

PART XX. Texas Workforce Commission
CHAPTER 817. Child Labor
40 TAC §§817.4-817.6

The Texas Workforce Commission proposes amendments to §§817.4-817.6, concerning the adoption by reference of federal regulations restricting the employment of children 14 through 17 years of age.

The amendments will conform the rule to state statute while being as consistent as possible with federal law, thus maximizing the ease of compliance with both. Also, the amendments will delete the earlier inadvertent adoption of federal hours restrictions and a sports attendant exemption that are inconsistent with state law. Further, the amendments will transfer the adoption of federal regulations restricting the employment of 14 and 15 year old children in agriculture to the appropriate rule. Finally, the amendments will render the rules more readable.

Chester Skorupa, Legal Counsel, has determined that for the first five-year period that the sections are in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Skorupa also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be that children will enjoy, to the extent possible, the same protection under state and federal law. Also, employers of children will face more consistent restrictions on that activity.

The only anticipated possible effect on small businesses will be to give parent-owned businesses not subject to federal law more latitude in employing their own children.

There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Chester Skorupa, Legal Services, Texas Workforce Commission Building, 101 East 15th Street, Room 264-F, Austin, Texas 78778 (512) 475-1265

The amendments are proposed under Texas Labor Code, Title 2, Chapter 51, §51.023, which provides the Texas Workforce Commission with the authority to adopt rules necessary to promote the purposes of the Chapter; and §51.014 and §51.015, which requires the Commission to adopt rules consistent with that specific section.

The proposed amendments affect the Texas Labor Code, Title 2, Chapter 51, Sections 51.003, 51.014, 51.015, and 51.033.

§817.4.<nl>Employment of 14 and 15 Year Old Children [Employment Deemed Hazardous or under Conditions Deemed Detrimental to the Safety, Health, or Well-being of 14 and 15 Year Old Children; Employment Expressly Permitted].
The commission adopts by reference <nl>§§570.31-570.34 and §§570.70- 570.72 of Title 29 of the Code of Federal Regulations.
The commission adopts these regulations [federal child labor regulation 29 Code of Federal Regulations §§570.31-570.35] as state rules governing the employment<nl> of 14 and 15 year old children

in Texas. These rules will

 [in Texas of children ages 14 and 15, additionally to be applicable where that employment is not subject to the provisions of the federal child labor law found in the]

§817.5.<nl>Employment

[Occupations Declared Particularly Hazardous or Detrimental to the Health or Well-being] of 16 and 17 Year Old Children. The commission adopts by reference<nl> §§570.50-570.68 of Title 29 of the Code of Federal Regulations. The Commission adopts these regulations as state rules governing the employment of 16 and 17 year old children in Texas. These rules will apply to such employment whether or not that employment is subject to the federal Fair Labor Standards Act (FLSA), 29 United States Code, §201, et seq. The application of this rule is limited to the extent it is consistent with §51.015 of the Texas Labor Code. [federal child labor regulation 29 Code of Federal Regulations §§570.50-570.72 as state rules governing the employment in Texas of children ages 16 and 17, additionally to be applicable where that employment is not subject to the provisions of the federal child labor law found in the Fair Labor Standards Act, 29 United States Code §201, et seq, but is subject to Texas Civil Statutes, Article 5181.1, et seq]

§817.6.<nl>Statement of Commission

Intent [Statement of Purpose for Adoption by Reference].<nl>In adopting §817.4 and §817.5 of this title, [By the adoptions by reference in §303.4 and §303.5 of this title (relating to Employment Deemed Hazardous or Under Conditions Deemed Detrimental to the Safety, Health, or Well-being of 14 and 15 Year Old Children; Employment Expressly Permitted; and Occupations Declared Particularly Hazardous or Detrimental to the Health or Well-being of 16 and 17 Year Old Children),] the commission intends <nl>for the federal child labor rules to govern the employment of children in Texas. The commission so intends only to the extent those rules are consistent with Chapter 51 of the Texas Labor Code. [to provide essentially the same body of substantive rules for the employment of all covered children (14 and 15 year olds and 16 and 17 year olds) under state law that pertain to children under federal law.]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt. Issued in Austin, Texas, on September 27, 1996.

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Director of Legal Services

Texas Workforce Commission

Earliest possible date of adoption: November 11, 1996

For further information, please call: (512) 463-7583