

Sections 817.4 and 817.24 Child Labor

The following rule amendments will be effective November 21, 1999

The Texas Workforce Commission (Commission) adopts an amendment to §817.4 and new §817.24, concerning child labor provisions, without changes to the proposed text as published in the September 3, 1999, issue of the *Texas Register* (24 TexReg 6956).

The purpose of the amendment and new section is to implement House Bill 160 of the 76th Legislature, Regular Session, relating to the regulation of certain sales and solicitations made by children and related violations. It is the Commission's intent to encourage the safe employment of minors engaged in certain sales and solicitation activities, and to enforce the penalties set forth in the Texas Labor Code. An amendment to §817.4 expresses the Commission's intent to define the scope of its enforcement of Texas Labor Code §51.0145 to be consistent with the legislative intent of that provision. New §817.24 clarifies the process by which an affected employer can comply with the requirement to obtain consent and provide information about solicitation trips. New §817.24 also limits solicitation trips to within 30 miles of the child's home to protect the safety, health and well-being of the child, unless the parent agrees in advance to a distance longer than 30 miles on the Commission-approved Parental Consent Form. The 30-mile distance was chosen based on a reasonable estimate of a maximum distance for a parent to travel should a child need medical attention during employment.

The Commission received no comments on the proposed rules.

Subchapter A. General Provisions

The amendment and new section are adopted under Texas Labor Code, Title 4, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Commission programs and particularly Texas Labor Code Chapter 51, relating to employment of minors. §817.4. Statement of Commission Intent.

(a) In adopting §817.21 of this title (relating to Limitations on the Employment of 14 and 15 Year Old Children) and §817.23 of this title (relating to Limitations on the Employment of 16 and 17 Year Old Children), the Commission intends for the federal child labor laws to govern the employment of children in Texas, unless a provision of this chapter or Texas Labor Code, Chapter 51, clearly indicates otherwise. The Commission so intends only to the extent the federal laws are consistent with Texas Labor Code, Chapter 51.

(b) In adopting §817.24 of this title (relating to Limitations on the Employment of Children to Solicit), the Commission recognizes and hereby implements the legislative intent of Texas Labor Code §51.0145 to apply to the employment of children to sell or solicit products or services usually in a door-to-door manner, but which occasionally takes other forms, such as in parking lots or other common areas. The activity that is the subject of this regulation has been variously labeled over the years as candy sales, door-to-door sales, youth peddling, traveling youth crews, and other names. The activity usually involves one or more recruiters or drivers and at least one product supplier. The operation may involve taking children from lower income neighborhoods to sell in higher income neighborhoods, using a name and presentation that suggests the activity is aimed primarily at keeping the children out of gangs and off drugs.

Subchapter B. Limitations on the Employment of Children

The amendment and new section are adopted under Texas Labor Code, Title 4, which provides the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Commission programs and particularly Texas Labor Code Chapter 51, relating to employment of minors.

§817.24. LIMITATIONS ON THE EMPLOYMENT OF CHILDREN TO SOLICIT.

(a) A person may not begin the employment of a child to solicit, as defined in Texas Labor Code §51.0145 and as described in §817.4(b) of this Chapter (relating to Statement of Commission Intent), until the Commission's Labor Law Department has received:

(1) a copy of the signed Parental Consent Form approved by the Commission; and
(2) the information required by statute to be provided to the individual who gives consent.

(b) A copy of the Parental Consent Form may be obtained from the Commission's Labor Law Department.

(c) A person employing a child under Texas Labor Code §51.0145 shall limit each solicitation trip to within a radius of no greater than thirty miles from the child's home, unless the parent or other person identified in Texas Labor Code §51.0145(c)(1) signs a Parental Consent Form in advance of the solicitation trip specifically approving a greater distance.