PROTECTING SOCIETY FROM TEENAGE GREED:
A PROPOSAL FOR REVISING THE AGES,
HOURS AND NATURE OF CHILD
LABOR IN AMERICA

by

ANDREA GIAMPETRO-MEYER*
TIMOTHY S. BROWN, S.J.**

INTRODUCTION

High school students are increasingly interested in working. A recent study of high school seniors indicated that nearly one-third of the male and one-fourth of the females worked extensive hours. These students worked more than twenty hours per week. At first glance, it is tempting to praise teenagers for their strong work ethic and be grateful that these students are working in restaurants and retail stores rather than selling drugs in the streets. A closer look, however, reveals that teenage workers today are increasingly cynical about work, spend their incomes on luxury items, believe work is more important than education, and are achieving record low scores on national educational achievement tests. Although we can not blame teenage labor for all of the preceding problems, this Article suggests that our society’s unwillingness to place serious restrictions on the employment of high school aged children is a serious problem legislatures need to address.

* Assistant Professor of Law, Sellinger School of Business and Management, Loyola College, Baltimore, Maryland.
** Assistant Professor of Law, Sellinger School of Business and Management, Loyola College, Baltimore, Maryland.

1 Golodner, The Children of Today’s Sweatshops, 73 Bus. & Soc’y. Rev. 51, 54 (1990). Since 1940, there has been a sevenfold increase in the number of sixteen year-old males who work while in school and a sixteenfold increase in the number of sixteen-year old females who work. Greenberger, Steinberg & Vaux, Adolescents Who Work: Health and Behavioral Consequences of Job Stress, 17 Dev't. Psychology 691, 691 (1981).
2 Peter Eide, manager of labor law for the U.S. Chamber of Commerce has stated that “children may be better off in the sweatshop than in the streets selling drugs.” Spector, Illegal Child Labor Resurfacing in US: Immigrant Schoolgirls Toil in Modern-Day Sweatshops, Washington Post, April 14, 1991, at A1, col. 5.
3 Golodner, supra note 1, at 54. See also infra notes 129-151 and accompanying text.
4 Golodner, supra note 1, at 54. See also infra notes 129-151 and accompanying text.
5 Golodner, supra note 1, at 54.
6 But see P. Barton, Earning and Learning: The Academic Achievement of High School Juniors With Jobs (Educational Testing Service Report No. 17-WL-01, 1989). Barton states that “there is no cause for alarm about the effect of student work on academic achievement. Average proficiency in mathematics, reading, history, literature, and science differed little between students who worked and those who did not and was little affected by the number of hours worked. At the same time, students who worked more than 20 hours had slightly lower average proficiency and were likely to be less involved in the academic content of schooling, as measured in several ways.” Id. at 13.
Clearly, the welfare of our child laborers is in jeopardy. This situation is not new in America, but the causes and characteristics of today's child labor problems have evolved to reflect changes in American wealth and value priorities. We can divide today's child labor problems into two major categories. First, children who work because they are poor are often exploited by employers who hire underage workers to perform arduous tasks for extensive hours per week at low wages. Second, children who work extensive hours to purchase luxury items are hurting themselves and society by spending less time on school work and demonstrating an insatiable desire for money and the goods money provides.

These two categories are not mutually exclusive. Operation Child Watch, a recent nationwide crackdown by the Labor Department to catch child labor law violators, uncovered 11,000 violations. The employers who violated child labor

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8 Today's child labor problems reflect our society's increasing focus on acquiring material goods. See generally L. Shames, The Hunger For More: Searching For Values In An Age of Greed (1989).

9 This problem is more prevalent in foreign countries than in America. See, e.g., Lee & Long, Hard Days-At Pennies an Hour, Bus. Wk., October 31, 1988, at 46-47. In this article, the author describes the lives of Chinese youth who are toiling in the foreign-owned sweatshops of special economic zones. The article states that Chinese investigators recently discovered children as young as ten making toys, electronic gear, garments and artificial flowers. They work up to fourteen and fifteen hours a day at salaries ranging from ten dollars to thirty-one dollars per month. Workers often sleep two to three per bed in dormitories. Id. at 46. See also Kucherov, Exploitation of Children Widespread, ILO Reports, 103 Monthly Lab. Rev. 43 (October, 1980). Nearly 55 million children not yet 15 years old are working in violation of the minimum age set by a 1973 international labor organization connection. Id.

