraph, covered areas attached to the warehouse are considered to be part of the warehouse.

(8) As used in this rule, "employment in an agricultural warehouse" means employment

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confined to the inside of the building where the work is performed. A loading dock attached to the building is considered to be part of the building and employment on the dock is employment in the warehouse. However, employment close to or about the building or in or on structures not attached to the warehouse is not considered to be employment in the warehouse.

Stat. Auth.: ORS 653.305 & ORS 653.525
Stats. Implemented: ORS 653.305 & ORS 653.360
Hist.: BL 4-1995, f. & cert. ef. 11-3-95; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02

**Hours Worked by Minors Employed in
Agriculture**

839-021-0290

**Hours of Work of Minors Under 16 Years of
Age in Agriculture**

(1) Minors under 16 years of age may not be employed to work in agriculture while the school they attend is in session. As used in this rule, school is in session during the hours set by the school district in which the minor resides while employed in agriculture in accordance with the official school calendar of the district. A school week is any week in which school is in session for at least three days.

(2) The hours of work by minors in agriculture under 16 years of age may not exceed:

- (a) Three hours a day on school days;
- (b) Ten hours a day on non-school days;
- (c) 25 hours a week during school weeks;
- (d) From the last day of the most recently completed school year of the school district in which the minor resides while employed in agriculture to the first day of the school year

immediately following the most recently completed school year of the district in which the minor resides while employed in agriculture:

- (A) Ten hours per day; and
- (B) 60 hours per week.
- (e) Six days in any week at any time.

(3) Notwithstanding section (2) of this rule, when a minor under 16 years of age is employed in agriculture to operate or assist in the operation of power-driven farm machinery or when such minor is employed to ride in or on power-driven farm machinery as provided in OAR 839-021-0276 to 839-021-0285, the maximum number of hours the minor may work may not exceed:

- (a) Three hours a day on school days;
- (b) Eight hours a day on non-school days;
- (c) Eighteen hours a week during school

weeks;

(d) From the last day of the most recently completed school year of the school district in which the minor resides while employed in agriculture to the first day of the school year immediately following the most recently completed school year of the district in which the minor resides while employed in agriculture:

- (A) Ten hours per day, 60 hours a week during the harvest season;
- (B) Ten hours per day, 44 hours per week outside the harvest season;

(C) A greater number of weekly hours may be permitted when worked outside the harvest season pursuant to a Special Emergency Overtime Permit issued by the commission. However, even though a permit may be issued, the maximum number of hours worked in a week may not exceed 60.

- (e) Six days in any week at any time.

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(4) Notwithstanding sections (2) and (3) of this rule, the Wage and Hour Commission may issue special permits to employers for the employment of minors under 16 years of age in agriculture for more than the maximum number of hours provided in this rule when the commission determines that such hours of work will not be detrimental to the health and safety of the children so employed.

(a) An employer desiring to employ a minor in agriculture for more than the maximum number of hours provided in this rule may apply in writing to the Administrator of the Wage and Hour Division, Bureau of Labor and Industries, 800 N.E. Oregon St., #32, Portland, OR, 97232.

(b) The administrator will investigate the employment and the facts and circumstances set out in the application. If the administrator determines that the character of the employment is suitable and that the employment will not adversely affect the physical and moral well-being of the minor(s), the administrator will issue a Special Emergency Overtime Permit to the employer, setting out the terms and conditions of the permit and the period of time for which it will be effective.

(c) At the next regularly scheduled meeting of the Wage and Hour Commission, the administrator will report the facts and circumstances of the employment to the commission, and the commission may adopt, vacate or modify the permit issued.

(5) Nothing in this rule should be construed to regulate the daily starting and quitting times on minors under 16 who are employed in agriculture.

1997(Temp), f. & cert. ef. 7-21-97; BL 10-1997, f. & cert. ef. 11-26-97; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02

839-021-0292
Hours of Work of Minors 16 and 17 Years of Age in Agriculture

(1) When a minor who is 16 or 17 years of age is employed to operate or assist in the operation of power-driven farm machinery or when such minor is employed to ride in or on power-driven farm machinery as provided in OAR 839-021-0276 to 839-021-0285, the maximum number of hours the minor may work may not exceed:

(a) 25 hours a week during school weeks;

(b) From the last day of the most recently completed school year of the district in which the minor resides while employed in agriculture to the first day of the school year immediately following the most recently completed school year of the district in which the minor resides while employed in agriculture, 60 hours per week (notwithstanding OAR 839-021-0067(1));

(2) As used in this rule, the terms "school week" and "school is in session" have the same meaning as that provided in OAR 839-021-0290(1).

