

§ 570.115

“removal” of goods or a shipment or delivery for shipment in commerce.

[36 FR 25157, Dec. 29, 1971]

§ 570.115 Joint applicability.

The child labor coverage provisions contained in sections 12(a) and 12(c) of the Act may be jointly applicable in certain situations. For example, a manufacturer of women's dresses who ships them in interstate commerce, employs a minor under 16 years of age who gathers and bundles scraps of material in the cutting room of the plant. Since the employment of the minor under such circumstances constitutes oppressive child labor and involves the production of goods for commerce, the direct prohibition of section 12(c) is applicable to the case. In addition, section 12(a) also applies to the manufacturer if the dresses are removed from the establishment during the course of the minor's employment or within 30 days thereafter. To illustrate further, suppose that a transportation company employs a 17-year-old boy as helper on a truck used for hauling materials between railroads and the plants of its customers who are engaged in producing goods for shipment in commerce. The employment of the minor as helper on a truck is oppressive child labor because such occupation has been declared particularly hazardous by the Secretary for children between 16 and 18 years of age. Since his occupation involves the transportation of goods which are moving in interstate commerce, his employment in such occupation by the transportation company is, therefore, directly prohibited by the terms of section 12(c). If the minor's duties in this case should, for example, include loading and unloading the truck at the establishments of the customers of his employer, then the provisions of section 12(a) might be applicable with respect to such customers. This would be true where any goods which they produce and ship in commerce are removed from the producing establishment within 30 days after the minor's employment there.

§ 570.116 Separate applicability.

There are situations where section 12(c) does not apply because the minor himself is not considered employed in

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commerce or in the production of goods for commerce. This does not exclude the possibility of coverage under the provisions of section 12(a), however. In those cases where oppressive child labor is employed in commerce but not in or about a producing establishment, coverage exists under section 12(c) but not under the provisions of section 12(a). The employment of telegraph messengers under 16 years of age would normally involve this type of situation.²⁷ There may also be cases where oppressive child labor is employed in occupations closely related and directly essential to the production of goods in a separate establishment and therefore covered by section 12(c) but due to the fact that none of the goods produced in the establishment where the minors work are ever shipped or delivered for shipment in commerce either in the same form or as a part or ingredient of other goods, coverage of section 12(a) is lacking. An illustration of this type of situation would be the employment of a minor under the applicable age minimum in a plant engaged in the production of electricity which is sold and consumed exclusively within the same State and some of which is used by establishments in the production of goods for commerce.

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OPPRESSIVE CHILD LABOR

§ 570.117 General.

(a) Section 3(1) of the Act defines “oppressive child labor” as follows:

Oppressive child labor means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to

²⁷In “*Western Union Telegraph Co. v. Lenroot*,” 323 U.S. 490, the court held section 12(a) inapplicable to Western Union on the grounds that the company does not “produce” or “ship” goods within the meaning of that subsection.