

Meat and Poultry Industry Best Practices

Workforce Age Verification

Statement of Principles

Children have no place working in meat or poultry packing or processing facilities. The Meat Institute's member companies categorically prohibit the hiring of anyone under the age of 18 to work in their production facilities. Moreover, our member companies do not facilitate, encourage, excuse or in any other way permit the use of child labor in their facilities through the use of subcontractors, such as third-party service providers.

The Meat Institute has been working with our member companies to provide education on child trafficking and identity fraud, and to develop best practices for members to follow in determining workforce eligibility. These best practices have also been shared with the U.S. Department of Agriculture and Department of Labor. Companies should develop age verification programs that work for their specific situations, but we believe these practices can serve as an effective framework for members to develop their programs and constitute a deterrent to bad actors who would seek to exploit migrants or utilize prohibited labor sources.

Background

Child labor is a serious issue throughout the U.S. labor force, and the problem has grown worse in recent years. A record number of unaccompanied minors are being allowed into the United States. According to a December 2023 *New York Times* article¹, nearly 400,000 unaccompanied minors have come across the U.S. border since 2021, primarily from Central American countries such as Guatemala, where poverty is on the rise. In the past, most unaccompanied minors were released to their parents, but the *New York Times* article notes that the majority of them are now going to non-parent sponsors. Identity theft has been rising in tandem with the increase in unaccompanied minors. False identification documents are used to place minors in jobs prohibited for someone under 18. These documents are of such high quality that they pass the Department of Homeland Security's E-Verify process. Until recently, many employers were unaware that human traffickers (and in some cases parents and family members) use theft and fraud to subvert the law and frustrate employers' hiring policies. These circumstances require companies to practice increased due diligence when hiring individuals or third-party service providers and require companies to continuously evaluate, evolve, and adapt their procedures to meet changing tactics. Our goal is to seek continuous improvement in preventing illegal child labor.

Relevant Legal Requirements

The federal Fair Labor Standards Act (FLSA) and associated regulations place legal restrictions on youth employment. Certain positions, including work in meat and poultry slaughtering, processing,

¹ <https://www.nytimes.com/interactive/2023/12/28/us/migrants-children-data.html>

rendering, and packing establishments, is deemed too hazardous for workers less than 18 years of age. See 29 C.F.R. § 570.61 (Hazardous Order #10). The Department of Labor (DOL) applies a strict liability standard in investigating child labor violations. If a worker is under 18 years of age – irrespective of whether fraudulent documents that falsified the worker’s age were used to obtain employment – DOL will find the employer in violation of the child labor laws.

In the last year, DOL has stepped-up enforcement against employers. DOL and the Department of Health and Human Services (HHS, the agency tasked with caring for unaccompanied minors) announced on February 27, 2023, an Inter-Agency Task Force to combat child labor. The Task Force will facilitate information sharing between DOL and HHS, and DOL has promised it will “use data-driven, worker-focused strategies to initiate investigations where child-labor violations are most likely to occur.” Violations of the federal child labor laws can result in monetary penalties, criminal referrals, and costly “hot goods” injunctions¹ to enforce the FLSA’s child labor restrictions.²

Despite the flood of immigrants and record number of unaccompanied minors seeking asylum, there is no federal government program that can be used to conclusively verify age in light of identity theft and false documentation. Further, due to civil rights concerns, employers are significantly limited in how they can use work authorization tools and practices to verify age. The Meat Institute and our member companies request DOL, HHS, the Department of Homeland Security, and any other relevant agencies to help address the unique challenges posed by identify fraud, the influx of unaccompanied minors, and asylum seekers who seek employment. The Meat Institute and our member companies understand that existing government programs and penalties alone are not sufficient to solve this problem, and we believe government should seek to leverage technology to develop appropriate age verification mechanisms. In addition, the Meat Institute has developed this Best Practices Document, and we stand ready to assist DOL, DHS and HHS in finding solutions to underage employment.

Best Practices to Prevent Illegal Child Labor

The following best practice recommendations are intended to serve as a resource to meat and poultry companies as they develop and implement workforce age verification programs appropriate for their unique circumstances. Companies are also encouraged to confer with experienced counsel to evaluate whether these best practices are effective and advisable for their workplaces.