For articles on child exploitation in America, see, e.g., Golodner, supra note 1. Golodner, the executive director of the National Consumers League and Chairwoman of the Labor Department's Child Labor Advisory Committee, explains that the child labor laws that were designed to protect children are poorly enforced or ignored. Id. at 52. The author explains that child labor law violations increased dramatically during the 1980's. Id. See also Specter, supra note 2. This article states that some labor experts believe that conditions for children today are as bad as ever. Specter quotes Bob Zachariafiewicz, a Labor Department spokesman, who says that "[i]t is apparent that there is a lot of child labor abuse in this country. . . . It extends everywhere, from minor violations you could find every day to the maiming and death of children." Id. at A8, col. 1. According to Labor Department statistics, in 1985 fewer than two thousand U.S. firms were cited for child labor violations. In 1990, nearly 6,000 firms illegally employing 40,000 minors were cited. Id.

10 See generally L. Shames, supra note 8 for the proposition that society's hunger for more is problematic. He explains how over time the line between luxuries and necessities has become blurred. Id. at 87. He explains that today people look to their goods not just for pleasure, but for meaning. People want their belongings to "tell them who they are." Id. at 146. Although his book does not focus on teenage behavior, he cites some interesting facts about teens. For instance, he states that 93% of teenage girls in the 1980's testified that store hopping was their favorite activity, way ahead of dating, exercising, or even going to the movies. Id. at 147.

See infra note 62 and accompanying text for information about the persistent problem of minority youth unemployment, which is beyond the scope of this article.

11 The results of Operation Child Watch were announced by then Labor Secretary Elizabeth Dole in April, 1990. Anderson, Teen Labor Crackdown, 76 A.B.A. J. 27, 28 (June, 1990).

12 Id. at 28.
laws were typically fast-food operators who hired numerous teenagers. Burger King, for instance, was accused of breaching the Fair Labor Standards Act (FLSA) by employing minors between the ages of 14 and 16 “for more hours than permitted, during hours not permitted and in occupations not permitted.” The Burger King example demonstrates parts of both categories of child labor problems. From Category I, we see a concern regarding the number of hours children work, and a concern regarding hazardous activities children engage in at work. However, the typical teenager who works in a fast food restaurant is not a child made vulnerable by poverty. Instead, the child is typically a teenager who works to purchase designer clothes, stereos, and the ultimate teenage luxury purchase— a car.

Our child labor laws assume all child labor problems can be twisted to fit under Category I. These laws are blind to the teenage education and greed problems outlined in Category II. The purpose of this Article is to demonstrate that teenage employment by middle and upper class children is problematic and that, consequently, we should revise our child labor laws to protect both teenagers and society.

The first section of this Article presents a picture of child labor throughout American history. It looks at child labor from the turn of the century to date. This section helps the reader understand the extent of changes in child labor over time. The second section presents a summary of federal and state child labor laws. This section shows that attempt to control employers who exploit children have changed only marginally.

The third section of this Article explores social science data on the pros and cons of teenage employment. This section focuses on the issue of teenage greed. First, the section explains what social scientists know and do not know about the consequences of teenage employment. Second, this section considers whether it is fair to label teenagers “greedy.” This section considers alternatives for reacting to child labor problems, such as educating parents, allowing teenagers to be free to choose their lifestyles, and seeking government protection for teenagers and society.

The Article concludes with a proposal for revising our child labor laws to react to the most prevalent kind of teenage employment today. Our proposal limits the number of hours most teenagers could work, but provides opportunities for more extensive employment in environments that are good for teens and society. It questions the uniquely American assumption that high school students should have serious commitments to the labor market. Our Article asserts that although the picture of the child laborer as a spoiled, self-centered teenager does not trigger the

13 *Id.* Other employers that typically hire teenagers are grocery stores and factories.
15 Anderson, *supra* note 11, at 27.
same emotions as the picture of the child laborer as a poor, overworked waif, the problem of teenage greed is much more pervasive today and needs a quick but thoughtful remedy.

