

Legal Notes: June 2015

“Hot fun in the summertime” may not be so fun for seasonal workers and those who employ them. Seasonal employment, because it is just for a short time, can lead to people ignoring the employment laws. Doing so can put both employee and employers at risk.

First, there are the child labor laws. These laws are notoriously byzantine and need to be checked for every situation. A few years ago, my church hired a kid to mow the lawn, and he had done so regularly for his neighbors. Turns out it was OK for him to do so for residential property but not so for a business (church being a business). Hours of employment and laboring in hazardous areas are the two biggest protections under the child labor laws. Having a minor using anything with a motor needs to be checked out first as that is likely to be “hazardous” employment.

Second are the independent contractor/employee laws. Most seasonal work is paid in cash, with no withholdings or deductions for taxes, Social Security or Medicare. Many get away with this for years, but rest assured it is likely illegal.

Third is workers compensation. Seasonal work is often inherently dangerous physical labor. If the person is injured while doing the seasonal employment and the “employer” has no workers compensation insurance, then the employer may be on the hook directly for the costs of medical treatment. Most homeowners policies won’t cover “employees” of the home owner. There are some exceptions, such as employment where less than \$500 is paid in any calendar year quarter.

Fourth are unpaid internships, a fast growing source of good experience for college and other students. Coverage and focus on internships by governmental agencies is also increasing, however the laws were not often written with internships in mind so application is inconsistent and difficult to predict. However, the focus will be on who is benefiting more? The employer or the intern? The more the employer benefits, the more likely the intern may be considered an employee. As I noted in a past article, internships are a ripe area for exploitation by unscrupulous employers.

Be safe in the summer sun!