



How Employers Can Mitigate the Risks Associated with Seasonal Employment



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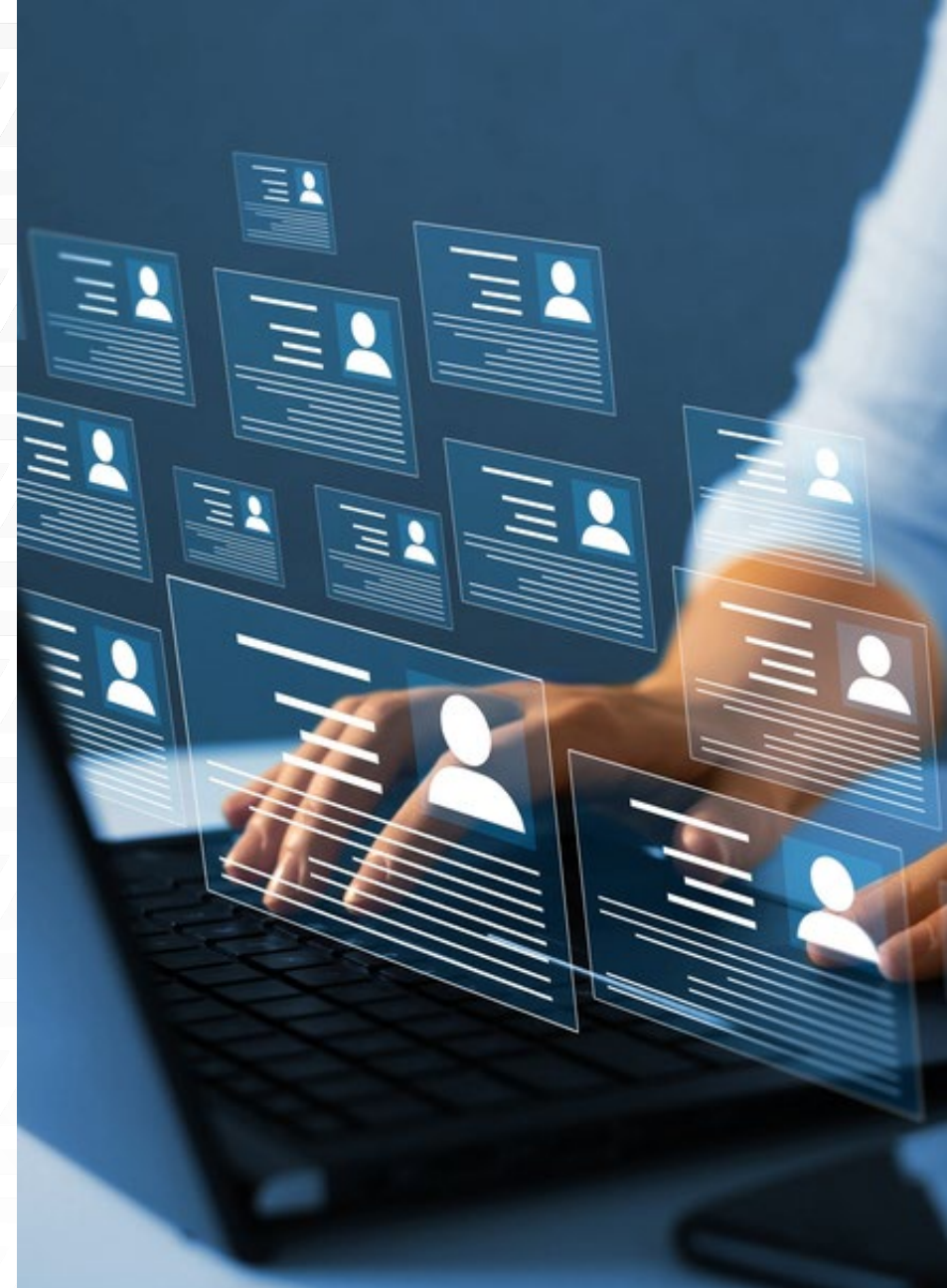
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Seasonal Employment – What is a Seasonal Employee?

