

## 1 HOUSE BILL NO. 282

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE EMPLOYMENT OF  
6 MINORS; ALLOWING STUDENT-EMPLOYEES 16 YEARS OF AGE OR OLDER TO PERFORM WORK  
7 FUNCTIONS UNDER CERTAIN CIRCUMSTANCES; REVISING EXEMPTIONS IN AGRICULTURE TO  
8 ALLOW A STUDENT-LEARNER TO PERFORM REGULAR WORK FUNCTIONS; AND AMENDING  
9 SECTIONS 41-2-103, 41-2-107, 41-2-109, AND 41-2-110, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 **Section 1.** Section 41-2-103, MCA, is amended to read:

14 **"41-2-103. Definitions.** As used in this part, the following definitions apply:

15 (1) "Agriculture" means:

16 (a) all aspects of farming, including the cultivation and tillage of the soil;

17 (b) (i) dairying; and

18 (ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities,  
19 including commodities defined as agricultural commodities in the federal Agricultural Marketing Act, 12 U.S.C.  
20 1141j(g);

21 (c) the raising of livestock, bees, fur-bearing animals, or poultry; and

22 (d) any practices, including forestry or lumbering operations, performed by a farmer or on a farm as  
23 an incident to or in conjunction with farming operations, including preparation for market or delivery to storage,  
24 to market, or to carriers for transportation to market.

25 (2) "Department" means the department of labor and industry provided for in 2-15-1701.

26 (3) "Domestic service" means an occasional, irregular, or incidental nonhazardous occupational  
27 activity related to and conducted in or around a private residence, including but not limited to babysitting, pet  
28 sitting or similar household chore, and manual yard work. Domestic service specifically excludes industrial

1 homework.

2 (4) (a) "Employed" or "employment" means an occupation engaged in, permitted, or suffered, with or  
3 without compensation in money or other valuable consideration, whether paid to the minor or to some other  
4 person, including but not limited to occupations as servant, agent, subagent, or independent contractor.

5 (b) The term does not include casual, community service, nonrevenue raising, uncompensated  
6 activities.

7 (5) "Employer" includes an individual, partnership, association, corporation, business trust, person, or  
8 group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

9 (6) "Minor" means an individual under 18 years of age, except for an individual who:

10 (a) has received a high school diploma or a high school equivalency diploma; ~~or~~

11 (b) is 16 years of age or older and is enrolled in a registered state or federal apprenticeship program;

12 or

13 (c) is 16 years of age or older and is a student-employee under the direct and close supervision of a  
14 qualified and experienced person with experience in the occupation in which the minor is employed as provided  
15 in 41-2-110.

16 (7) "Occupation" means:

17 (a) an occupation, service, trade, business, or industry in which employees are employed;

18 (b) any branch or group of industries in which employees are employed; or

19 (c) any employment or class of employment in which employees are employed."  
20

21 **Section 2.** Section 41-2-107, MCA, is amended to read:

22 **"41-2-107. Prohibited employment of minors who are 16 and 17 years of age.** Unless working as  
23 an apprentice, ~~or student-learner,~~ or student-employee under the provisions of 41-2-110, a minor 16 or 17  
24 years of age may not be employed in or in connection with any of the following occupations:

25 (1) manufacturing or storing explosives or articles containing explosive components;

26 (2) logging and the operation of a sawmill, lath mill, or shingle mill;

27 (3) the operation of power-driven woodworking machines;

28 (4) an occupation involving exposure to a radioactive substance or ionizing radiation;

- 1 (5) the operation of a freight elevator, except for a freight elevator permitted for use under the child  
 2 labor provisions of the federal Fair Labor Standards Act of 1938, or other power-driven hoisting apparatus;  
 3 (6) the operation of a power-driven metal forming, punching, and shearing machine;  
 4 (7) a mining occupation;  
 5 (8) slaughtering, meatpacking, meat processing, or rendering;  
 6 (9) the operation of a power-driven bakery machine;  
 7 (10) the operation of a power-driven paper products machine;  
 8 (11) the manufacture of brick, tile, or similar products;  
 9 (12) the operation of a circular saw, bandsaw, or guillotine shears;  
 10 (13) a wrecking or demolition operation;  
 11 (14) an excavation operation;  
 12 (15) a roofing operation;  
 13 (16) riding outside a motor vehicle to assist in transporting or delivering goods; and  
 14 (17) a coal mining operation."

