

CHILD LABOR – SHOULD WE BE CONCERNED?

Introduction:

Did you work outside the home when you were a child? Do you know of other people who worked outside the home as children? We all probably have some recollection of children working in a variety of jobs. Other than working in restaurants or convenience stores, they don't do that anymore, do they? When you hear the term, "Child Labor", does that seem to have a negative connotation for you? Should we be concerned if we see a young person working? Let's take a look at what prompted us to have child labor laws, what the current child labor situation looks like, and what the future holds for child labor.

History:

Historically, we remember stories of children as young as 7 years old working in factories and mines in England in the 1700's and 1800's. Social reformers tried to shed light on the problem and one of the most effective attacks on child labor practices was Charles Dickens' novel, Oliver Twist. Similar conditions existed in the U.S. as industrialization took over. For example, 40 per cent of all textile factory workers in New England in 1832 were children ages 7-16. Children were also an important part of the U.S. slave-based economy during the Civil War – working on tobacco and hemp farms, and cotton and sugar plantations.

Massachusetts passed the first U.S. state child labor law in 1836. It prohibited the employment of children under age 15 in any factory unless the children had attended school for at least three months during the preceding year. In actuality, however, only a few states had outlawed factory employment of children under age 10 or 12 by 1860. It was hard to enforce the laws, partly because of the large number of poor families. Orphanages were in their heyday and there were so many parentless children that the Children's Aid Society in New York took to shipping children out on "orphan trains" to work as field hands in the Midwest. Approximately 350,000 children were loaded onto the trains which were eagerly welcomed by farmers looking for the youngest and healthiest workers. (2) Nearly 20 per cent of U.S. children were employed full-time by 1890. Children of today might be very surprised to learn how some of the children in those days worked:

1. In 1910 some 1.6 million children between the ages of 10 – 14 worked, often as long as 10 hours a day.

2. In coal mines children as young as 10 years old worked as “breaker boys”, picking pieces of jagged slate off the conveyor belt as it chugged by bearing coal. There were instances of boys dying after they fell onto the belts and were suffocated under a load of coal.
3. Thousands of children in New Jersey worked on their hands and knees in damp bogs for 9 – 10 hours a day.
4. Children working in the Gulf Coast canneries of Louisiana, Mississippi, and Florida started their day at 4 a.m. shucking oysters and picking shrimp.
5. Tens of thousands of adolescents worked into the late evening. Children worked as night messengers escorting male customers to brothels, ran errands for prostitutes, and occasionally picked up whiskey or cocaine for customers.

The first federal child labor law, known as the Keating-Owen Child Labor Act, was passed by Congress in 1916 and set standards for the hiring of children by industries involved in interstate or foreign commerce. Unfortunately, the Supreme Court struck it down as unconstitutional just two years later in 1918. The Act did some good though, because many states emulated its guidelines.

The Fair Labor Standards Act of 1938 was the first U.S. child labor law to endure and is still in effect today. Its standards include:

1. Boys and girls age 16 and over may be employed in any occupations except those declared hazardous by the US Secretary of Labor.
2. The minimum age for hazardous occupations was set at age 18.
3. Children 14 and 15 years of age are permitted to work in only a limited number of occupations outside of school hours.
4. The law also requires employers to pay child laborers the U.S. minimum wage which is currently \$7.25 per hour. Employers may pay the minors an “Opportunity Wage” of \$5.90 per hour for the first 90 days of employment and then increase the hourly wage to \$7.25 per hour on the 91st day. Wisconsin law allows employers to claim a tip credit. The employers may pay employees as little as \$2.33 per hour. If the employee’s hourly wage plus tips earned don’t add up to at least \$7.25 per hour, then the employer must make up the difference. Fortunately, many of today’s minors earn a substantially higher hourly wage due to current market conditions. For example, workers 14 years of age or older can work at McDonald’s as a Crew Member with a wage of up to \$15.00 per hour, based on availability and experience. (6)