Corporate Commitment to Prevent Illegal Child Labor: Meat and poultry companies and their third-party contractors must commit to policies strictly prohibiting child labor.

- Each company should have a company code of conduct/behavior, or other similar policy document, that clearly states the company's position on human rights and human trafficking,

¹ The "hot goods" provisions empower DOL to request a Federal court to prevent the shipment and sale of goods produced at an establishment where a child labor violation occurred 30 days prior. See 29 U.S.C. § 212(a).

² At the same time federal enforcement of child labor laws has been stepped-up, many states have introduced or passed laws seeking to weaken protections against child labor. The position of the Meat Institute and our member companies is clear: individuals under the age of 18 should not be allowed to work in our production facilities. We do not support attempts to weaken child labor laws and therefore will not discuss those state laws beyond the mention of them in this footnote.

including a statement that the company has a zero-tolerance policy for hiring individuals who are under 18 years of age for any position deemed hazardous for minors by the United States Department of Labor. Policy documents should also include a clear anti-retaliation policy.

- Each company should have a supplier code of conduct/behavior that outlines to suppliers and third-party contractors the expectations that each company has to prevent human rights issues in their supply chain.
- These policies should be supported with effective leadership from company executives, through corporate communications, through training of management and workers, and through consistent enforcement.
 - Job application procedures should be configured to automatically reject individuals who are not 18 years of age for any position deemed hazardous for minors by the United States Department of Labor.
 - Individuals engaged in the hiring process (e.g. hiring managers and human resources professionals) should be trained on child labor prevention and identifying fraudulent documentation.
 - Human resources professionals and other relevant employees should be trained to spot potential signs of human trafficking, such as paychecks being mailed to a different address than the employee's address.
 - Clear notice of employee rights, including those related to child labor, must be posted in appropriate places throughout the workplace. Companies should develop materials such as "No Minors" posters to be placed in facilities in high-traffic areas.
 - Multiple forms of communication, such as posters, handouts, electronic communications, or other appropriate means, in languages appropriate for the workforce, should be utilized to educate employees on company policies.
 - Employees should be encouraged to report potential violations of these policies without fear of retaliation.

Company Participation in Voluntary Government Protocols: Companies should consider participation in the two currently existing government programs that can help employers determine workforce eligibility.

- E-Verify, while not sufficient on its own to verify age or to root out identity fraud, can serve to strengthen workforce verification when coupled with more robust practices such as those outlined in this document. However, E-Verify may only be used for new hires after Form I-9 has been completed, and without additional measures, can provide employers and third-party contractors with a false sense of security.

- Companies, suppliers, and third-party contractors should employ the Employment Best Practices stated in the ICE Mutual Agreement between Government and Employers (IMAGE) - DHS's heightened compliance program. Among other things, IMAGE requires yearly auditing of I-9 documentation. However, IMAGE alone does not provide sufficient checks to ensure all documents presented to companies or their third-party contractors are valid. Additional procedures must be utilized.

Entry to Facilities:

- Entry procedures, such as badging of employees and consistent oversight of badge use, or other forms of controlled access, should be employed as an effective control point to prohibit unauthorized individuals from entering production facilities.

Immediate on the Ground Response to Suspicions of Child Labor:

- Managers and supervisors should immediately report any suspected instance of child labor to facility management or human resources, as appropriate, who should then do the following:
 - Meet with the employee in question and determine whether there is a reasonable possibility that such person is less than 18 years of age. If such a possibility exists, then:
 - Request the employee in question provide identification documents for review to ensure the person is over 18.
 - If the employee does not have their identity document with them, the employee should not be allowed to work until documentation can be provided.
 - When reviewing identity documents, ensure the:
 - Document reasonably appears genuine and relates to the individual presenting it.
 - Date of the age of the person reasonably matches the age of the employee. For example, if the person appears to be 18, but the identification document has a date of birth reflecting that the person is 40, this is a red flag that identity theft is likely.
 - If the document cannot be reasonably validated, the team member must be suspended pending further investigation.
- Encourage on-site contractors to have similar policies to immediately address suspected cases of child labor.

