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LABOR & EMPLOYMENT LAW E-BRIEF

Detasseling, Tractors, and Farms...Youth Workers Need Not Apply (Maybe)

The Department of Labor is actively engaged in rulemaking that would extensively expand existing restrictions applicable to young people working in agriculture. There is a statutory exemption for youth working for their parents, however, the proposed rules will have a dramatic effect on young workers employed by neighbors, uncles, aunts, grandparents, and other employers who traditionally provide agricultural work for young people under the age of 18.

Among the new restrictions, hired farm workers under the age of 16 would be prohibited from operating power-driven equipment such as tractors, assisting with basic activities such as vaccinating animals, or even herding animals in feed lots or corrals. Further, agricultural workers under the age of 18 would be excluded from employment that involves storing, marketing, or transporting farm product raw materials. As a practical matter, this would mean that they could no longer be employed at grain elevators, grain bins, feed lots, auctions, and stockyards. Defending this effort to greatly expand restrictions that have been in place for generations, the Department of Labor states that agriculture is "one of the most dangerous industries." Agricultural leaders, however, point out that the proposed rules will create barriers for young people interested in careers in agriculture, and political leaders such as Senator Mike Johanns (R-NE), who served as the U.S. Secretary of Agriculture, said that the

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breadth of the rules represents a fundamental misunderstanding of the agricultural economy.

Thousands of comments were received by the Department of Labor. A public hearing will be scheduled, but the date of that hearing has not yet been announced.

NLRB Rule Changes Hobble Employers

This week the National Labor Relations Board set in motion rules changes that will drastically shorten campaign periods for union elections. Up to now, if a union filed a petition for an election to represent employees, the time from the date of the petition filing to the date of the election most often would be about 42 days. Under the new rules expected to be adopted before the end of this year, that time period will be shortened to 10 days.

Whether to be represented by a union is a decision that employees make for themselves in a secret ballot election. Employers have used the 42-day period to help educate employees about what unionization means, the history and organization of the union seeking to represent them, and the company's market situation and history.

With the forthcoming rules change, that 42-day period will become 10 days – a very short amount of time. It is critical for employers to become proactive on these issues because they now will have so little time if and when a petition is filed. Please let us know if you'd like more information about proactive union avoidance training.

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