(3) Notwithstanding section (1) of this rule, the Wage and Hour Commission may issue special permits to employers for the employment of minors 16 and 17 years of age in agriculture for more than the maximum number of hours provided in this rule when the commission determines that such hours of work will not be detrimental to the health and safety of the children so employed.

(a) An employer desiring to employ a minor 16 and 17 years of age in agriculture for more than the maximum number of hours provided in this rule may apply in writing to the

Stat. Auth.: ORS 653.525

Stats. Implemented: ORS 653.315

Hist.: BL 11-1991, f. & cert. ef. 10-31-91; BL 2-

Note: These rules reflect all changes, adoptions and amendments in effect January 1, 2008, and replace all rules printed in Chapter 839, Division 021 prior to this date.

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Administrator of the Wage and Hour Division,
Bureau of Labor and Industries, 800 N.E.
Oregon St., #32, Portland, OR, 97232.

(b) The administrator will investigate the employment and the facts and circumstances set out in the application. If the administrator determines that the character of the employment is suitable and that the employment will not adversely affect the physical and moral well-being of the minor(s), the administrator will issue a Special Emergency Overtime Permit to the employer, setting out the terms and conditions of the permit and the period of time for which it will be effective.

(c) At the next regularly scheduled meeting of the Wage and Hour Commission, the administrator will report the facts and circumstances of the employment to the commission, and the commission may adopt, vacate or modify the permit issued.

(4) Nothing in this rule should be construed to regulate the daily starting and quitting times of minors who are 16 or 17 years of age who are employed in agriculture.

Stat. Auth.: ORS 653.525
Stats. Implemented: ORS 653.315
Hist.: BL 11-1991, f. & cert. ef. 10-31-91; BL 2-1997(Temp), f. & cert. ef. 7-21-97; BL 10-1997, f. & cert. ef. 11-26-97; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02

839-021-0293

Hours of Work When School Is in Session on a Year Around Basis

When the schools in the school district in which the minor resides while employed in agriculture during the harvest season are in session on a year around basis and the minor is authorized by the district not to attend classes,

for purposes of these rules, school is not in session for the minor.

Stat. Auth.: ORS 653.305 & ORS 653.525
Stats. Implemented: ORS 653.305
Hist.: BL 11-1991, f. & cert. ef. 10-31-91

839-021-0294

Voc-Ed and Cooperative Education Programs

When a student under 16 years of age is enrolled in a course of study and training in a cooperative vocational agricultural training program recognized by the State Board of Education, the commissioner of the Bureau of Labor and Industries may, upon consideration of the circumstances, issue a special permit authorizing the minor to work during the hours that school is in session. The permit will contain such conditions as the commissioner deems appropriate. A report of actions taken pursuant to this rule will be made to the Wage and Hour Commission.

Stat. Auth.: ORS 653.305 & ORS 653.525
Stats. Implemented: ORS 653.315(2)(d)
Hist.: BL 11-1991, f. & cert. ef. 10-31-91; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02

Minors Employed by Parents in Agriculture

839-021-0297

Parental Exemption

(1) Notwithstanding any other rule, minors of any age may be employed by their parent or person standing in the place of their parent at any time in any occupation on a farm owned or operated by their parent or person standing in the place of their parent.

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(2) A person standing in the place of a parent includes, but is not limited to, the following persons:

(a) Grandfather, grandmother, uncle, aunt, brother or sister;

(b) An agricultural employer who employs a minor in agriculture while the minor lives and works on a farm during any school vacation period of three weeks or more.

(A) The employment arrangement must be agreed to by the agricultural employer and the parents, or other persons having custody or control of the minor; and

(B) A copy of the agreement must be filed with the Wage and Hour Commission.

Stat. Auth.: ORS 653.305 & ORS 653.525

Stats. Implemented: ORS 653.365

Hist.: BL 11-1991, f. & cert. ef. 10-31-91; BLI 9-2002, f. 3-28-02, cert. ef. 4-1-02

(3) If requested, the contested case hearing will be held in accordance with OAR 839-022-0000 to 839-022-0060.

Stat. Auth.: ORS 653

Stats. Implemented: ORS 653.520, ORS 653.535 & ORS 653.545(2)

Hist.: BL 9-1984, f. & ef. 8-7-84; BL 6-1988, f. & cert. ef. 4-12-88, Renumbered from 839-021-0380

Penalties

839-021-0490

Penalties

(1) In addition to any civil penalties which may be assessed by the Commissioner pursuant to ORS 653.370, the Commission may, at their discretion, revoke the right of an employer to hire minors in the future if it is determined by the Commission that the employer has failed to comply with the provisions of ORS 653.305 to 653.340 or with OAR 839-021-0210 to 839-021-0248.

(2) Prior to the revocation of the right to employ minors in the future an employer may request a contested case hearing pursuant to the Administrative Rules of the Commission for contested case hearings.