

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 92.21, the Labor Commissioner hereby amends Chapter 32, “Child Labor,” Iowa Administrative Code.

The amendments are necessary to conform the rules to 2015 Iowa Acts, House File 397.

The principal reasons for adoption of these amendments are to remove obsolete language and implement 2015 Iowa Acts, House File 397.

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 5.

Notice of Intended Action was published in the May 27, 2015, Iowa Administrative Bulletin as **ARC 2014C**. No public comment was received on the proposed amendments.

These amendments are not identical to the amendments published under Notice of Intended Action. Text in Item 4 was changed to reflect that, in Iowa Code chapter 92, the applicant for a child labor permit is the parent, custodian, or guardian, rather than the minor. In Item 4, the text regarding the filing date was changed to more closely align with the statutory language. In Items 4 and 9, changes were made to conform to the counting provision in Iowa Code section 4.1(34). In Item 8, the first sentence of rule 875—32.11(92) was amended to more closely align with Iowa Code chapter 92.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 92 as amended by 2015 Iowa Acts, House File 397.

These amendments shall become effective on October 7, 2015.

The following amendments are adopted.

ITEM 1. Rescind the definitions of “Issuing officer,” “Part-time, occasional, or volunteer work,” and “Superintendent” in rule **875—32.1(92)**.

ITEM 2. Adopt the following **new** definition of “Other work” in rule **875—32.1(92)**:
“*Other work*,” as used in Iowa Code section 92.5(11), includes manual detasseling of corn when performed from power-operated detasseling machines.

ITEM 3. Amend rule **875—32.1(92)**, implementation sentence, as follows:
This rule is intended to implement Iowa Code chapter 92 as amended by ~~2009~~ 2015 Iowa Acts, House File ~~618~~ 397.

ITEM 4. Rescind subrule 32.2(2) and adopt the following **new** subrule in lieu thereof:
32.2(2) *How permits and certificates of age are issued.* The Iowa Child Labor Application/Work Permit must be completed before the minor begins work. The Iowa Child Labor Application/Work Permit is available at the labor division’s Web site. The following procedure shall be used to complete the form:

a. The minor, parent, guardian, or custodian shall obtain one of the following documents establishing the minor’s age:

- (1) A certified copy of the minor’s birth certificate, if it is available.
- (2) If a certified copy of the minor’s birth certificate is not available, the minor’s passport or a certified copy of the minor’s baptismal record.
- (3) If the documents listed in (1) and (2) are not available, one of the following documents shall be used:

1. A visa issued by the U.S. government.
2. A resident alien card issued by the U.S. government.
3. A physician’s affidavit certifying the minor’s age. A sample physician’s affidavit is available at the labor division’s Web site.

b. The minor and a parent, guardian, custodian, or head of migrant family shall each complete the applicable portion of the form.

c. The employer shall review, copy, and return the document establishing the minor's age; review permitted hours and duties; complete the employer's portion of the form; and file the form with the labor commissioner.

d. The permit shall be submitted to the office of the labor commissioner within three days after the minor begins work. The day after the minor begins work shall be the first day. If the third day is a Sunday, the form may be filed on the fourth day.

ITEM 5. Amend rule **875—32.2(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 as amended by ~~2009~~ 2015 Iowa Acts, House File ~~618~~ 397.

ITEM 6. Rescind and reserve rule **875—32.5(92)**.

ITEM 7. Rescind and reserve rule **875—32.7(92)**.

ITEM 8. Amend rule 875—32.11(92), introductory paragraph, as follows:

875—32.11(92) Civil penalty calculation. ~~The labor commissioner shall follow the provisions of this rule when calculating civil penalties for violations of this chapter or Iowa Code chapter 92 as amended by 2009 Iowa Acts, House File 618. An employer who violates this chapter or Iowa Code chapter 92 is subject to a civil penalty of not more than \$10,000 per violation as set forth in this rule.~~ The labor commissioner may refer a violation to the appropriate authority for criminal prosecution in addition to assessing a civil penalty.

ITEM 9. Rescind subrule 32.11(1) and adopt the following **new** subrule in lieu thereof:

32.11(1) Counting the number of violations. Violations shall be counted as follows:

a. Each item of inaccurate information on each Iowa Child Labor Application/Work Permit shall be a separate violation.

b. Each day that a child works without a permit, works on a prohibited day, works at a prohibited time, or works in a prohibited occupation shall be a separate violation.

c. If an employer completes the Iowa Child Labor Application/Work Permit but fails to file it by the deadline, each day that the minor works after the deadline shall be a separate violation.

ITEM 10. Amend rule **875—32.11(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 92.22 as ~~amended by 2009 Iowa Acts, House File 618.~~

ITEM 11. Amend rule **875—32.12(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 92.22 as ~~amended by 2009 Iowa Acts, House File 618.~~

ITEM 12. Rescind and reserve rule **875—32.17(92)**.

[Filed 8/14/15, effective 10/7/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/2/15.