

Work-based Learning in Montana

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 to fill those jobs. This document addresses common concerns and perceived barriers to hiring youth in the workplace.

MYTH: I can't work with minors. They 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 that 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: There's too much liability at stake for our company to 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. Neither age nor years of experience are calculated into the cost of providing workers' compensation 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 employer. 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: HR 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 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 special education 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 the development of future talent and ensure we develop 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 prohibited “hazardous” occupations 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 valuable 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 position listed below as hazardous occupations 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; and
- 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;

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, Planning, Grinding, and Boring Function machines please see Federal Child Labor 101
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 Federal Child Labor 101
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.

- The student-learner is employed under a *written agreement*, providing that:
 - a) the work of the student-learner is incidental to the student-learner's training;
 - b) the work is intermittent, for short periods of time, and under the direct and close supervision of a qualified and experienced person;
 - c) safety instruction is given by the school and correlated by the employer with on-the-job training; and
 - d) a schedule of organized and progressive work processes to be performed on the job has been prepared;
 - e) 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.
- The Montana Department of Labor and Industry can revoke if the department finds that reasonable precautions have not been observed for the safety of minors employed under the exemption.