**CHILD LABOR THEN AND NOW**

One generalization that has held true over time is that employers have almost always seen advantages to employing children over adults. Employers can dismiss young workers quickly during slack times, can pay them less, grant them few rights and be assured they are unlikely to unionize.\(^{17}\) Aside from this generalization, a review of American history indicates that the characteristics of child labor have changed considerably regarding the purpose for adolescent employment and the education and social development opportunities for teenagers.\(^{18}\)

Many children worked prior to the industrial revolution. Children worked primarily because their families needed the money. However, work provided good opportunities for children to develop socially. Many children benefited from employment because they were socialized into adult work through apprenticeships.\(^{19}\) Through apprenticeships, adults educated and socialized children to work dutifully and respectfully.\(^{20}\) Typically, children in preindustrial America were employed in the work activities of their parents or on nearby farms.\(^{21}\) The nature of the child labor in this era was healthy. Although children worked very hard, few people were concerned that extensive work hours placed children in jeopardy.

The industrial revolution led our country into a new era for child labor. Unlike earlier times, children were harmed by a very different labor market that conflicted with educational and social development opportunities for children. As our country became industrialized, factory work became more important for children than farm work.\(^{22}\) Children usually worked in textile mills, coal mines, and canneries.\(^{23}\) From the late nineteenth century through the early twentieth century,\(^{24}\) children continued to work for economic reasons.\(^{25}\) However, the jobs children pursued provided little in addition to meager wages. Instead of pursuing apprenticeships that trained children for future careers,\(^{26}\) adolescents worked in tedious, oppressive conditions. Children had little contact with adults who could provide

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19 Id. at 53.
20 Id.
21 Id. at 68.
22 See id. at 69.
23 Id.
24 Id.
25 Id. See also *Children in Bondage*, supra note 7, at 252-75 for a review of why children toiled in this era. The author states: "It is . . . unquestionable that poverty drives many a child into the factory." Id. at 254.
26 See *When Teenagers Work*, supra note 16, at 53.
mentor relationships, and rarely had time for school. Illiterate children lost hope for better lives and instead focused their energy on just getting through the day.

This era was characterized by employer exploitation of child labor, which ultimately led to protective legislation. Children often worked in extremely hot or cold climates for extensive hours performing work that was physically exhausting.27 For example, the United States Bureau of Labor described a particular job in a glass factory:

Into the work of the snapping-up boy there enters the hardship of looking into the bright, glaring light of the glory-hold. . . . Not only is constant walking necessary, but also constant arm movement, some bending, and in general, an incessant activity of the whole body. . . . In a Pennsylvania establishment, where the temperature on the outside was 88 degrees, the temperature at the point where the snap-up rubs off the excess glass was 100 degrees; in front of the glory-hold, it was 140 degrees. . . . The speed rate of the snapping-up boy is fixed by the output of the shop, and in case of such small objects as one ounce and under he must work with great rapidity.28

Oppressive conditions such as those described above eventually became the focus of state legislatures. By 1914, child labor committees existed in every great industrial center, and child labor laws of some sort had been enacted by forty states.29 Congress began its legislative drive toward a uniform child labor law.30

Protective legislation came at a time that allowed evolution in the nature of child labor. As the working world continued to develop, it became more mechanized. Employers replaced many workers with machines, so child labor became less necessary.31 The reduced need for child laborers, coupled with desires to protect children, led to approximately two decades in which families and society

27 See generally CHILDREN IN BONDAGE, supra note 7. The children Markham described in industries in the 1900's left school at young ages to work. The book quotes Professor Nearing of the University of Pennsylvania, who offered an explanation of why children leave school: "The school fails to hold the interest and attention of the average boy because the school training has so little relation to the world in which the average men and women are called upon to live. . . . Thus the school system, with its defective curriculum, its imperfect, overworked machinery, its young, inexperienced teachers, and its repressive discipline, forms in the aggregate an ogre from which the child shrinks in terror and in whose place he accepts thankfully the burdens and the soul-destroying monotony of factory work." Id. at 269.
28 Id. at 63-64.
29 Id. at 322-28. These laws regulated age of employment, night work, and hours of employment. Id.
30 Id. at 324-39. Hon. Albert J. Beveridge of Indiana was "the first to introduce into Congress a bill designed to secure a federal prohibition of child labor in the United States." Id. at 330. This bill, introduced in 1907, ultimately failed. It was not until 1939 that Congress passed a national child labor bill. See infra notes 63-78 and accompanying text.
31 When Teenagers Work, supra note 16, at 69.
did not depend on child labor for survival. This reduced expectation for child labor reflected a change in American value priorities. Most American families believed they should delay their children's employment and invest instead in their children's education. This decision reflected increasing wealth in the United States that by 1930 allowed our country to provide secondary education to most children.

