



# Guide to laws and regulations for restaurant owners

## *TEEN LABOR*

Anyone under 18 must have a work permit for your place of employment to legally work there.

Minimum age to work in a restaurant is 14. The only exception is for 12- and 13-year-olds working in their parents' solely owned business (no partnerships or corporations.) In this case, the Wisconsin rules for a 14-year-old apply.

(See guide to state vs. federal law)

### **Restaurants subject to Wisconsin and federal law 14- and 15-year-olds:**

- May bus tables, wash dishes, or wait tables provided they do not serve, sell, dispense or give away alcoholic beverages.
- May cook under certain circumstances. (See next page for detailed information.)
- May not bake. May not use a meat slicer, grinder or heavy bakery equipment.
- Between Labor Day and June 1, may not work before 7 a.m. or after 7 p.m.
- Between June 1 and Labor Day, may not work before 7 a.m. or after 9 p.m. when there is no school the next day. When there is school the next day, employees may only work until 8 p.m.
- May not work more than 6 days a week.
- May work up to 3 hours on school days and 8 hours on non-school days.
- May work up to 18 hours during school weeks and 40 hours during non-school weeks.
- Must receive a 30-minute meal break if working more than 6 hours. (Break may be unpaid.)

### **Restaurants subject to Wisconsin law only 14- and 15-year-olds:**

- May bus tables, wash dishes or wait tables provided they do not serve, sell, dispense or give away alcoholic beverages.
- May cook or bake under adult supervision. May not use a meat slicer, grinder or heavy bakery equipment.
- If there is school the next day, may not work before 7 a.m. or after 8 p.m.
- If there is no school the next day, may work until 11 p.m.
- May not work more than 6 days a week.
- May work up to 4 hours a day Monday through Thursday and 8 hours a day Friday, Saturday, Sunday and any day school is not in session.
- May work up to 18 hours a week during school weeks; 24 hours a week during partial school weeks; and 40 hours during non-school weeks.
- Must receive a 30-minute meal break if working more than 6 hours. (Break may be unpaid.)

**Questions? Call the WRA Hotline: 1-800-589-3211**

Revised February 2005

# Cooking duties for 14- and 15- year olds under federal law

The new federal teen-labor rules that took effect Feb. 14, 2005, permit 14- and 15-year-olds to perform various food and-beverage prep work, as well as kitchen work, and provide examples of equipment that these employees may use. The new Department of Labor (DOL) rules are not too different from the previous regulations, but do a better job of reflecting advances in restaurant kitchens and foodservice equipment.

## Permissible cooking duties for 14- and 15- year-olds as of Feb. 14, 2005:

- **MAY** perform various food-and-beverage preparation work. Examples of permitted machines and devices that 14- and 15- year-olds may work with include:
  - Dishwashers
  - Toasters
  - Dumbwaiters
  - Popcorn poppers
  - Milkshake blenders
  - Coffee machines
  - Devices used to maintain food temperatures (e.g., warmers, heat lamps, etc.)
  - Microwave ovens that do not have the capacity to warm above 140° F
- **MAY** clean, maintain and repair cooking devices such as grills, deep-fat fryers and steam tables if equipment surfaces are below 100° F.\*
- **MAY** change, clean and dispose of oil and grease, or oil and grease filters, if the temperature of the liquid is below 100° F.\*
- **MAY** cook using electric or gas grills that do not have open flames.
- **MAY** cook using deep fryers that are equipped with and utilize devices that automatically lower and raise baskets.
- May **NOT** cook over open flames.
- May **NOT** bake, including any part of the baking process: weighing, mixing, putting products in pans or trays; operating pans of any type; and removing items from ovens or placing on cooling trays.
- May **NOT** use deep fryers that require the operator to manually raise or lower the baskets, or that do not use baskets to contain the food product during frying.
- May **NOT** use rotisseries, broilers, pressurized equipment including fryolators, or cooking devices that operate at extremely high temperatures such as “Neico broilers.”
- May **NOT** clean, maintain or repair cooking equipment such as grills, deepfat fryers and steam tables if the equipment surface exceeds 100° F. (The DOL points out that *simple maintenance* of grills is permissible for 14- and 15-year-olds—i.e., the routine part of the actual cooking process whereby the employee uses water and a spatula to scrape away food particles and grease from the surface of the grill.)
- May **NOT** change, clean or dispose of oil and grease, or oil and grease filters, if the temperature of the liquids exceeds 100° F. This includes a ban on lifting, moving or carrying containers of hot grease or oil 100° F or higher.

