



New York State Department of Labor
David A. Paterson, Governor
Colleen C. Gardner, Commissioner

June 3, 2010



Re: Request for Opinion
Minors - Employment of
RO-10-0016

Dear [REDACTED]:

I have been asked to respond to your letter of January 20, 2010, in which you ask whether the New York Labor Law prohibits the operation of pizza conveyors by employees who are sixteen (16) and seventeen (17) years old. This Department understands that by "pizza conveyor" you intend to mean a power driven machine that utilizes a constantly revolving belt of steel mesh or slats where uncooked pizza is placed on one end of the conveyor where it then travels into the oven and is baked by heating elements located either above the pizza or above and below the pizza with the finished product exiting on the other end.

As stated above, your letter specifically requests an opinion regarding pizza conveyors. It should be noted however, that these power driven ovens, also referred to as impinger ovens, are used to bake, toast, cook, or similarly prepare various food items in a wide range of businesses including, but not limited to, bakeries, pizzerias, fast food restaurants, and grocery and convenience stores.

As a preliminary matter, it is worth noting that while your letter states that the U.S. Department of Labor has not determined whether pizza conveyors are a prohibited occupation for minors, of certain or any age, no opinion is offered as to the validity of that claim.

New York State Labor Law Section 133(2), prohibits the employment of or assisting by minors of any age in certain activities and, in relevant part, provides "[n]o minor of any age shall be employed in or assist in ... (m) any occupation involved in the operation of power-driven woodworking, metal-forming, metal-punching, metal-shearing, *bakery*, and paper products machines." (Emphasis Added) The term "bakery machines," as it is used in Section 133(2), has been interpreted, by the New York State Industrial Board of Appeals, to include pizza conveyors. (*In Re K-Bay Corporation*, PR-89-93, 2-3 (Industrial Board of Appeals, 1994).) Based upon that

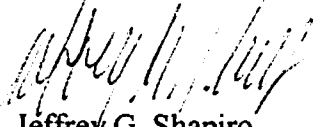
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decision, and the requirement that the child labor laws be liberally construed, it is the opinion of this Department that the operation of pizza conveyors by employees who are seventeen years old or younger is prohibited by Section 133 of the Labor Law. (See, *(Ludwig v. Lowe*, 29 A.D.2d 267, 270 (4 Dept. 1968), *aff'd* 25 N.Y. 2d 853 (1969) ("The whole thrust of the Child Labor Law is to prevent the type of accident which occurred because of the combination of dangerous work and inexperience as a result of age."))

This opinion is based exclusively on the facts and circumstances described in your request and is given based on your representation, express or implied, that you have provided a full and fair description of all the facts and circumstances that would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your letter might require a conclusion different from the one expressed herein. This opinion cannot be used in connection with any pending private litigation concerning the issue addressed herein, nor can it be used in connection with an investigation or litigation between a client or firm and the Department of Labor. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel



By: Jeffrey G. Shapiro
Associate Attorney

JGS:MP:mrl
Enc.