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## **2008 REPORT ON EMPLOYMENT OF MINORS IN AGRICULTURAL PACKING PLANTS**

### **Background and Introduction**

Assembly Bill (AB) 1900 (Chapter 1175, Statutes of 1994) also known as the Omnibus Child Labor Reform Act of 1993 became effective on January 1, 1995. Among other provisions, the bill added Labor Code §1393, authorizing the Labor Commissioner, Chief of the Division of Labor Standards Enforcement (DLSE) within the Department of Industrial Relations (DIR), to grant exceptions to the limitation of the number of hours that 16- and 17-year-old minors may work in a day at an agricultural packing plant during peak harvest season when school is not in session. The law authorized the Labor Commissioner to grant an exemption to allow minors to work up to ten hours per day, rather than eight hours, if the additional work hours did not materially affect the safety and welfare of the minor. Senate Bill (SB) 1988 (Chapter 1117, Statutes of 1996) authorized the Lake County Board of Education to permit the employment of 16- and 17-year-old minors for up to sixty hours per week when school was not in session during the peak harvest season. This law was scheduled to sunset on January 1, 1999, but the date was extended to January 1, 2002 by the enactment of SB 2054 (Chapter 237, Statutes of 1998).

SB 912 (Chapter 345, Statutes of 2001) amended Labor Code §1393.5 to require the Labor Commissioner to annually inspect Lake County agricultural packing plants that apply for an exemption or renewal of an exemption authorized by the section. The law requires agricultural packing plants that receive such an exemption to submit to the Labor Commissioner an annual report on the number, ages, and working hours of minors that were employed during the preceding year. In addition, the Labor Commissioner is required to report to the Legislature on the working conditions of minors employed in the plants during the preceding year.

SB 912 extended the sunset date for the provisions of Labor Code §1393.5 to January 1, 2005. SB 1134 (Chapter 151, Statutes of 2004) extended the sunset date to January 1, 2008.

SB 319 (Chapter 269, Statutes of 2007) amended Labor Code §1393.5 by extending the sunset date to January 1, 2012. The bill further revised the provisions relating to Lake County by limiting the hours of work exemption to the employment of minors, 16 or 17 years of age, who reside in Lake County upon prior written approval of the Lake County Office of Education. SB 319 also deleted the requirement that a minor be enrolled in school in Lake County for the exemption to apply.

The following is a report of the working conditions of minors employed in agricultural packing plants in 2008.

### **Exemptions Issued, Renewed, or Denied Pursuant to Labor Code §1393.5**

In 2008, pursuant to Labor Code §1393.5, applications were submitted by two Lake County employers for exemption to authorize employment of minors for more than 48 hours in any one week. The Labor Commissioner issued two exemptions to agricultural packing plant employers operating in three locations in Lake County. One of those employers held a valid exemption in 2007 while the other employer's application for exemption had been denied in 2007 due to labor violations found in the course of investigation for the exemption. No applications submitted by Lake County packing plants for the 2008 packing season were denied.

### **Number of Minors Employed in the Agricultural Packing Plant Industry**

According to reports of the Lake County agricultural packing plant employers operating with an approved exemption in 2008, a total of 54 minors aged 16- and 17- years old were employed during the 2008 peak packing season. Of those 54, three turned 18 during the packing season.

Information regarding youth employment among the youth labor force ages 16 through 24, particularly during the summer months, is collected as part of the U.S. Department of Labor, Bureau of Labor Statistics (BLS) studies. Data are not reported by detailed sub-classifications of industry, age, or state/county of residence. For these reasons, the number of California minors employed in specific agricultural services (i.e. agricultural packing plants) in California and/or Lake County is unknown beyond those agricultural packing plants actually applying for exemptions with inspections conducted as a result of their applications. It is known, based upon inspection, that an additional 354 minors were employed in agricultural packing plants statewide.

### **General Working Conditions of Minors Employed In Lake County Agricultural Packing Plants**

Lake County is the home of five unified school districts, all of which include regular curriculum high schools, special continuing, alternative education, and court school campuses. Pursuant to statistical enrollment data found on the Lake County Office of Education's website and the California Department of Education, the Lake County school enrollment for all grades kindergarten through 12<sup>th</sup> in the last ten years was at its low point in the 2002-03 school year. The enrollment has fluctuated on a yearly basis with its peak enrollment in the 2004-05 year. However, the enrollment for the 2007-08 school year was slightly higher than the low point in 2002-03. The 2007-08 enrollment of high school students in grades 9 through 12, inclusive of all programs listed above, was 3,216 and was distributed as follows:

Kelseyville Unified School District – 686  
Konocti Unified School District – 968  
Lakeport Unified School District – 522  
Middletown Unified School District – 545  
Upper Lake Union High School District – 429  
Lake County Office of Education (court programs) – 66