By 1945, children rarely needed to work for economic reasons. When children did indeed work in the postwar years, the nature of their work was very different from work during the industrial revolution. Work provided social climates that were positive for children. Also, our labor market developed so that working and schooling became compatible. The concept of students entering the labor market to work part-time in service and retain jobs began at this point in American history. Child laborers could enjoy success at school and in the labor market. A particularly important feature of this era of child labor is that students who entered the labor force typically came from America's more affluent families.

The American phenomenon of the part-time student/worker in the late 1940's evolved slowly from a situation in which children learned valuable lessons through working, to today's environment, in which children perform jobs that social scientists who study child development believe provide few positive benefits to teenagers who work extensive hours.

In the 1950's, a typical part-time job for a teenager allowed teens to work with adults. Adults served as both mentors and instructors. This type of child labor encouraged positive social development in teens, while not conflicting with the student/employee's education. In the late 1950's adolescence usually began at around age fifteen, and ended when a person graduated from high school and went to work full time or became a housewife. Thus, students worked in part-time jobs and were socialized into adult roles that were acceptable at that time.

From the 1950's through the 1980's, the concept of adolescence changed in definition. The ages that fell under the term adolescence grew out from both ends of the age spectrum. Children became adolescents sooner, and continued adolescence in many cases through the college years. Parents gave children larger allowances, which allowed children to think of purchasing luxury items. Children

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32 See id.
33 Id. at 70.
34 Id. at 71.
35 Id. at 73.
36 See id.
37 Id.
38 Id.
39 See infra notes 129-51 and accompanying text.
40 When Teenagers Work, supra note 16, at 79.
41 L. Shames, supra note 8, at 38.
42 Id.
also developed an increasing desire to work part-time to increase this luxury spending. Not surprisingly, our country experienced a rise in student employment between 1950 and 1980 that allowed teens to maintain the standard of living adults taught them to expect. Over time, as one author states, "an implicit set of values . . . underlay the widespread tendency to zigzag toward adulthood, to meander toward long-term choices, rather than to race there. . . . A prime benefit of prosperity was the privilege of broad, general, disinterested learning."44

The work of teenagers through the 1980's continued to reflect changing American values. As the line between luxuries and necessities became blurred for adults, so too it became blurred for teens. Working for teenagers that was once associated with financial need became by 1980 an "individualistic, self-motivated phenomenon."46

In the 1980's and today, adolescent work provides questionable opportunities for teens. Their work is now nothing like work they will do in their careers.47 For instance, teenagers who work in fast food restaurants are not preparing for future careers in the restaurant industry. Instead, teens in this typical kind of job perform boring, routine tasks.48 Teens typically do not contribute a substantial portion of their paycheck to help support their families.49 Teenage spending priorities instead focus on luxury items. Because teenagers typically work around other teens rather than adults who could play mentor roles, the desire to engage in luxury spending is exacerbated.50

In the 1990's, we can anticipate that employer demands for teenage workers will remain steady or even increase. As demographic forces create a tight labor market, employers will try to fill jobs with younger workers.51 Teenagers will continue to work to support luxury spending.52 Parents, who are eager to encourage

43 Steinberg & Dornbusch, Negative Correlates of Part-Time Employment During Adolescence: Replication and Elaboration, 22 Devl.'t. Psychology 304, 304 (1991) [hereinafter Negative Correlates]. The authors point out that student employment in the U.S. grew steadily between 1950 and the last 10 years. Between one-half and two-thirds of all high school juniors hold jobs in the formal part-time labor force at any specific time during the school year. Over half of all employed high school seniors and nearly one-fourth of all employed sophomores work more than 20 hours.