\* A note on maximum allowable temperatures for clean-up tasks: The new rules reflect a change in the maximum allowable temperatures for clean-up duties. Previously, 14- and 15-year-old employees were permitted to clean equipment and handle oil and grease as long as the temperature was below 140° F. In the new rules, the DOL reduces the maximum allowable temperature to 100° F to “significantly diminish the possibility of young workers suffering burns while cleaning equipment and surfaces or while filtering and disposing of cooking oil and grease.” The new temperature requirement will require vigilance by employers. Managers and supervisors must ensure that equipment and materials are cooled to 100° F or lower before 14- and 15-year-olds are allowed to undertake any clean-up tasks such as washing the machines or removing or filtering the oil or grease. Restaurant managers may need to make greater use of thermometers, cool-down waiting periods and other methods to ensure that the temperature restrictions for young employees are met.

*This information was taken from the National Restaurant Association’s legal report “Federal Teen-Labor Regulations”*

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Effective February 2005



## Guide to laws and regulations for restaurant owners

# **TEEN LABOR** (CONTINUED)

### Wisconsin law

#### 16- and 17-year-olds

(With the exception of driving regulations, there are currently no federal laws applying to 16- and 17-year-olds. All employers should follow state laws.)

- May bus tables, wash dishes, or wait tables provided they do not serve, sell, dispense or give away alcoholic beverages.
- May cook but may not use a meat slicer, grinder, or heavy bakery equipment.
- May not work before 7 a.m. on school days or before 5 a.m. on non-school days
- If there is school the next day, may work until 11 p.m.; if there is no school the following day, may work until 12:30 a.m. Exception: employees may work between 12:30 a.m. and 5 a.m. during non-school weeks if they are under adult supervision and get at least 8 hours of rest between ending one shift and starting the next.
- May not work more than 6 days a week
- During school weeks, may work up to 5 hours a day Monday through Thursday and 8 hours a day Friday, Saturday, Sunday and any day that is a non-school day or precedes a non-school day.
- May work up to 26 hours a week during school weeks; 32 hours a week during partial school weeks; and up to 50 hours a week during non-school weeks.
- During non-school weeks, may work an unlimited number of hours in a day and up to 50 hours in a week, but must be paid overtime for any hours over 10 in a day, even if they work less than 40 in the week.
- Must receive a 30-minute meal break if working more than 6 hours. (Break may be unpaid.)

*Note: WRA has provided decals to put on your equipment that is off-limits to minors. Find them near the end of your manual.*

**WARNING:** It is unlawful to handle or operate this machine if you are under 18 years of age.



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## Guide to laws and regulations for restaurant owners

# ***TEEN LABOR*** (CONTINUED)

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### **NEW INFO**

#### **Teen on-the-job driving**

##### **Restaurants subject to Wisconsin and federal law**

16-year-olds are forbidden from all on-the-job driving.

17-year-olds may not drive a delivery vehicle unless:

- driving a delivery vehicle is only “occasional and incidental” to the minor’s employment. (Driving for deliveries may not be a regular or frequent part of the employee’s duties. They may only spend one-third of their workday or 20 percent of their work week on the road for their employers.)
- it is during daylight hours
- the minor has a Wisconsin driver’s license and has completed a state-approved driver’s education program
- and the teen does not have a record of any moving violations at the time of hire.
- the vehicle is equipped with seatbelts and the employer instructs the teen that seatbelts must be used.

Also, the teens may not:

- tow vehicles
- operate vehicles over 6,000 pounds
- perform route sales or deliveries
- perform urgent, time-sensitive deliveries\*
- transport more than three passengers
- drive beyond a 30-mile radius from their place of employment
- perform more than two trips per day from the place of employment to deliver customer goods or transport passengers (other than fellow employees.)

\* The Department of Labor (DOL) explains that urgent, time-sensitive deliveries include trips subject to timelines, schedules or turnaround times in order to satisfy customers or protect the product from temperature changes and other deterioration. The DOL specifically states that prohibited trips would include delivery of pizzas and prepared foods for customers. Therefore, it is highly unlikely that employers may use 17-year olds for normal deliveries of food to outside customers.

##### **Restaurants subject to Wisconsin law only**

Wisconsin law now mirrors the federal law. Follow guidelines listed on the left.

## **Questions? Call the WRA Hotline: 1-800-589-3211**

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# Restaurant owners' frequently asked questions

## *TEEN LABOR*

**Q:** I am hiring an 18-year-old who is still in high school. What hours can he work?

**A:** An 18-year-old who is still in high school is not covered by teen labor laws. He may work during any time of the day and as many hours as you wish.

**Q:** I am hiring a 17-year-old who has already graduated from high school. What are her hour restrictions?

**A:** A 16- or 17-year-old who has graduated from high school may be employed during the same hours, and as many hours, as an adult. However, your employee still needs a work permit and all other teen labor restrictions for her age group (not serving alcohol, not using a meat slicer, etc.) still apply.

**Q:** My 16-year-old dishwasher is attending technical college to get his general equivalency diploma. How does this affect the hours he can work?