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 16 **Section 3.** Section 41-2-109, MCA, is amended to read:  
 17 **"41-2-109. Exemptions from prohibited occupations in agriculture.** (1) The prohibitions from  
 18 employment in agricultural operations provided for in 41-2-106(7) do not apply to the employment of a student-  
 19 learner who is 14 or 15 years of age if all of the following requirements are met:  
 20 (a) The student-learner is enrolled in a K-12 career and vocational/technical education training  
 21 program in agriculture under a recognized state or local educational authority or in a substantially similar  
 22 program conducted by a private school.  
 23 (b) The student-learner is employed under a written agreement, providing that:  
 24 (i) the work is incidental to training;  
 25 (ii) the work is ~~intermittent, for short periods of time, and~~ under the direct and close supervision of a  
 26 qualified and experienced person;  
 27 (iii) safety instruction is given by the school and correlated by the employer with on-the-job training;  
 28 and

1 (iv) a schedule of organized and progressive work processes to be performed on the job has been  
2 prepared.

3 (c) The written agreement contains the name of the student-learner and is signed by the employer  
4 and by a person authorized to represent the educational authority or school.

5 (d) Copies of each agreement are kept on file both by the educational authority or school and by the  
6 employer.

7 (2) The prohibitions in 41-2-106(7) do not apply to the employment of a minor who is 14 or 15 years of  
8 age in those occupations in which the minor has successfully completed a work training program, including  
9 safety instruction and training in the use of machinery, under the 4-H program of the federal extension service,  
10 a program of the United States department of education, or a similar program if the safety program has been  
11 approved by the department and if the minor is employed outside school hours on the equipment for which the  
12 minor has been trained."  
13

14 **Section 4.** Section 41-2-110, MCA, is amended to read:

15 **"41-2-110. Exemptions from prohibited employment of minors who are 16 or 17 years of age.**

16 (1) The prohibitions in 41-2-107 do not apply to the employment of an apprentice, ~~or~~ student-learner, or  
17 student-employee who is 16 or 17 years of age if the minor is employed under the following conditions:

18 (a) for an apprentice, if:

19 (i) the minor is employed in a craft recognized as an apprenticeable trade;

20 (ii) the work is incidental to the minor's training;

21 (iii) the work is ~~intermittent, for short periods of time, and~~ under the direct and close supervision of a  
22 journeyman as a necessary part of the apprentice training; and

23 (iv) the minor is registered by the bureau of apprenticeship and training of the United States  
24 department of labor as employed in accordance with the standards established by that bureau or is registered  
25 by the department as employed in accordance with the standards of the department;

26 (b) for a student-learner, if:

27 (i) the student-learner is enrolled in a course of study and training in a cooperative vocational training  
28 program under a recognized state or local educational authority or in a course of study in a substantially similar

1 program conducted by a private school;

2 (ii) the student-learner is employed under a written agreement, providing that:

3 (A) the work of the student-learner is incidental to the student-learner's training;

4 (B) the work is ~~intermittent, for short periods of time, and~~ under the direct and close supervision of a  
5 qualified and experienced person;

6 (C) safety instruction is given by the school and correlated by the employer with on-the-job training;

7 and

8 (D) a schedule of organized and progressive work processes to be performed on the job has been  
9 prepared;

10 (iii) the written agreement contains the name of the student-learner and is signed by the employer and  
11 the school coordinator or principal; and

12 (iv) copies of each agreement are kept on file both by the educational authority or school and by the  
13 employer; ;

14 (c) (i) for a student-employee, if:

15 (A) the student-employee is under the direct and close supervision of a qualified and experienced  
16 person with experience in the occupation in which the minor is employed; and

17 (B) safety instruction is given by the employer of the student-employee.

18 (ii) A student-employee that qualifies under this subsection (1)(c) may perform any work function as  
19 required by the occupation.

20 (2) This exemption for the employment of student-learners may be revoked by the department in any  
21 situation if the department finds that reasonable precautions have not been observed for the safety of minors  
22 employed under the exemption.

23 (3) A high school graduate who is 16 or 17 years of age may be employed in an occupation in which  
24 the graduate has completed training as a student-learner as provided in this section."

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