

November 5, 1998

**IMPORTANT CHANGES IN THE CHILD LABOR LAWS  
AFFECTING THE DRIVING OF AUTOMOBILES AND TRUCKS  
UNDER HAZARDOUS OCCUPATIONS ORDER NO. 2**

The child labor provisions of the Fair Labor Standards Act (FLSA) are intended to protect the educational opportunities of minors and prohibit them from working in jobs and under conditions that are detrimental to their health or well-being. These provisions restrict the types of jobs that minors may perform. One such provision, Hazardous Occupations Order No. 2 (HO 2), prohibits minors under 18 years of age from driving automobiles and trucks on public roadways unless the driving is occasional and incidental.

Public Law 105-334, which became effective on October 31, 1998, amends the FLSA to modify HO 2. One major change implemented by the amendment sets a minimum age of 17 for any on-the-job driving on public roadways.

**No employee under 17 years of age may drive on public roadways as part of his or her job if that employment is subject to the FLSA.**

Seventeen-year-olds may drive on public roadways as part of their employment, but **ONLY** if all of the following requirements are met:

- The driving is limited to daylight hours;
- The 17-year-old holds a State license valid for the type of driving involved in the job performed;
- The 17-year-old has successfully completed a State approved driver education course and has no record of any moving violation at the time of hire;
- The automobile or truck is equipped with a seat belt for the driver and any passengers and the employer has instructed the youth that the seat belts must be used when driving the vehicle;
- The automobile or truck does not exceed 6,000 pounds gross vehicle weight;

The driving may not involve:

- Towing vehicles;
  - Route deliveries or route sales;
  - Transportation for hire of property, goods, or passengers;
  - Urgent, time-sensitive deliveries;
  - Transporting more than three passengers, including employees of the employer;
  - Driving beyond a 30 mile radius from the youth's place of employment;
  - More than two trips away from the primary place of employment in any single day to deliver the employer's goods to a customer (other than urgent, time-sensitive deliveries which are prohibited);
  - More than two trips away from the primary place of employment in any single day to transport passengers, other than employees of the employer; and,
- Such driving is only occasional and incidental to the 17-year-old's employment. This means that the youth may spend no more than one-third of the worktime in any workday and no more than 20 percent of the worktime in any workweek driving.

The Department of Labor is developing guidelines and information to facilitate compliance and implementation of this amendment. The above requirements apply whether the youth is driving a personal or employer-owned vehicle. Employers can guard against unwitting violations of the new requirements by securing documentation from 17-year-old employees who drive as part of their job. Such documentation would include evidence of the employee's age, completion of a driver education course, clean driving record and appropriate State driver's license.

Many states have laws setting standards for child labor and teen drivers. When both Federal and state laws apply, the law setting the more stringent standard must be observed.

For more information regarding HO 2 or any other child labor matter, please contact your local office of the Wage and Hour Division