

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210



SEP 21 2005

The Honorable John Cornyn
Occidental Tower
5005 LBJ Freeway, Suite 1150
Dallas, Texas 75244-6199

Dear Senator Cornyn:

SEP 23 2005

This is in response to your letter on behalf of Mr. Tim Lambert. Your constituent inquires as to whether the federal youth employment rules would prohibit a 14-year-old from babysitting at a local church past 7:00 p.m. and during school hours. Your letter has been forwarded to the Wage and Hour Division (WHD) for a reply.

The WHD, part of the U. S. Department of Labor's Employment Standards Administration, is responsible for administering the Fair Labor Standards Act (FLSA). The FLSA is the federal law of most general application concerning wages, hours of work and youth employment. The youth employment provisions were enacted to ensure that when young people work, the work is safe, age-appropriate, and does not jeopardize their health, well-being, or schooling.

The provisions of the FLSA apply only to (1) employees who are individually engaged in or producing goods for interstate commerce, and (2) to employees in certain enterprises (see the enclosed Handy Reference Guide). Employees of a church may be individually covered under the FLSA if their duties involve interstate commerce or the production of goods for interstate commerce. Those employees who regularly order or receive goods from outside the State, handle or produce goods for shipment to other States, keep records relating to such interstate transactions, and use the telephone, telegraph, and mails for interstate communication are individually covered.

Enterprise coverage, defined in section 3(r) of the FLSA, applies only to activities performed for a business purpose and does not extend to eleemosynary, religious, educational or similar activities of organizations operated on a nonprofit basis, other than the following: hospitals, institutions primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such institutions, schools for the mentally or physically disabled or gifted children, preschools, elementary or secondary schools, and institutions of higher education.

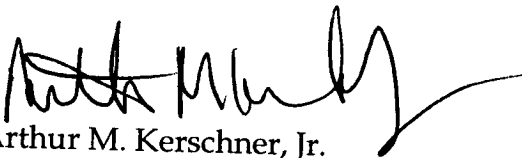
Based on the information you have provided, it appears that the employment of the 14-year-old as a babysitter by the church - which is not in conjunction with a church operated preschool, elementary school, or secondary school - is not subject to the provisions of the FLSA on either an individual or enterprises basis. Accordingly, the federal youth employment provisions would not apply to this youth's employment.

If the youth's employment had been covered, the employee would be required to be paid a minimum wage of at least \$5.15 an hour and overtime premium pay for all hours worked in excess of 40 in a workweek. In addition, the employment would be subject to the youth employment provisions of the FLSA if such employees were less than 18 years of age. For your information, we are enclosing a copy of CL Bulletin 101 (*Child Labor Requirements in Nonagricultural Occupations Under the Fair Labor Standards Act*) which provides information about the federal youth employment provisions.

Finally, we note that all states have their own youth employment provisions, often with coverage provisions that differ widely from those of the FLSA. When state provisions vary from the federal provisions, employers are held to the more stringent standard. For information about the Texas youth employment provisions, your constituent may wish to visit the following Web site: <http://www.twc.state.tx.us/ui/lablaw/cllsum.html>.

We trust that your constituent will find this information helpful. Please note that in addition to the publications we have enclosed with this letter, a wealth of youth employment information is available on the Department of Labor's *YouthRules!* Web site located at www.youthrules.dol.gov.

Sincerely,



Arthur M. Kerschner, Jr.
Office of Enforcement Policy
Child Labor and
Special Employment Team

Enclosures