None of the Districts dismissed for summer vacation later than mid-June, 2008. The earliest date that the Labor Commissioner authorized any employer to begin extended work hours for a 16- or 17-year-old was July 4, 2008, with authority to continue until September 2, 2008. Reports provided by the packing plants receiving an exemption show that the earliest date minors worked more than

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40 hours in a week was the week ending July 13, 2008. One Lake County school district outside of the area of the packing plants receiving exemptions resumed instruction for the Fall 2008 school session on August 20, 2008. The remaining school districts resumed classes on September 4, 2008. Depending upon the starting date of the fall school session in their particular district, minors were expected to return to class at that designated time and the Office of Education no longer approved extended work hours. Reports provided by the packing plants receiving the exemption show that the latest date minors worked extended hours was the week ending August 24, 2008. No minor worked more than 60 hours in a week during the time frame allowing work for extended hours.

At least 80 percent of the teens employed by the exempted Lake County agricultural packing plants worked for periods ranging from one week to six weeks during the packing season. Forty (40) minors (twenty-one 17-year olds and nineteen 16-year olds) worked through the week ending August 31, 2008. Of the 17-year olds working the week ending August 31, the maximum hours worked was 36.25 and the least hours worked was 1.75. Of the 16-year olds working the week ending August 31, the maximum hours worked was 37 and the least hours worked was 6.75.

According to the employer reports of weekly hours worked by minors during the 2008 peak packing season, the least amount of time worked by any minor during any one workweek was 1.75 hours, and the greatest number of hours worked by any minor during a single workweek was 59.75 hours.

### **Summary of Inspections Conducted Pursuant to Labor Code §1393.5**

Prior to the beginning of peak pear packing season, DLSE conducted inspections of the two Lake County packing shed employers that applied for the exemption for excess hours worked by minors. On April 30, 2008, a DLSE deputy met with the managing member of the packing plant that had been previously granted an exemption, and inspected both Lake County facilities at which the minors would be working. Records were inspected including payroll records and permits for the prior packing season as well as current payroll records. According to the information provided to the deputy, the proposed duties for minors were sorting, grading, quality testing, weighing fruit in addition to assembling, labeling, packing and sorting of boxes, and cleanup. No minors are allowed to operate machinery and the employer reported providing safety training classes, conducting safety monitoring during production, and making age-appropriate assignments for minors 16 and 17 years of age in compliance with both state and federal laws and regulations. In addition, the employer had set up procedures for all supervisors on how to monitor the employment of minors in accordance with the requirements of child labor laws. The packing shed employer provided proof of workers' compensation coverage for all employees. No violations of labor laws were found and recommendation was made to approve the applications for exemption for both facilities.

Also on April 30, 2008, a DLSE deputy met with the controller of a packing plant which had been denied approval for exemption in 2007 due to violations of labor laws that had been discovered in the course of inspection for the application. Because of prior violations special attention was given in the inspection to confirm that violations noted the previous year had been corrected. Because there were no minors employed in the prior season, the inspection for this application included review of the payroll records for the entire company for the months of August, 2007 and March, 2008. All payroll records were in order. The deputy was informed and verified by records that the proposed duties of the minors would be sorting, packing, weighing, stacking, clerical, cleaning, and miscellaneous labor. No minors would be allowed to operate machinery. Safety procedures were in place. The packing shed employer provided proof of workers' compensation coverage for all

employees. No violations of labor laws were found and recommendation was made to approve the application for exemption.

### **Workplace Injuries Involving Minors Employed by Agricultural Packing Plants**

Statistical data summaries on workplace injuries are prepared by the BLS and the Division of Labor Statistics and Research for the state of California. However, these compiled statistics lack detailed industry segment, age-specific, and/or geographic location data that would identify minors that were involved in non-fatal work-related injuries in agricultural packing plants. However, at the time of inspections of all employers applying for exemption for the 2008 growing season, none reported any injuries to minors during the 2007 season.

### **Labor Law and Regulation Violations in Agricultural Packing Plants**

During 2008, DLSE received no complaints of labor law violations in agricultural packing plants specific to minors. Statistics are not available for the number of violations of labor laws and regulations that occurred at agricultural plants on a statewide basis. No violations of labor laws were found for either of the employers at any of their locations in Lake County.

Inspections were performed and applications for exemption approved for 11 other packing plants statewide. In two of those inspections, a Notice to Discontinue was issued to correct clock in-clock out record keeping requirements for meal and rest periods but no citations were issued. The record keeping requirements were immediately corrected and applications approved.

Two applications for exemption outside of Lake County were denied due to violations of labor law found during the inspection process. The violations found included:

- Minors working without valid work permits in violation of Labor Code §1299
- Minors worked more than authorized hours in violation of Labor Code §1391

Citations for these two applicants were issued in the total amount of \$3,500.

Respectfully submitted,

Angela Bradstreet  
State Labor Commissioner