44 Id.

45 Id.

46 When Teenagers Work, supra note 16, at 75.

47 Id. at 7, 68.

48 See id. at 65.

49 Id. at 8.

50 Id. at 88.

51 Golodner, supra note 1, at 53. See also Specter, supra note 2, at A9. Specter states that demographics are partly to blame for increasing child labor law violations. He indicates that Census Bureau statistics indicate that there were 1.2 million fewer 16 and 17 year olds last year than there were in 1981. A similar drop has emerged among 13 and 14 year olds. Specter states that the National Restaurant Association, desperate to replace its aging teen work force, is struggling to get the Labor Department to permit 14 and 15 year olds to work on their school vacations and during long school weekends. Id.

52 See When Teenagers Work, supra note 16, at 74-75. The authors present evidence that teenagers spend
their children to underwrite their own luxury spending\textsuperscript{53} and believe that working promotes maturity\textsuperscript{54} and responsibility in their children,\textsuperscript{55} will encourage continued employment for teens.

In sum, the adolescent workplace of today encourages "younger people to perform tasks and use skills that few will perform or use again in work settings after they cease to be adolescents . . . [These jobs provide] little meaningful contact with adults who have a stake in socialization for the future . . . and it is a teenage workplace in that economic rewards [work] generates are typically used for accoutrements of a period of life characterized by much freedom and little responsibility—records, movies, designer clothing, fast food, alcohol, drugs—and not for long-term "adult" investments, such as college or for increasing the adolescent's ability to establish an independent household."\textsuperscript{56}

It is important to note at this point that some adolescents do work due to economic deprivation. In foreign countries, such child labor is typical today.\textsuperscript{57} Throughout the world, the overriding cause of child labor is still poverty.\textsuperscript{58} Employers continue to exploit children who work because they are poor.\textsuperscript{59} Even in America, we read of child exploitation today.\textsuperscript{60} With increasing pools of immigrants, and a rise in the number of people living below the poverty line, we can expect that employers in America will continue to exploit some segments of the child labor force.\textsuperscript{61}

In the United States, we have also faced the problem of adolescents who need to work due to economic deprivation, but remain hopelessly unemployed. For
minority youths, persistent and pervasive unemployment remains a serious problem that deserves more attention. This Article, however, focuses on a very different kind of laborer — the over privileged teenage worker who finds it easy to locate a job, but suffers as a consequence of extensive employment.

CHILD LABOR LAWS THEN AND NOW

The Fair Labor Standards Act (FLSA), the federal law that governs child labor, was enacted in 1938 as a response to economic and social trauma in America. The situations outlined in the preceding section, such as children working in hazardous occupations, and children working during the period of their mental and physical development, were addressed in the child labor provisions of the FLSA. The original child labor provision attempted to eliminate oppressive child labor by placing limits on the ages of employment, hours children could work, and the types of work they could perform.

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62 For general information on the unemployment problems of minority youth, see M. HERMAN, S. SADOFSKY & B. ROSENBERG, WORK, YOUTH AND UNEMPLOYMENT (1968); REPORT OF THE TWENTIETH CENTURY FUND TASK FORCE ON EMPLOYMENT PROBLEMS OF BLACK YOUTH: THE JOB CRISIS FOR BLACK YOUTH (1971); A REPORT WITH RECOMMENDATIONS OF THE CARNEGIE COUNCIL ON POLICY STUDIES IN HIGHER EDUCATION, GIVING YOUTH A BETTER CHANCE: OPTIONS FOR EDUCATION, WORK, AND SERVICE (1979).


(a) No producer, manufacturer, or dealer shall ship or deliver for shipment in commerce any goods produced in an establishment situated in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labor has been employed: Provided, That any such shipment or delivery for shipment of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer, manufacturer, or dealer that the goods were produced in compliance with the requirements of this section, and who acquired such goods for value without notice of any such violation, shall not be deemed prohibited by this subsection: And provided further, that a prosecution and conviction of a defendant for the shipment or delivery for shipment of any goods under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such goods before the beginning of said prosecution.

