

**OPINION
67-117**

June 12, 1967 (OPINION)

Mr Orville Hagen

Commissioner of Labor

RE: Labor - Minors - Power Driven Machinery

Your request for an opinion dated June 7, 1967, reads, in part, as follows:

"Section 34-07-16 of the N.D.C.C. prohibits the employments and occupations of minors.

"Paragraph 6 of this section states: 'Any capacity which requires the adjusting of any belt to any machinery or the oiling, wiping, or cleaning of any machinery;'

"In your opinion, if the minor was not engaged in the operation of the power driven equipment, would he still be prohibited from being employed where power driven machinery was used by others?"

Section 34-07-16 of the North Dakota Century Code sets forth the types of employment which are strictly prohibited by law and section 34-07-20 of the North Dakota Century Code gives the commissioner of labor authority to further restrict the employment of minors in those areas which are dangerous or prejudicial to the life, health, safety and welfare of such minors.

Subsection 1 of section 34-07-16 prohibits the employment of a minor under the age of sixteen years in areas involving the use of any power driven machinery. This subsection along with subsection 6 of section 34-07-16, as quoted in your letter, clearly prohibits the operation of power driven equipment by anyone under sixteen years of age. The intent of the statutes is to prohibit persons of a tender age from working in occupations which are dangerous to their life, health, and safety.

These prohibitions would not apply where the minor is employed to do something other than operate power driven machinery or in a capacity which does not require the adjusting of any belt to any machinery, or the oiling, wiping or cleaning of any machinery. The fact that the person under sixteen years of age worked in the same area as the power driven equipment would not be a violation of section 34-07-16 as long as he did not work within the danger zone of such equipment.

Therefore, it is our opinion that neither subsection (1) nor (6) of section 34-07-16 would prohibit a minor from working in an area where power driven equipment is being used as long as the minor was not operating the equipment or working in a capacity which requires the adjusting of any belt to any machinery or the oiling, wiping, or cleaning of any machinery, and he was not working so close to such machinery that his life, health and safety may be endangered.

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