

# MONTANA WORK-BASED LEARNING

## *Myth vs. Fact*

Montana has one of the strongest economies in the nation. At the same time, thousands of jobs go unfilled as Montana businesses struggle to find qualified candidates with the right skills. This document addresses common concerns and perceived barriers to hiring youth in the workplace.

### MYTH vs. FACT

#### **MYTH: I can't work with minors. Employees must be at least 18 years old.**

**FACT:** At 16 years of age, youth may be employed in any occupation other than one declared to be hazardous\* (\*Some "hazardous" occupations have a Student Learner or Registered Apprenticeship exemption – 41-2-110 MCA - see back page). There are no hour restrictions on workers 16 years or older. A variety of jobs can be performed by minors ages 14 and 15 including additional occupations as part of a career work experience or career exploration program. For more detailed information (including exemptions and restricted hours) refer to Montana's Child Labor Law Reference Guide.

#### **MYTH: My Workers' Compensation rates will change if I work with minors.**

**FACT:** Workers' Compensation covers every employee equally, regardless of age. Workers' Compensation premium is calculated based on payroll, type of work, and experience of the employer. Age and years of experience of workers are not used to calculate the cost of a workers' compensation policy, nor the payout of claims. As a result, actual costs are low for hiring work-based learning (WBL) students and existing protections are sufficient.

Unpaid internships also allow students to gain work experience without being considered an "employee" if they are primarily on site to learn and receive no direct compensation from the company. In such cases, commercial liability insurance for private employers and high-risk accident insurance for school districts protect students and employers. However, to classify a student as an "unpaid intern," rather than a paid employee, specific criteria cited by the federal Fair Labor Standards Act (FLSA) must be met. See USDOL Fact Sheet 71 for a list of those criteria.

#### **MYTH: Human Resources says we can't even bring minors on the floor of our facility!**

**FACT:** Company policy may be the only real barrier to engaging with the most talented and qualified students. There are many ways to ensure quality and safe learning experiences that create a stronger workforce pipeline for your company:

- Partner with a third party, a nonprofit and/or school district to hire and train minors while they're still in high school.
- Work with students who have completed substantial safety and training courses in your industry and/or obtained a recognized industry certification. Partnering with Career & Technical Education (CTE) programs are one way to identify these students.
- Create an internship/part-time position to expose students to various roles and departments or have them complete a project.
- Draft a contract that defines your company's responsibility for non-employees, like unpaid interns.
- Add Volunteer Workers' Compensation to coverage already in place to protect non-employees (interns, job shadow students, or tour groups).



## **MYTH: Schools won't allow students to work during regular business hours.**

**FACT:** Students aged 16 and 17 may work any time of the day or night, regardless of school hours, as long as restrictions on the number of daily and weekly hours are followed. Through competency-based education, project-based learning, career and technical education (CTE), and concurrent enrollment schools are providing more flexible scheduling that helps to personalize a student's learning experiences and can be used for work-based learning experiences.

## **MYTH: Youth workers are free labor.**

**FACT:** Work-based learning is a way for businesses to contribute to both the development of future talent and to forming an appropriately skilled workforce. Internships can be either paid or unpaid. For further guidance on unpaid internships, please reference USDOL Fact Sheet 71. Pre-Apprenticeships may be paid or unpaid. Apprenticeships and Youth Apprenticeships are paid training experiences that provide a higher return on investment for employers. Apprentices are considered employees and workers comp coverage will be required.

## **MYTH: My industry/workplace is too dangerous for minors.**

**FACT:** Under state and federal law there are only a few "hazardous" occupations prohibited for minors who are 16 and older. This leaves many occupations where youth can work without restriction. In most cases, OSHA requirements ensure you're already protecting your employees to the same extent you'd need to protect a minor. There are many roles young people can fill to give them beneficial exposure to your workplace, provide your business with value, and spark an interest in long-term employment in your industry.

With safety, proper training, and supervision in mind, youth who are 16 or 17 years old may work in any hazardous occupation listed below with a Student Learner or Registered Apprenticeship exemption. After completion of student-learner training outlined in this section, a minor who is 16 or 17 years old may be employed in the occupation.

### **Student Learners participating in hazardous occupations with an Apprentice or Student-Learner exemption (41-2-110 MCA) must meet the following criteria:**

- At least 16 years old
- For an apprentice:
  - The work is incidental to the minor's training
  - The work is intermittent, for short periods of time, and under direct and close supervision of a journeyman as a necessary part of the apprentice training
  - The position is registered through DLI Montana Registered Apprenticeship Program
- For a Student Learner:
  - Is enrolled in a course of study and training in a cooperative technical training program under a recognized state or local educational authority or in a course of study in a substantially similar program conducted by a private school
  - The student-learner is employed under a written agreement, providing that all the following are met:
    - The work of the student-learner is incidental to the student-learner's training
    - The work is intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person
    - Safety instruction is given by the school and correlated by the employer with on-the-job training
    - A schedule of organized and progressive work processes to be performed on the job has been prepared
    - The written agreement contains the name of the student-learner and is signed by the employer and the school coordinator or principal; and copies of each agreement are kept on file both by the educational authority or school and by the employer

### **HAZARDOUS OCCUPATIONS WITH STUDENT LEARNER EXEMPTIONS**

- Logging and the operation of a sawmill, lath mill, or shingle mill
- Power-driven woodworking machines
- The operation of a power-driven paper products machine
- Power-driven metal forming, punching, and shearing machine
  - \*Does not apply to machine tools which can be used by minors 16 and older. For a complete list of approved machine tools – milling, turning, planing, grinding, and boring function machines please see Federal Child Labor 101 guide
- Power-driven meat-processing machines, slaughtering and meat packing plants
- Power-driven circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs
- Trenching and excavation operation
- Roofing operations and work performed on or about a roof

### **PROHIBITED HAZARDOUS OCCUPATIONS**

- Manufacturing and storing of explosives
- Motor-vehicle driving and outside helper on a motor vehicle
  - \*Exception for 17 y/o – for details see Federal Child Labor 101 guide
- Coal mining
- Occupations in forest fire fighting, forest fire prevention, timber
- Mining, other than coal mining
- Power-driven bakery machines including vertical dough or batter mixers
- Manufacturing bricks, tile, and kindred products
- Wrecking, demolition, and shipbreaking operations