**A:** A 16- or 17-year-old who is emancipated, living independently, head of the household, or enrolled in a GED program at vocational or technical college may work up to 40 hours per week when public school is in session and up to 50 hours a week when school is not in session. Daily hour limits and time of day restrictions do not apply.

If you have an employee in one of these situations, WRA highly recommends you get a letter from the minor's school district saying the teen has been given official permission not to attend school. Keep the letter in the employee's file -- if you are ever audited by the labor department, it will be your protection from getting fined.

**Q:** My 16-year-old waitress is home schooled. How many hours a week may she work?

**A:** A 16- or 17-year-old who is enrolled in home school may work up to 26 hours per week when public school is in session; 32 hours during partial-school weeks; and up to 50 hours during non-school weeks. Daily hour limits and time of day restrictions do not apply.

As with a GED student or any other minor not attending regular school, WRA recommends employers get written confirmation from the school district regarding the teen's circumstances.

**Q:** My waitress who is home schooled has a 14-year-old brother who would like to be a busboy. May he work the same hours as his sister?

**A:** No. A 14- or 15-year-old who is home-schooled is governed by the same daily and weekly restrictions as a student in regular school. This goes for 14- and 15-year-olds in any "non-standard" educational circumstance.

**Q:** A 17-year-old applied at my restaurant to be a cook's helper. He has dropped out of high school. May he work extra hours?

**A:** Only if he has a letter from his school stating he is not expected to be there. In that case, he still must follow weekly hour restrictions, but can work any number of hours in a day, and during any time of the day. If he doesn't have such a letter, you must follow all the restrictions for his age group and you cannot schedule him to work during hours that school is in session.

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Effective January 1999



## Restaurant owners' frequently asked questions

# TEEN LABOR (CONTINUED)

**Q:** Our school district has a school-to-work program for the foodservice field. These students leave school early to work in their restaurant co-op jobs. Are the hour restrictions different for these students?

**A:** Yes. If the students are receiving school credit for the hours they work during the school day, these hours do not count against the daily or weekly hour limits.

For example, you have a 16-year-old work study student who works from noon to 7 p.m. on a school day. Since she would normally be in school until 3 p.m., the three hours from noon to 3 p.m. do not count against the five hour daily limit or the 26 hour weekly limit for school weeks.

If, however, you let the student work from 2 p.m. to 9 p.m., only the hour from 2 p.m. to 3 p.m. would be exempted from the daily hour limit -- your business would be in violation.

**Q:** How do I schedule my teenage employees who are attending summer school?

**A:** State law does not consider summer school in its definition of school being in session. Likewise, federal law is based on specific dates (Labor Day and June 1) and does not address summer school. You may schedule your employees in summer school the same as any other teenager employed during that time period.

**Q:** My 16-year-old hostess also has a job at our local grocery store. Does this affect the hours I can schedule her to work?

**A:** Yes. Your employee's two jobs must be counted together when considering the teen labor hour restrictions. If school is in session, she may work up to 26 hours total in a week, not 26 hours at each job.

In a situation like this, it is essential to keep the lines of communication open. Discuss the situation with your hostess and come up with a plan so the girl, her other employer, and you can be sure the law is not being inadvertently violated.

**Q:** Where can my teenage employees get a work permit? What information do they need?

**A:** Your employees should be able to obtain a work permit from their school offices or the county clerk. The teenager must provide: proof of age (usually a birth or baptismal certificate); a letter from you, their employer, stating your intention to employ the minor, the expected job duties, hours of work, and time of day the minor will work; a letter from the teenager's parent or guardian consenting to the employment; the teen's social security card; and payment for the permit fee. You, the employer, must pay the work permit fee or reimburse the minor for the fee no later than the first paycheck.

**Q:** Can a 14-year-old use a microwave?

**A:** If you are covered by state law only, yes. But if you are covered by federal law as well, only if the microwave does not have the capacity to warm above 140 ° F.

**Q:** Keeping track of when my teenage employees can and can't work gets so tricky. (Not to mention how much I could use their extra working hours . . .) How serious does the Labor Department get about violations?

**A:** You don't want to mess around here. For a first offense, you can be fined up to \$10,000 for willfully violating federal teen labor laws. A second

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## Restaurant owners' frequently asked questions

# ***TEEN LABOR*** (CONTINUED)

offense can be a \$10,000 fine and up to 6 months jail time.

Breaking Wisconsin law, the first time, will cost you up to \$1,000 for each offense and imprisonment up to 30 days. A second violation within 5 years can be punished by up to \$5,000 and 30 days jail time for each offense.

Remember, each day a violation occurs is considered a separate and distinct offense. Teen labor restrictions may make scheduling difficult, but ignoring them could put you out of business.

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