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2011 to 2015 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 exemptions 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 is scheduled to sunset on January 1, 2022.

Labor Code §1393.5 requires 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 employed during the preceding year. In addition, the Labor Commissioner is required to report to the Legislature the working conditions of minors employed in the plants during the preceding year.

Labor Code §1393.5 requires the Labor Commissioner to report to the Legislature on or before November 1, of each year on the working conditions for minors, 16 or 17 years of age, who reside in Lake County.

The following is a report of the working conditions of minors employed in agricultural packing plants for 2011 through 2015.

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

During 2011 to 2015, pursuant to Labor Code §1393.5, two Lake County employers submitted applications for exemptions to employ minors for up to 10 hours per day but not to exceed 60 hours in any one week during the summer recess. The two employers operated in

three different locations. In addition to the Lake County employers, four packing employers applied for exemptions during the 2011 through 2015 years. These four employers operated outside of Lake County. The Labor Commissioner issued the exemptions to the employers as follows:

	Number of Employer Applications Received in Lake County	Number of Permits Issued to Employers in Lake County	Number of Applications for Other Counties	Number of Permits Issued to Employers in Other Counties	Total Permits Issued
2011	2	2	2	2	4
2012	2	2	2	2	4
2013	1	1	3	3	4
2014	1	1	3	3	4
2015	2	2	3	3	5
Total	8	8	13	13	21

Number of Minors Employed in the Agricultural Packing Plant Industry

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 is 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. The only information available is from the inspections conducted in response to the applications submitted for exemptions.

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, and alternative education. In addition, the Lake County Office of Education operates four court/community school programs for grades 9 through 12. (Kelseyville Unified School District, Konocti Unified School District, Lakeport Unified School District, Middletown Unified School District, Upper Lake Union High School District, and Lake County Office of Education (court/community school programs)).

None of the Districts dismissed for summer vacation later than mid-June, 2020. The exemption permit issued by the Labor Commissioner's office restricts the use of minors whose school is in session during the allowed period. 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 approved extended work hours were stopped. No minor worked more than 10 hours per day or 60 hours in a week during the time-frame allowing work for extended hours.

Summary of Inspections Conducted Pursuant to Labor Code §1393.5

Prior to the beginning of peak packing season, DLSE conducted inspections of the two Lake County packing plant employers that applied for the exemption. The following is information collected from these specific inspections.

2011 Application Inspections in Lake County

On March 23, 2011, a DLSE deputy met with the managing member of the packing plant that had two facilities in Lake County and inspected both facilities where the minors would be working. In addition to packing their own fruit, the packing plant packs pears for about 40 growers. At the time of the inspection, both facilities were clean and free from debris. The toilet and water facilities were operational. The managing member indicated both facilities would undergo another cleaning one to two weeks prior to the opening of the shed. The company was compliant with the current posting requirements including the 2015 Permit for Extension of Minor's Work Hours in Agricultural Packing Plants, minimum wage, and workers' compensation insurance notice.

According to the information provided, the proposed duties for minors were sorting, grading, quality testing, and weighing fruit in addition to assembling, labeling, packing, and sorting of boxes, and cleanup. No minors are allowed to operate machinery. The employer reported providing safety training classes, including heat illness prevention training. The facilities conduct safety monitoring during production and make age-appropriate assignments for minors 16 and 17 years of age in compliance with both state and federal laws and regulations. To further ensure safety, no horseplay of any type is tolerated on the premises. All minors participate in an orientation process and are educated in health and safety procedures. Suitable chairs are available for minors inside the packing facility. Time cards for minors were highlighted in yellow so they are easily identified. 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. Supervisors were required to be able to identify minors working in their areas by requiring minors to wear a neon green baseball cap.

Workplace Injuries Involving Minors Employed by Agricultural Packing Plants

Statistical data summaries on workplace injuries are prepared by the Federal Bureau of Labor Statistics 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. CAL OSHA Form 300 was obtained showing that in 2010, there were eight injuries total at both packing facilities. Of the eight injuries, none involved a minor.

Based on the investigations conducted, the investigator recommended approving for exemptions both facilities employing minors in Lake County.

In addition to the approval of the one employer in Lake County, one other packing operation in Lake County and two other employers outside of Lake County were approved for the exemption allowing extended hours, in 2011.

2012 through 2014 Application Inspections in Lake County

In 2012, the Labor Commissioner's office inspected and approved two employers in Lake County at three different locations and two additional employers outside of Lake County for extension of minors' work hours in Agricultural Packing Plants.

In 2013, the Labor Commissioner's office inspected and approved one employer in Lake County at two locations and three additional employers outside of Lake County for extension of minors' work hours in agricultural packing Plants.

In 2014, the Labor Commissioner's office inspected and approved one employer in Lake County at two locations and three additional employers outside of Lake County for extension of minors' work hours in agricultural packing Plants.

Investigative reports and applications are unavailable for 2012 – 2014 inspections.

2015 Application Inspection in Lake County

On May 21, 2015, a DLSE deputy met with the managing member of the packing plant that had two locations in Lake County and inspected both facilities at which the minors would be working. In addition to packing their own fruit, the packing plant packs pears for about 40 growers. At the time of the inspection, both facilities were in the process of being cleaned and free from debris. The toilet and water facilities were operational. The managing member indicated both facilities undergo another cleaning one to two weeks prior to the opening of the shed. The company was compliant with the current posting requirements including the 2015 Permit for Extension of Minor's Work Hours in Agricultural Packing Plants, minimum wage, and workers' compensation insurance notice.

According to the information provided to the deputy, the proposed duties for minors were sorting, grading, quality testing, and 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, including heat illness prevention training. The facilities conduct safety monitoring during production and make age-appropriate assignments for minors 16 and 17 years of age in compliance with both state and federal laws and regulations. To further ensure safety, no horseplay of any type is tolerated on the premises. All minors participate in an orientation process and are educated in health and safety procedures.

The company obtained a letter of endorsement from the Lake County Office of Education. The letter concludes: "As the Lake County Superintendent of Schools, I endorse the employment of minors, 16 and 17 years of age to work up to 10 hours per day and 60 hours per week at the two packing sheds.

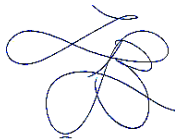
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Based on the investigations conducted, the investigator recommended approving for exemption for both facilities employing minors in Lake County.

In addition to the approval of the one employer in Lake County, one other packing operation in Lake County, and three other employers outside of Lake County were approved for the exemption of working extended hours, in 2015.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lilia Garcia-Brower", with a stylized, looping design.

Lilia Garcia-Brower
California Labor Commissioner