(b) The Secretary of Labor or any of his authorized representatives, shall make all investigations and inspections under section 211(a) of this title with respect to the employment of minors, and, subject to the direction and control of the Attorney General, shall bring all actions under section 217 of this title to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor, and shall administer all other provisions of this chapter relating to oppressive child labor.

(c) No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce.


66 Time to Grow Up, supra note 65, at 576 (citing Kruczkowski v. Polonia Publishing Co., 203 Mich. 211, 213, 168 N.W. 932, 933 (1918)). The law was also passed to prevent children from injuring themselves due to their inexperience, to prevent maimed children from becoming burdens on the public, to prevent juvenile delinquency, and to prevent competition between weak underpaid laborers and mature men. See Time to Grow Up, supra note 65, at 576.

67 See supra note 63.
The FLSA was Congress' third attempt at passing child labor legislation. Some states had enacted child labor legislation in the early 1900's, which meant that states with restrictive child labor laws had to compete for business with states that allowed employers to hire children at low wages and produce quality goods at lower prices. In 1916, Congress attempted to remedy this situation by placing limits on employers in all states, but although Congress passed legislation, the United States Supreme Court declared this law unconstitutional in *Hammer v. Dagenhart*. In 1919, Congress passed a law that imposed an excise tax on goods manufactured with child labor. However, the Supreme Court found this law to be unconstitutional in *Bailey v. Drexel Furniture Co.*

The climate in the 1930's was more appropriate for passing child labor legislation, not only because society recognized the need to protect children, but also because policy makers recognized the need to protect adults from displacement by children in the work force during the depression. After Congress passed the FLSA in 1938, the United State Supreme Court upheld it in 1940 in *United States v. Darby*.

At the time the FLSA was passed, the primary reason children worked was to alleviate family poverty. The law attempted to reduce the demand for child labor through minimum wage components of the law, which required employers to pay young workers the same wage as older, more experienced workers.

In addition to this federal legislation, state legislators passed child labor laws both before and after the FLSA. State laws are based upon the state’s police powers to protect the physical, mental, and moral welfare of children. States have articulated several protective reasons for enacting child labor laws. Currently, all states and the District of Columbia have child labor laws.

Child labor laws focus on ages of employment, hours of work, hazardous employment, and the minimum wage. This article is concerned with the first two. What follows is a summary of federal and state laws regarding the ages of employment and number of hours children may work.

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68 *Time to Grow Up*, supra note 65, at 577.
69 247 U.S. 251 (1918).
71 259 U.S. 20 (1922). The Court determined that the law was an unconstitutional intrusion upon state power.
72 See *Time to Grow Up*, supra note 65, at 577.
73 312 U.S. 100 (1940). See generally Nordlund, supra note 64.
74 Du Pre Lumpkin, supra note 7, at 404.
75 Id. at 405.
77 States have indicated several justifications for passing child labor legislation. See supra note 58 and accompanying text. See also *LEGAL RIGHTS OF CHILDREN*, supra note 76, at 317.
78 See infra notes 98-99, 105-106.
Ages of Employment

The Fair Labor Standards Act (FLSA) has been amended six times since 1938. The amendments have accomplished two purposes: to raise the minimum wage rate and to limit coverage of the Act itself. Thus, provisions of the FLSA that focus on ages of employment have not changed over time.

The FLSA defines oppressive child labor as employment of a child under 16, except employment of children between 14 and 16 years of age in nonmining, nonhazardous, and nonmanufacturing occupations and under conditions the Secretary of Labor determines not to interfere with their schooling or well-being. Although the FLSA does not in general restrict the employment of minors age 16 or over, it does prohibit minors between 16 and 18 from working in nonagricultural occupations considered particularly hazardous or detrimental to their health or well-being.

The FLSA provides exemptions to the preceding restrictions. For example, children under 16 years of age may be employed during nonschool hours by their parents in occupations declared hazardous for minors under age 18. Also, children between 14 and 16 years of age may be employed in agriculture, as long as the occupation has not been declared hazardous and the work is performed during nonschool hours. The FLSA provides additional exceptions for children engaged as actors, and children who deliver newspapers to consumers.

On the state level, regulations vary regarding ages of employment. Most states address concerns about workers aged 14 to 16, although some outline employment restrictions on workers as young as age 9, and may have provisions for workers between the ages of 16 and 18. These provisions usually focus on hazardous occupations.

