

MINUTES OF MEETING

Wage and Hour Commission

Thursday, October 21, 2004, 11:00 AM
Portland State Office Building
800 NE Oregon Street, Room 1004
Portland, Oregon

1. CALL TO ORDER

Commission Chair Jeff Anderson called the meeting to order at 11:00 AM.

2. ROLL CALL

Members Present:

Jeff Anderson, Chair
John Fyre

Members Absent:

Kathy Nishimoto

Staff Present:

Christie Hammond, Administrator, Wage and Hour Division (WHD)
Karen Gernhart, Administrative Specialist, Child Labor Unit, WHD

Guests Present:

Tom Chamberlain, Governor's Office
Liza McQuade, Oregon Film & Video Office
Veronica Rinard, Oregon Film & Video Office

3. FOR THE GOOD OF THE ORDER:

a. Consent Agenda

The minutes of the previous meeting of July 15, 2004, and the emergency meeting of July 28, 2004, were unanimously approved as presented.

Staff summarized the temporary actions taken by staff since the commission's last meeting, which were unanimously approved.

c. Correspondence

Memorandum dated July 29, 2004 to interested parties from Christie Hammond regarding the temporary rule adopted by the commission pertaining to the employment of minors in the entertainment industry.

Undated card to staff and the commission members from the “@radical.media crew” thanking the commission for working with the company on the “Honda project.” (@radical.media also sent a box of chocolates to BOLI with the note of appreciation.)

Letter dated September 27, 2004 to Laure Stevens of @radical.media from Christie Hammond, advising that the company violated the provisions of the prohibited occupations provisions of OAR 839-021-0102, as well as the terms of the employment permits and hours waivers issued by the Wage and Hour Commission by employing two minors 7 years of age. (The company’s request and permits issued were for minors 8 – 14 years of age.) The letter warns @radical.media that future violations may subject the company to civil penalties.

Electronic communication dated October 12, 2004 from Christie Hammond to Jerod Broadfoot and Robert Dowlut of the National Rifle Association, asking both to review and comment on an amended draft rule regulating the employment of minors in occupations in which explosives are used.

4. REPORTS

a. Child Labor Statistics

Staff reported that the Child Labor Unit issued a total of 1,690 annual Employment Certificates (“EC’s”) during the months of July, August, and September of this year; 110% the number issued during these same months last year (1,542).

b. Workers’ Compensation Injury Report

Staff reported that the June, July and August, 2004 Workers’ Compensation Division injury reports of “Claimants Under 18 Years of Age” had been reviewed since the last meeting. Although no occupational violations appeared to have occurred, several minors were employed without the employer first obtaining an employment certificate as required. Staff also reported that they followed up on those and the employers have either obtained an employment certificate and/or indicated that they will comply in the future.

c. Significant Cases

There were no significant cases reported.

d. Status Report on Draft Proposed Regulation Pertaining to the Employment of Minors in Occupations Involving Explosives

Christie Hammond reported on the status of the proposed draft regulation pertaining to the employment of minors in occupations involving explosives and presented a revised draft rule to the commission members for review. After distributing the original draft rule, she said, correspondence was received from Jerod Broadfoot and Robert Dowlut of the National Rifle Association, objecting to the language in the draft proposed rule on the basis that it conflicted with ORS 166.170 which preempts the regulation of firearms and ammunition unless “expressly authorized by the statute.”

Ms. Hammond said that she revised the draft rule to eliminate any regulation of firearms and ammunition, and restricted the rule to apply only to the use of explosive materials by minors in non-retail “explosives” areas. In addition, Ms. Hammond said that she clarified the rule so that it is clear that it does not apply to minors employed in gun clubs, trap and skeet ranges, and similar areas where “small arms ammunition” is stored and used.

The commissioners unanimously approved the amended draft rule and directed staff to file a Notice of Proposed Rulemaking with the Secretary of State.

e. Report Pertaining to Use of Special Overtime Permits For Minors Employed in Agriculture

Staff presented a summary of the reports received from employers who were issued special overtime permits to employ minors in agriculture during the 2004 harvest season. Although there were several instances in which excessive hours worked were reported, staff noted that these were very minor and isolated instances.

5. NEW BUSINESS

a. Consideration of Permanent Rule Amendment Pertaining to Prohibited Occupations in the Entertainment Industry

Staff reported that the temporary rule, adopted by the commission in July, which allows minors to be employed in prohibited occupations under certain circumstances in the entertainment industry, will expire January 24, 2005 unless the commission takes action to adopt the rule on a permanent basis.

Tom Chamberlain of the Governor's Office and Liza McQuade and Veronica Rinard of the Oregon Film & Video Office all expressed their appreciation to the commission members for their prompt action in adopting the temporary rule which enabled a California production company to employ minors in filming a Honda commercial. Ms. Rinard encouraged the commission to adopt the temporary rule on a permanent basis and said doing so would be advantageous to the state and promote economic development.

After discussion, Commissioner Fyre moved to adopt the rule on a permanent basis. Commission Chair Anderson seconded the motion, and the motion carried. Staff was directed to file notice of permanent rulemaking with the Secretary of State.

b. Special Work Hours Permit Applications (For Minors Under 16 Years of Age Employed by Parent(s))

Staff presented Special Work Hours Permit Applications submitted by Aaron D. Sells, owner of Grants Pass Skate Center, requesting authorization to employ his 13 year-old son, Kody Christopher Sells, and 10 year-old daughter, Rashaun Leann Sells, to work at the skating rink as late as 8:30 PM on weeknights.

Action: The commission members unanimously approved the special work hours permit applications on the condition that evidence of the minors' satisfactory academic performance is provided on a quarterly basis. The commission requested that staff issue the appropriate permits with these conditions.

6. OTHER

a. OR-FACE (Oregon Fatality Assessment and Control Evaluation) Fatality Investigation Report

A copy of the Fatality Investigation Report issued by the OHSU Center for Research on Occupational & Environmental Toxicology relating to the death of Christopher Kroker was provided to the commission members. The report summarized the accident involving the explosion of a cannon at Boy Scout camp Camp Meriwether, which resulted in the death of the 16 year-old, and made recommendations regarding how similar accidents could be avoided in the future.

b. Child Labor Coalition 2003 Child Labor Survey

Staff presented a copy of the results of a national survey of states conducted by the Child Labor Coalition pertaining to child labor enforcement.

7. NEXT MEETING DATE

The commission's next meeting was scheduled for Thursday, January 20, 2004 at 11:00 AM.

8. ADJOURNMENT

Chair Jeff Anderson adjourned the meeting at approximately 11:50 AM.