Holding Third Party Contractors Accountable:

- Member companies should require third-party contractors, including vendors and suppliers who direct their employees to perform services in employers' facilities, to develop best practices, similar to the best practices contained in this document, to prevent child labor violations.
- Member companies should require third party contractors to develop appropriate company policies, including policy documents and codes of conduct, to prevent illegal child labor.

Options for Reporting Violations:

- To increase opportunities for reporting child labor (or other compliance) concerns, employers should create an anonymous toll-free "tip line." Employers should develop signage or other means of employee communication for appropriate areas encouraging all employees to report potential concerns without fear of adverse action or retaliation.
- Companies should consider making tip lines available to non-employee stakeholders.

Community Outreach:

- Companies should develop programs for outreach to community stakeholders including law enforcement, local school districts, or other relevant aid organizations to make it known that the company wants to assist in protecting the welfare of children who may have fallen prey to human trafficking and wants to help protect their safety by ensuring that they do not gain employment in meat or poultry production facilities or with third-party contractors that service these facilities.
- Companies should ask that authorities or aid groups contact the company immediately if they know or have reason to believe anyone under age 18 is working for the company, so the company can remove them from the prohibited employment.
- Companies can facilitate this communication by providing these community stakeholders their company's toll-free anonymous "tip line."

Enhanced Training:

- Companies should conduct yearly trainings for managers and supervisors on workforce verification policies and provide human resource and compliance teams with enhanced training for fraudulent documents.
 - Employers should conduct regular (including as part of on-boarding and then at least yearly thereafter) training of all supervisors, managers, and hiring personnel on the company's zero-tolerance policies for underage employment. Any appropriately trained individuals who hire, or who are aware of instances of minor employment and do not take immediate action, should be subject to termination.

- Additional training should be provided for company compliance and human resources teams on how to detect and identify fraudulent documents to minimize the risk of identity theft circumventing its compliance program. Hiring personnel should be trained in concepts such as the "Connect the Dots"¹ approach to detecting identity theft and fraud.
- Training should require an acknowledgment of receipt or completion signed by the employee and maintained by the employer.

Internal and Third-Party Auditing:

- Companies should engage in internal audits and should consult with third-party auditors as a check on the effectiveness of their programs.
- Employers should conduct ongoing age verification audits utilizing on-site management's face-to-face visual inspection.
- Employers should review their standard operating procedures and workflows and enhance and modify them as necessary with appropriate controls to assist the on-the-ground team with identity verification and investigations.
- Companies should utilize third-party consultants to conduct unannounced facility visits, at facilities chosen by the consultant, to monitor ongoing compliance with child labor laws.
- Companies should require suppliers and third-party contractors to determine appropriate third-party compliance audits, such as labor, health and safety, environmental performance, and ethics audits, such as those based on the Sedex Members Ethical Trade Audit (SMETA) standard.
- Unannounced facility visits and third-party audits should be conducted in a manner so as to reach third-party contractors and service providers.

Companies Should Seek Continuous Improvement in Technological Solutions:

- While not an all-encompassing solution, employers should investigate and implement technological solutions for continuous improvement in detecting fraudulent behavior. Technologies such as biometric time clocks that verify that the person clocking into each shift matches the employee or other technology-based age verification mechanisms developed in the future can make it more difficult for minors to obtain employment through fraud.
- Companies should be mindful that there are laws against discrimination in the employment process based on national origin or citizenship status, or if more or different documents are requested than are required to satisfy employment verification requirements. Companies

¹ "Connect the Dots" and similar approaches rely on analyzing all available documents and data and cross-referencing it against known identifiers.

should consult with counsel to ensure that the necessary best practices described here are reviewed to avoid engaging in conduct that could constitute unfair immigration-related employment practices.

Conclusion

The Meat Institute and its member companies are universally aligned that meat and poultry production facilities are no place for children. These best practices were developed to help mitigate the risks posed by the record influx of undocumented minors occurring in tandem with the increasing prevalence and sophistication of identity theft and fraud. We know existing government programs are not enough to solve this problem, and we stand ready to work with the Department of Labor, the Department of Health and Human Services, the Department of Homeland Security or others to develop effective programs, and, where appropriate, penalties, to make sure underage workers are not a part of our workforce.