


UNITED STATES DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
WASHINGTON, D. C.

TITLE 29 - LABOR  
CHAPTER V - WAGE AND HOUR DIVISION

PART 522 - SECTIONS 522.040 to 522.052 -  
REGULATIONS APPLICABLE TO THE EMPLOYMENT  
OF LEARNERS IN THE APPAREL INDUSTRY

The following Regulations - Part 522, Sections 522.040 to 522.052 (Regulations Applicable to the Employment of Learners in the Apparel Industry) are hereby issued. These regulations repeal and supersede all regulations previously issued applicable to the employment of learners in the Apparel Industry, and shall become effective upon my signing the original and upon the publication thereof in the Federal Register, and shall continue in force and effect until hereafter modified.

Signed at Washington, D. C., this 4th day of  
September, 1940.

  
Philip B. Fleming  
Administrator  
Wage and Hour Division  
U. S. Department of Labor

SECTION 522.040 - ISSUE OF SPECIAL LEARNER CERTIFICATES IN THE APPAREL INDUSTRY

Special certificates authorizing the employment of learners at subminimum rates in the Apparel Industry engaged in machine operations (except cutting), and in pressing, and in hand sewing, shall be issued upon the following terms and conditions to any plant making application therefor on forms provided by the Wage and Hour Division.

SECTION 522.041 - NUMBER AND PROPORTION OF LEARNERS FOR LABOR TURNOVER

Learners employed under the certificate for labor turnover shall not exceed at any one time 5 percent of the total number of productive factory workers employed in the plant, (not including office and sales personnel) provided however that if the total factory employment is less than 100, the employment of as many as 5 learners may be authorized in any certificate.

SECTION 522.042 - LEARNER OCCUPATIONS

Learners may be employed only in the occupations of machine operating (except cutting), and in pressing, and in hand sewing, except that the employment of learners at a subminimum wage may be authorized in other occupations upon a showing by any individual employer making application for a special certificate that a denial would result in a curtailment of opportunities for employment.

SECTION 522.043 - LENGTH OF LEARNING PERIOD

No worker shall be employed as a learner under the certificate after 320 hours' experience in the occupations of machine operating (except cutting), and in pressing and in hand sewing, except that where an experienced worker is transferred in the same occupation to another division of the Apparel Industry, he may be retrained as a learner at a subminimum rate for a retraining period not to exceed 160 hours.

SECTION 522.044 - LEARNER WAGE RATE

Learners employed under the certificate shall be paid not less than 75 percent of the minimum wage applicable to the products manufactured, pursuant to the Administrator's Wage Orders, effective July 15, 1940. Where experienced operatives are paid piece work rates, learners shall be paid the same piece work rate, and piece rate earnings if in excess of the subminimum rate.

SECTION 522.045 - INVESTIGATION OF LABOR CONDITIONS

Certificates for labor turnover shall authorize the employment of learners at subminimum rates only when experienced workers are not available in the area from which the employer customarily drawn his supply of labor. Investigations of local labor market conditions when necessary shall be made

with the cooperation of the Public Employment offices, employers' associations, trade unions, and by field investigations of the Wage and Hour Division. Where the information furnished with requests for renewal of turnover certificates, or where investigations made by the Division indicate that learners have been employed in such a manner as to create unfair competitive labor cost advantages for the applicant, or to depress working standards established for experienced workers for work of a like or comparable character in the industry, no certificate shall be issued.

SECTION 522.046 - NEW PLANTS, EXPANDING PLANTS, AND GOVERNMENT CONTRACT PRODUCTION

Special certificates authorizing the employment of learners upon the same terms and conditions in the same occupations may be issued for a number in excess of the 5 percent allowed for labor turnover as provided above for "new plants" and "expanding plants." A "new plant" is one which is newly established and being operated for the first time, or which has not been operated more than 8 months, and in which a substantial number of workers must be trained for operations on products of the plant. "Plant expansion" means expansion by the installation of additional mechanical equipment or other production facilities.

Special certificates may also be issued authorizing the employment of learners on the same terms and conditions in the same occupations to plants operating on Government contract production required by the National Defense Program, to the extent of expanding production needs, which shall be stated in the application.