Child Labor Conditions Today:

All 50 states, the District of Columbia, and Puerto Rico now have child labor laws that regulate the employment of children. Federal and state laws can vary widely, but whichever one sets the higher standard is the one that must be followed. Although this sounds like fair and equal standards, there has been minimal reform for child farm workers. 12 is the minimum age for agricultural employment, and there are no limits on how many hours children can work. Migrant children get little schooling because they travel and work with their parents, and suffer from long hours, poor sanitation and housing, as well as possible exposure to dangerous pesticides. (1)

Today Wisconsin Child Labor Laws exist to prevent the exploitation of minors for labor and ensure that education is prioritized over work. They include the following:

1. Employment Certificates (which are issued by the Department of Labor), also known as Work Permits, are mandatory for minors under age 18.
2. Maximum hours of work: for minors under age 16 when school is not in session is 8 hours daily/40 hours weekly for 6 days weekly. Wisconsin has no restrictions on maximum working hours for minors ages 16 and 17. However, they must be paid time and one-half for work in excess of 10 hours per day or 40 hours per week, whichever is greater. 8 hours of rest is required for them between the end of work and start of work the next day, and any work between 12:30 a.m. and 5 a.m. must be directly supervised by an adult.
3. Night work: work is prohibited for minors under age 16 from 7 p.m. to 7 a.m. (from 9 p.m. to 7 a.m. June 1 through Labor Day.) There are no restrictions on night work for minors aged 16 and 17.
4. Wisconsin also has special child labor laws for the employment of minors in agriculture and the entertainment industry (4), as well as specific guidelines for the employment of young minors ages 12-14.
5. State law prohibits minors from engaging in hazardous work, including the use of bakery machines, working with asbestos, working in any confined space, selling or serving liquor, operation of power driven metal forming or power driven circular saws, roofing operations, and meat processing.

So Should We Be Concerned?

After looking at this review of minors' current labor conditions, one most likely will come to the conclusion that the minors' working conditions, work hours, and wages are generally satisfactory. So should there be any concern for today's minors' labor conditions? Oh, let me count the ways...here are some of the stories taken from recent headlines:

1. "USA Today" reported on November 15, 2022, that Packers Sanitation Services Inc. , an industrial cleaning company based in a very small town named Kieler, Wisconsin, near the Iowa border, employed more than 30 children, ages 13 to 17, as cleaners in JBS USA meatpacking plants in Grand Island, Nebraska; Worthington, Minnesota; and at Turkey Valley Farms in Marshall, Minnesota. Federal law prohibits the use of workers under age 18 on killing floors or on mechanized processing equipment because the work is considered hazardous. One of the young employees was a 13 year old who was burned by caustic cleaning chemicals. The company made a statement about an "absolute company-wide prohibition" against the employment of anyone under the age of 18 and suggested that underage workers may have misrepresented their ages to gain employment. Michael Lazzeri, regional administrator for the Department of Labor's Wage and Hour Division, said that "Taking advantage of children, exposing them to workplace dangers - and interfering with a federal investigation – demonstrates Packers Sanitation Services Inc.'s flagrant disregard for the law and for the well-being of young workers." (7)
2. In March of 2023 New York Times reporter Hannah Dreier reported abuses of migrant child laborers in the food manufacturing business. Hearthside Food Solutions – a supplier of Cheetos to Frito-Lay – was found to be hiring children and requiring them to work in dangerous conditions. "Underage workers in Grand Rapids said that spicy dust from Immense batches of Flamin' Hot Cheetos made their lungs sting, and that moving heavy pallets of cereal all night made their backs ache." Dreier also reported that no one in authority seems to care enough to act, even though "Unaccompanied minors have had their legs torn off in factories and their spines shattered on construction sites." PepsiCo, which owns Frito-Lay declined to comment on Dreier's story. (8)
3. Gov. Sarah Huckabee Sanders of Arkansas signed a bill (also in March 2023) rolling back the state's child labor protections, making it easier for employers to hire children under age 16. Rollbacks like this are happening just when the country is experiencing a surge of child labor

violations on a scale and of a type that we haven't heard about for many years. "The New York Times" and Reuters have published investigative reports that exposed migrant children as young as 12 working at car factories, meat processors and construction sites. Some well known companies sometimes use staffing agencies and sketchy subcontractors in order to avoid liability. Recent statistics revealed the following:

- a. Labor agency data released in February 2023 showed increases in the number of children illegally employed by companies. The U.S. Labor Department reported that it had seen a 69 percent increase since 2018.
 - b. The Labor Department also reported that 835 companies employed more than 3,800 children in violation of federal labor laws.
 - c. Also troubling was the fact that typical employers of teens with varied demographics have them work schedules far longer and later than the law permits. For example, Chipotle Mexican Grill has been accused of numerous violations, and the company has paid a total of more than \$9 million as settlements for alleged child labor violations in Massachusetts and New Jersey in 2020 and 2022. (9)
4. A sign of the times was highlighted in a Bloomberg "Big Take" podcast on May 3, 2023, with the reporting of Kathryn Fink who said that the tight U.S. labor market has prompted several Republican-led states to roll back child labor laws which are intended to protect the children. (10)
 5. In an article in the May/June 2023 issue of "Dollars & Sense" John Miller reported that Iowa's state legislature passed what might be the most extreme bill to roll back child labor laws. The bill will permit 14 and 15 year olds to work until 9 p.m. during the school year and 11 p.m. during the summer, as well as allowing them to work six hours a day during the school year instead of the current four hours per day. It would also let the 14 and 15 year olds do more hazardous jobs, such as working in freezers and meat coolers. 16 and 17 year olds would be able to do light assembly work involving explosives. The Iowa National Federation of Independent Business (NFIB) director, Matt Everson, said that the changes to the Iowa labor laws are a "common sense and a much-needed update to archaic youth employment laws...these bills will allow those who were not blessed with a trust fund to be able to work a few more hours a week to earn money." (11)
 6. On September 8, 2023 "U.S. News" reported that a northern Wisconsin sawmill, Florence Hardwoods, agreed to pay nearly \$191,000 after a teenage boy died there in July 2023 because

he became pinned in a wood-stacking machine in the facility's planing mill as he was trying to clear a jam in the machine. (Children 16 and older are allowed to work in Wisconsin planing mills.) An investigation by the U.S. Department of Labor found that three children ages 15 to 16 were hurt at the sawmill between November 2021 and March 2023. In addition, the sawmill also employed nine children between the ages of 14 and 17 to illegally run machines such as saws. Seven child employees between 14 and 17 worked outside legally permitted hours. Florence Hardwoods issued a statement insisting that they didn't knowingly or intentionally violate any child labor laws but that they would accept the penalties. They issued an additional public statement on December 21, 2023, further explaining their position and disputing the allegations of them violating child labor laws, stating that they had previously been silent out of respect for the young man's family. The statement also noted that Florence Hardwoods received notification from OSHA that it was being cited for more than 40 alleged violations of safety regulations, with assessed penalties totaling close to \$1.4 million dollars. The final paragraph of that statement reads as follows: "Florence Hardwoods may have made mistakes, but we did not willfully nor deliberately violate any rules or regulations. We will move forward with the OSHA abatement process and address any deficiencies in our safety program, but we will not accept what we consider to be unfair and politically motivated actions on the part of the DOL." (12)