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79 Nordlund, supra note 64, at 724.
80 Id.
82 Id.
83 Id. The act also allows children under 16 years of age to be employed during nonschool hours by a person standing in place of a parent. Id.
84 Id.
87 29 U.S.C. § 213(d) (1988). In addition to the exemptions listed in the text of this article, the Fair Labor Standards Act also permits an employer to apply for a waiver from the Secretary of Labor to cover employees between 10 and 12 years of age to work as hand harvest laborers in the summer. 29 U.S.C. § 213(c)(4)(A) (1988).
88 See generally Time to Grow Up, supra note 65, app. Although the statutory cites in this appendix are outdated (see footnotes in this article for updated cites), the information on ages of employment in this chart are still fairly accurate. The only significant change is that many states have increased the minimum age for work in heavy industry or hazardous occupations.
State laws regarding ages of employment tend to be similar to the FLSA. Typically minors over 14\textsuperscript{91} or 16\textsuperscript{92} are allowed to work in nonhazardous occupations during nonschool hours. Minors who are 16\textsuperscript{93} and 18\textsuperscript{94} are allowed more choices regarding hazardous work. The state laws typically encourage compliance with compulsory school attendance laws by setting the minimum age of employment for work during school hours higher than the age through which children must attend school.\textsuperscript{95} Many states allow exemptions to their general minimum age for casual employment (such as babysitting), and for jobs typically held by children, such as newspaper delivery and caddying on a golf course.\textsuperscript{96}

In sum, the most important age under both federal and state laws is 16. When children are under age 16, states are concerned that they not engage in hazardous occupations. Surprisingly, many states envision that many children between the ages of 14 and 16 will be part of the labor market. Some states state or imply that very young children (as young as 9 or 10) will work for pay. The laws reflect an assumption that such employment is not necessarily harmful. Once a child reaches age 16, federal and state regulators place few restrictions on their labor. The next section explores this fact in detail.

**Hours of Employment**

The Fair Labor Standards Act allows minors to work a maximum of 8 hours per day and 40 hours per week during nonschool periods, and a maximum of 3 hours per day and 18 hours per week when school is in session.\textsuperscript{97} The FLSA does not place limits on the number of employment hours per week for 16 and 17 year olds.

When establishing the maximum daily and weekly hours and days per week for minors under 16, several state legislatures have followed the FLSA and distinguished periods in which school is in session from those in which students are not


\textsuperscript{97} 29 C.F.R. § 570.35 (1991).
in school. In these states, the most typical limit legislators have placed on the maximum number of hours a minor under age 16 may work per day during non-school periods is 8 hours. Some of these states that distinguish between school and non-school periods also place limits on the maximum number of hours per day 16 and 17 year olds may work when school is not in session. The maximum daily hours is typically 10 or 9.

When school is in session, most of these states place the maximum daily hours for minors under age 16 at 3 or 4. Some states place limits on the

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combined hours of work and school, and place the limit at 8-10 hours.\textsuperscript{104}

In states that do not distinguish school and non-school periods,\textsuperscript{105} almost all limit the maximum daily hours for minors under age 16 to 8 hours.\textsuperscript{106} Some states limit 16 and 17 year olds to 9 or 10 hours per day.\textsuperscript{107}

In sum, regarding maximum daily hours for minors under age 16, many states limit the number of hours to 8. Some states place further restrictions by limiting these hours to a maximum of 3 per day when school is in session. States tend to be more lenient with 16 and 17 year olds, either placing no limits on them, or allowing them to work more hours than minors under age 16.

Most states also regulate the maximum weekly hours for minors under age 16. For states that distinguish school and non-school periods,\textsuperscript{108} it is typical for the legislature to determine that minors under age 16 may work 40 hours per week when school is not in session, and 18 hours per week during school periods.\textsuperscript{109} Some states allow minors who are not in school to work 48 hours per week.\textsuperscript{110} For states

\textsuperscript{104} See, e.g., ALASKA STAT. §§ 23.10.325-.350 (1990) (9 hours); HAW. REV. STAT. §§ 390-1 to -7 (1985) (10 Hours).


