



WHD-OL-1997-0004

February 10, 1997

Dear Sir **Name***

This is in response to your letter to Assistant District Director Betty Campbell requesting clarification of certain child labor standards established under the Fair Labor Standards Act (FLSA). You specifically asked if minors under 16 years of age may operate "NEICO" broilers and pizza "broilers."

The Wage and Hour Division of the U.S. Department of Labor is responsible for administering the FLSA, the Federal law concerning wages, hours of work and child labor. The child labor provisions were enacted to ensure that when children work, the work is safe and does not interfere with their health, well-being or opportunity to obtain an education. Under the child labor provisions of the FLSA, 16 is the basic minimum age for employment, however, persons 14 and 15 years of age may be employed outside school hours in a variety of nonmanufacturing and nonhazardous jobs under specified conditions.

Section 570.34(a) (7) of Regulations, 29 CFR Part 570 (copy enclosed) permits 14- and 15-year-olds employed by retail, food service, and gasoline service establishments to...

"perform kitchen work and other work involved in preparing and serving food and beverages including the operation of machines and devices used in the performance of such work, such as but not limited to, dish-washers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders;"

Section 570.34(b) (5) of this same Regulation, however, prohibits...

"Cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking;"

These sections were promulgated when drug store soda fountains, ten-cent store lunch counter, and other snack bar type operations constituted a distinct type of eating place quite different from the more traditional types of full-menu restaurants. These "quick service" eating places frequently employed minors to perform simple cooking functions that were similar to what the minor might do in his or her own home. Our longstanding interpretation of section 570.34(b) (5) permits 14- and 15-year-olds to perform cooking of the traditional "quick service" type in areas which are not separated by a partition and are in the customer's view; permitted duties include stocking and serving foods on steam tables, and the use of such equipment as grilles, griddles, deep-fat fryers, toasters, popcorn poppers, warming trays, heat lamps, hot dog rotisseries, and microwave ovens designed only for food warming. Our longstanding interpretation of both section 570.34(a) (7) and section 570.34(b) (5) is that – regardless of the work location within the employer's establishment – 14- and 15-year-olds are not permitted to perform cooking duties of the type performed in

traditional restaurants, which often involve lifting large vessels of hot grease or liquids (such as hot water receptacles for steam tables); stocking, operating, and unloading large rotisseries (such as those used to cook whole chickens); and working with equipment which operates under pressure or at extremely high temperatures (such as pressure cookers and NEICO broilers). Further, regardless of work location within the employer's establishment, section 570.34(b) (5) prohibits 14- and 15-year-olds working in "baking" occupations.

It is our understanding that what you refer to as "pizza broilers" are actually ovens which bake pizzas. Fourteen and 15-year-old minors are prohibited from operating the pizza broilers, no matter where located in your food service establishments, because such operation constitutes baking.

Likewise, 14- and 15-year-olds are prohibited from operating NEICO broilers, regardless of where the broilers are located within your food service establishments, because such equipment does not perform the type of permissible cooking contemplated by section 570.34(b) (5). As you know, this equipment operates at extremely high temperatures, often in excess of 600° F. The Wage and Hour Division has consistently denied requests from Work Experience and Career Exploration Programs to grant variances which would allow 14- and 15-year-olds to operate NEICO broilers because of significant exposure to burns associated with the operation of this equipment and because the use of such machines clearly jeopardizes the safety of participating youths.

I hope this is responsive to your concerns. Please do not hesitate to contact our Denver District Office should you require any further assistance in this matter.

Sincerely,

Maria Echaveste
Administrator

Enclosure

*Note: The actual name(s) was removed to protect privacy in accordance with 5 U.S.C. § 552(b)(7).