7. Forbes reported on January 19, 2024, that Florida became the newest state to propose loosened child labor laws. There were two bills moving through the Florida legislature that could make it easier for teens to work longer hours in more dangerous jobs as the state battles a labor shortage. Some critics say the situation is made worse by a crackdown on undocumented immigrant workers. The first bill would allow 16 and 17 year olds to work on construction projects in residential areas, as long as the projects are lower than six feet, a revision from the original text that sought to allow the teens to work on roofs. The other bill would allow 16 and 17 year olds to work up to 40 hours per week, even when school is in session. The current law is 30 hours per week.
8. On the national level there were 955 cases of child labor law violations, a 14% increase from 2022, according to the Department of Labor. Over \$8 million in penalties were issued – an 83% increase from the previous year – and 5,800 employed children were in violation, an 88% increase from 2019. At least 10 states have proposed bills to loosen child labor laws between 2021 and 2023, according to the Economic Policy Institute. (13) In addition, the United States is

the only member country of the United Nations not to have ratified the U.N. Convention on the Rights of the Child.

9. And most recently, the Wisconsin State Assembly approved a Republican-authored bill in just this past February 2024 that would allow 14 and 15 year olds to work without a work permit. This follows Gov. Scott Walker eliminating work permit requirements for 16 and 17 year olds in 2017. The bill doesn't change state law about the numbers of hours minors can work or prohibit them from working dangerous jobs. The proposal comes at a time when there is a wider push by state lawmakers to roll back child labor laws. The bill would cost the state about \$216,000 in annual revenue from the lost permit fees, and would eliminate the Department of Workforce's only means of gathering child labor data according to a fiscal estimate from the agency. Supporters of the bill say it would help eliminate red tape for the employers and the teenagers, as well as increase the state's workforce. The bill was scheduled to go to Gov. Evers for his signature to pass it, but fortunately, according to the Associated Press, it is likely that he will veto it (as he had vetoed a similar bill in 2022.) (14)

What Can We Do to Improve Child Labor Conditions?

Increasing child labor violations have been happening for the past ten years, mostly due to decreases in federal and state labor department funding for enforcement and the belief that child labor problems are a thing of the past. One important factor we can't overlook is the effect of the Covid pandemic shutdown that fueled labor shortages across a variety of industries, especially in lower paying service sector jobs. Another important factor is the arrival of hundreds of thousands of unaccompanied minors in the U.S. Also contributing to the problem is the lack of a national program to provide affordable, high quality daycare. If there were such a program, possibly more women would join the work force, decreasing the number of young people needed to fill open jobs.

Terri Gerstein, director of New York University's Wagner Labor Initiative in the NYU Robert F. Wagner Graduate School of Public Service, suggests that child labor enforcement agencies could be granted authority to issue "stop work orders" requiring cessation of operations at worksites where there is an active, ongoing child labor violation. She goes on to suggest the creation of a private right of action, with damages for violations, thereby enabling child labor victims to file a lawsuit against their employer – it could be the beginning of a remediation system for child labor victims. Lawmakers could pass whistleblower laws, and states could amend their workers' compensation laws to allow personal injury lawsuits when children are injured or killed on the job amid child labor violations. (15)

President Biden took a step to help improve the child labor situation last February when he established an interagency task force, involving the Departments of Health and Human Services and Agriculture among others, to improve outreach and training to combat child labor abuses. Of course, employers can help the situation by creating better and safer work conditions, increasing wages, and adding benefits such as health insurance, retirement benefits, and signing bonuses.

How About You – What Are Your Thoughts?

Have you thought about child labor? After my talk, will you look twice at the young people working around you, such as the young people waiting on you when you go shopping or eat out at restaurants? Will you wonder what their working conditions are “behind the scenes?”

I began to think about this subject last summer when I saw a reference to changing Wisconsin child work permits in an article in “The Post Crescent.” After doing my research, I feel like I have just examined the tip of the iceberg, and this is not a subject of the past. Rather, child labor affects our lives today and will do so in the future, so I believe we need to be cognizant of the working conditions of our young people, as well as local and national legislation that will affect these young lives.

What are your thoughts?.....

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