Such special certificates shall not be issued when it appears that experienced workers are available to the employer within the area from which he customarily draws his supply of labor, or that the issue of a special certificate will create unfair competitive labor cost advantages, or will impair or depress working standards established for experienced workers for work of a like or comparable character in the industry.

SECTION 522.047 - REVOCATION OF SPECIAL LEARNER CERTIFICATES

(a) Any special certificate may be canceled if it is found that it is not necessary to prevent a curtailment of opportunities for employment, provided, however, that when experienced workers become available after a certificate has been issued, the certificate may be canceled in so far as future employment is concerned, or may be allowed to continue in effect, upon condition that the employer does not hire additional learners under it until experienced workers are not again available. In the absence of fraud or misrepresentation learners already hired under a special certificate may be retained under the terms of the certificate if the learning period extends beyond the date on which the certificate has been canceled.

(b) Any special certificate shall be canceled as of the date of issue if it is found that the certificate has been obtained by fraud or misrepresentation, or that learners have been employed thereunder in violation of the terms of the certificate. When a certificate has been obtained by fraud or misrepresentation the employer shall be liable to the employee for wages established by the Act as if no certificate had issued.

(c) Any special certificate shall be canceled as of the first date of violation if it is found that any of its terms have been violated, and the employer shall be liable to those employed under such certificate, from the date of the violation, for wages established by the Act, as if no certificate had issued.

#### SECTION 522.048 - DEFINITIONS OF LEARNER

Only learners may be employed at a subminimum wage under certificates issued, subject to the provision respecting retraining contained in section 522.043 above. In these regulations the term learner means:

(a) A person employed as a machine operator (except cutting) who has not been so employed within the previous two years in the Apparel Industry for more than 320 hours.

(b) A person employed as a hand sewer who has not been so employed within the previous two years in the Apparel Industry for more than 320 hours.

(c) A person employed as a presser who has not been so employed within the previous two years in the Apparel Industry for more than 320 hours.

#### SECTION 522.049 - DEFINITION OF EXPERIENCED WORKER

An experienced worker for the purpose of these regulations is hereby defined as any person who has been employed in private industry in the same occupation during the previous two years for more than 320 hours as a machine operator, hand sewer, or presser, except for the provision respecting retraining contained in section 522.043.

#### SECTION 522.050 - WHEN EXPERIENCED WORKERS ARE AVAILABLE

The terms "available" and "experienced" as used in these regulations shall be construed in the following manner; that experienced workers should be available within the area from which the employer customarily draws his labor supply, or that such workers have in fact made themselves available to the employer at the plant or place of employment, and have signified their readiness to accept and to continue in employment. Such workers should also possess the requisite 320 hours' experience obtained within the preceding two years and also be productive to an average degree and capable of equaling the performance of a worker of average or ordinary

skill and experience. The merits of particular cases involving availability and the definition of an experienced worker, which present singular or unusual facts and circumstances, will be given due consideration.

SECTION 522.051 - DEFINITION OF APPAREL INDUSTRY

The definition of the term "Apparel Industry" for the purpose of this Order, shall be the same as that used in the Administrator's Wage Orders for the Industry as published in the Federal Register, except that the following Divisions or Branches of the Industry are excluded therefrom:

- Caps and Cloth Hats
- Ladies' Handbags
- Men's and Boys' Clothing
- Women's Cloaks, Suits, and Separate Skirts
- Covered Buttons and Buckles
- Garters, Suspenders, and Arm Bands
- Men's Neckwear and Scarfs
- Better Grade Dresses (Dresses other than House  
Dresses and Kindred Articles of Apparel)
- Handkerchiefs
- Embroideries
- Belts
- Gloves
- Artificial Flowers

SECTION 522.052 - APPLICATIONS FROM PLANTS WITHIN EXCLUDED DIVISIONS

Individual plants within the excluded divisions may make application to the Director of the Hearings Branch for special certificates and may obtain such certificates upon showing that otherwise a curtailment of opportunities for employment will result, and that the issue of such certificate will not create unfair competitive labor cost advantages, nor impair or depress working standards established for experienced workers for work of a like or comparable character.