IRS Definition



Avoid Misclassification



Set Clear Parameters of Employment

- Reinforce timeframe of employment
- At-Will



Verify Employment Authorization



Wage + Hour Issues to Consider

- Federal Fair Labor Standards Act requirements
- Overtime
- What about breaks?
- Timekeeping obligations
- Don't forget any state, city, and local laws!
- Best practices



Trends in Summer Employment

- According to the Bureau of Labor Statistics, employment among youth started to rebound in the summer of 2021
 - » From July 2020 – July 2021, employment for persons ages 16 to 24 rose from 46.7% to 54.4%
 - » As summer hiring geared up between April and July last year, the number of employed youth rose by 2.1 million (11.8%)
 - » By July 2021, 20.3 million 16 to 24 year olds were employed



Top Industries for Youth Employment

25% (nearly 5.2 million)

LEISURE AND HOSPITALITY

20% (nearly 4.1 million)

RETAIL TRADE

12% (nearly 2.4 million)

EDUCATION AND HEALTH SERVICES



3 Marinas Found Liable for Child Labor Violations by USDOL



The FLSA and Youth Employment

- FLSA protects young workers by limiting:
 - » Types of jobs they may work
 - » The number of hours they may work
 - » The times of day they may work
- Minimum Age Standards (non-agricultural)
 - » 18 years of age – minimum age for employment in occupations determined by the Secretary of Labor to be hazardous to the health and well-being of children
 - » 16 years of age – minimum age for employment in non-hazardous occupations
 - » 14 years of age – minimum age for employment in certain limited occupations as determined by the Secretary of Labor, with restrictions on hours per day/week

The FLSA and Youth Employment

- Youth ages 16 - 17
 - » What hours of work are permitted?
 - Under the FLSA, youth ages 16 and 17 may perform any non-hazardous job for unlimited hours
 - May work on any day for any number of hours
 - However, many states have enacted their own laws governing the hours requirements applicable to minors, including those ages 16 and 17
- **WHEN STATE AND FEDERAL LAWS DIFFER, THE LAW PROVIDING GREATER PROTECTION TO THE CHILD PREVAILS**

The FLSA and Youth Employment

- Youth ages 16 – 17 - What are Hazardous Occupations?
 - » Motor-vehicle driving and outside helper on a motor vehicle
 - » Power-driven hoisting apparatus, including forklifts
 - » Wrecking, demolition, and shipbreaking operations
 - » Roofing operations and all work on or about a roof*



The FLSA and Youth Employment

- Youth ages 14 – 15: Permitted Days and Hours?
 - » Outside school hours
 - » 3 hours or less on a school day, including Fridays
 - » 8 hours or less on a non-school day
 - » 18 hours or less in a week that school meets
 - » 40 hours in a week that school does not meet
 - » May not work before 7 a.m. or after 7 p.m. (except from June 1 through Labor Day, extended to 9 p.m.)



The FLSA and Youth Employment

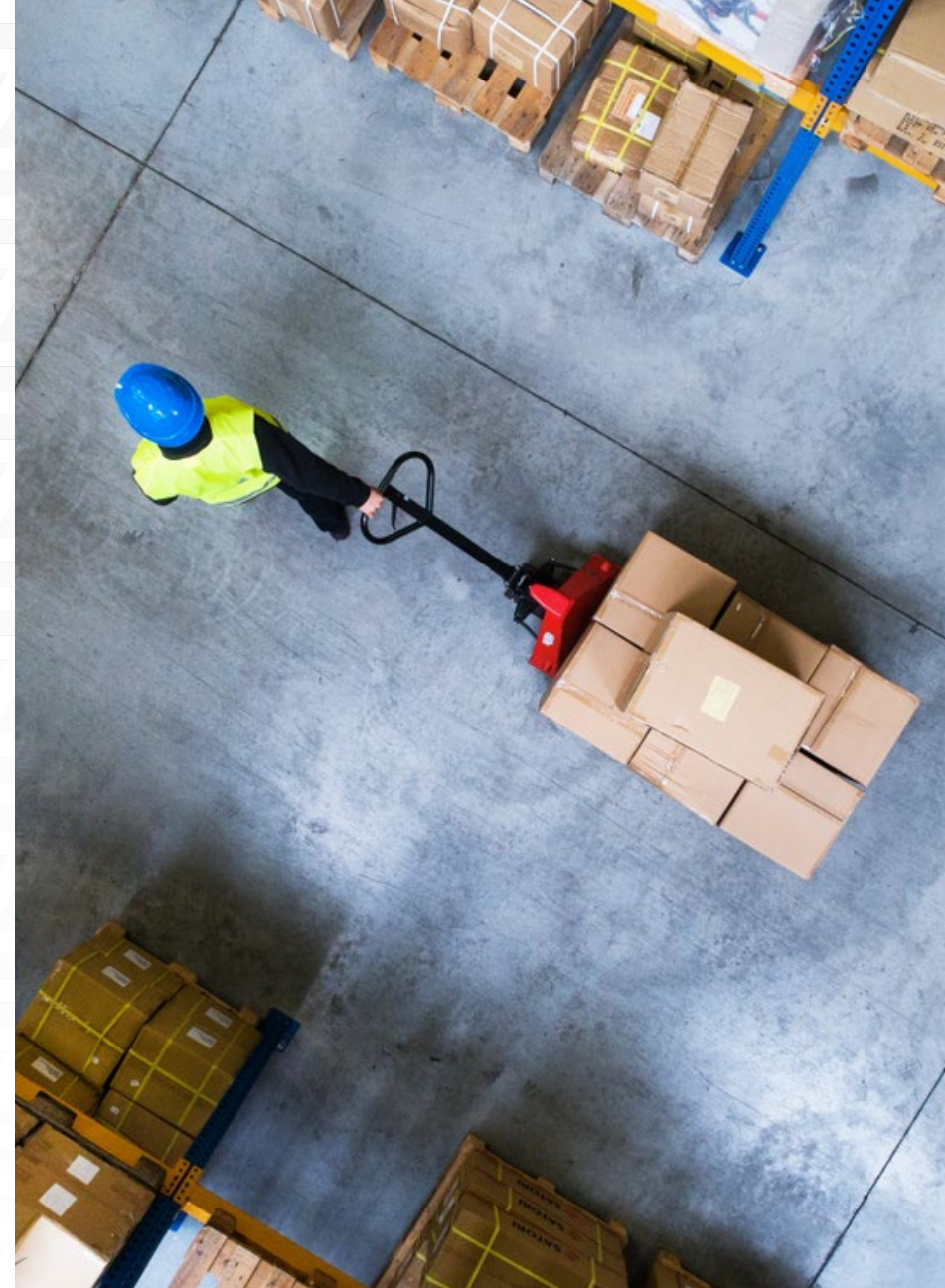
- Youth ages 14 – 15: Permitted Work?
 - » Office and clerical work
 - » Intellectually or artistically creative work
 - » Sales, retail and advertising work
 - » Errand or delivery work by foot, bicycle or public transportation
 - » Certain interior and exterior cleaning work (no power-driven equipment)
 - » Limited kitchen work (e.g., serving food and beverages, cleaning and handling fruits and vegetables)
 - » Limited cooking work (no open flame or deep fat fryers that must be manually lifted and lowered)

The FLSA and Youth Employment

- Youth ages 14 – 15 (continued): Permitted Work?
 - » Loading and unloading certain personal items, non-power tools and protective gear they will use as part of job from motor vehicles (e.g., lunch box, rake/broom, work gloves, but not lawn mowers or safety equipment like cones and barriers)
 - » Dispensing gas and oil
 - » Cleaning cars by hand
 - » Very limited work that involves riding as passenger in vehicles (restrictions on activities, industries and working conditions)
 - » Under very limited circumstances, certain youth 14 and older who are excused from compulsory schooling may work in establishment where machinery is used to process wood products (may never operate machinery)

The FLSA and Youth Employment

- **ANY JOB NOT SPECIFICALLY PERMITTED IS PROHIBITED UNDER THE FLSA**



The FLSA and Youth Employment

- Youth ages 14 – 15: Prohibited Work?

In addition to the work prohibitions applicable to youth ages 16 and 17, youth ages 14 and 15 may not perform work involving the following:

- » Occupations that involve hoisting apparatus
- » Work performed in or about boiler or engine rooms, including repair and maintenance



The FLSA and Youth Employment

- Youth ages 14 – 15 (continued): Prohibited Work?
 - » Occupations that involve power-driven machinery, including but not limited to lawn mowers, golf carts, all-terrain vehicles, trimmers, cutters, weed-eaters, edgers, food slicers, food grinders, food choppers, food processors, food cutters, and food mixers
 - » Operating motor vehicles and serving as helpers on motor vehicles
 - » Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or similar equipment



The FLSA and Youth Employment

- Youth ages 14 – 15 (continued): Prohibited Work?
 - » Loading and unloading of goods or property onto or from motor vehicles, railroad cars, or conveyors
 - » Occupations in connection with transportation of persons or property
 - » Warehousing and storage
 - » Construction, with exceptions for some office and sales work



Youth Minimum Wage

- Not less than \$4.25 hour for those under age of 20
- Only for first 90 days of employment with any employer
- Work cannot displace other workers
- After 90 days of employment, or worker reaches age 20 (whichever occurs first), worker must receive at least the [Federal minimum wage](#)



State Law and Youth Employment

- Many states also have regulations governing workers under the age of 18 that can be more restrictive than FLSA
 - » Maximum Hours
 - » Meal Periods
 - » Rest Breaks
 - » Type of Work Performed
 - » Stricter Penalties
 - » Wage Requirements

FLSA- Child Labor Law Penalties

- Civil money penalty up to \$14,050 for each employee who is the subject of the violation
- Penalty up to \$63,855 for each violation that causes the death or serious injury of a minor (can be doubled for repeat violations)
- Injunctive relief against the employer
- Criminal actions: \$10,000 fine for first willful violation; up to six months in prison for second willful violation
- Legal action to restrict shipment or delivery of “hot goods” produced in the US if oppressive child labor was used 30 days prior to the removal of the goods

Minor Workers – Best Practices

- Mandatory workplace postings
- Work permits/Age certificates
 - » Not required by the FLSA
 - » State law driven
- Accurate and Complete Job Descriptions
- Confirm that the occupation is permitted under federal and state laws
- Timekeeping and payroll
 - » Mandatory under FLSA
 - » Proof of any required breaks under state laws
 - » Proper minimum wage
- Conduct separate orientation for minor employees that covers permitted activities, hours of work and points of contact in company

Minor Workers – Best Practices

- Review and adjust any personnel policies to ensure they cover minor issues
- Scheduling: ensure compliance with maximum hour, time of day restrictions and break requirements
- Train managers and supervisors on permitted tasks, hours of work and rules governing minors
- Ensure proper supervision of minors while on the job
- Document all communication and training



Youth Rules!

- US Department of Labor [resources](#) for:
 - » Younger Workers
 - » Parents
 - » Employers
 - » Educators

TEACH
encourage
instruct
MENTOR
PRAISE
influence
GUIDE
INSPIRE

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Do you know what PTO is available?



Be Aware of Any Compliance Obligations Impacted by the Size of Your Workforce

- Are you onboarding your seasonal staff?
- What about training?



Protect Your Confidential Information

- Confidentiality agreements?
- NDAs?



Train Your Supervisors!



QUESTIONS



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THANK YOU!



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