\textsuperscript{107} For states


\textsuperscript{109} See supra note 98.


that do not distinguish non-school and school periods, the most typical maximum hours worked per week for minors under age 16 are either 40\textsuperscript{111} or 48.\textsuperscript{112} Some states allow 16 or 17 year olds to work up to 54 hours per week, no matter whether school is in session.\textsuperscript{113}

All states place limits on nightwork for minors under age 16.\textsuperscript{114} State provisions vary considerably. Some states prohibit nightwork only during the school year,\textsuperscript{115} while the more protective states prohibit all work from 9:00 p.m. to 7:00 a.m. no matter whether school is in session.\textsuperscript{116} Several states place no restrictions on the nightwork of 16 and 17 year olds, while others have enacted regulations that reflect a concern that students should not perform nightwork.\textsuperscript{118}

Recently, some states have demonstrated their increasing concern over the effects of extensive work commitments on the academic performance of minors.\textsuperscript{119} On September 1, 1991, a new law took effect in New York that places serious restrictions on the working hours of teenagers.\textsuperscript{120} Governor Mario Cuomo has summarized the New York legislative intent: “Young people who spend more time flipping burgers and stacking boxes than preparing for a meaningful career may be hindering their own futures—and the future of this country.”\textsuperscript{121}

With this concern in mind, the legislature changed a provision that had


\textsuperscript{114} See generally Legislation -1990 and The Book Of The States, infra note 119.


\textsuperscript{120} Id.

allowed 17-year-olds to work 48 hours per week to restrict the work week to a maximum of 28 hours per week during the school year. Additionally, New York now prohibits 16 and 17-year-olds from working after 10 p.m. on school nights, unless they have written permission from their parents and school officials. Teenagers will be allowed to work until midnight during the summer upon obtaining parental permission. Although many states require parental permission, New York is the first state that requires permission from schools for students to work late. Finally, the legislature made it clear the new provisions are important by increasing penalty provisions in the law.

The New Hampshire Legislature has also made changes in their child labor laws. The Legislature amended their Youth Employment Law to require a satisfactory level of school achievement before the state can issue a work certificate. If the minor does not maintain a satisfactory level of school achievement, the state must revoke the certificate. The New Hampshire Legislature also placed restrictions on the number of hours 16 and 17 years olds may work during the school week. The state also created a committee to study the relationship between academic achievement and work.

The New Hampshire legislature is not alone in its efforts to reconsider policies regarding teenage labor. A few other states have created committees to study the consequences of working on the academic achievement of youths. Hawaii, for instance, recently adopted a resolution that requested a study of the “the desirability of amending the child labor law to reflect a commitment to quality education.” The resolution asked the study to consider restrictions on nightwork during the school week for minors over age 15. It also asked for a study of the issue whether to prohibit students who have been suspended from school from working during school hours.

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122 Id.
123 Id.
124 Id.
125 Id.
126 Id.
127 The Book Of The States, supra note 119, at 449.
128 Id.
129 Id.
130 Id.
131 See generally The Book Of The States, supra note 119. This source indicates that Maine amended its compulsory school attendance law to prohibit the employment of any student who is truant unless the state grants a release. Also, both Nebraska and Tennessee proposed their states should study the relationship between student employment and educational achievement.

In Legislation-1990, supra note 119, Nelson adds that states are concerned about the academic performance of school-aged minors who work. Indiana, Ohio, Washington and Florida have also revised their laws or ordered studies of teenage employment. Id. at 2.
133 Id. at 6.
134 Id.
Although the states that have decided to study the link between working and the appropriate direction, the efforts are minimal. It is surprising that states have waited until the 1990's to raise genuine concerns about the educational achievement of youths. It is interesting that some states are just now considering whether to restrict nightwork for 16 and 17 year-olds on nights preceding school days. Also interesting is the willingness most states demonstrate to allow teens to work more than 20 hours per week. When reviewing the dearth of restrictions on 16 and 17 year-old workers throughout the country, one can question whether state legislatures should consider more significant changes in their child labor laws. Legislators appear to take it for granted that teenage employment is good for teens.

Another interesting feature of recent state action in the child labor areas is that no state legislature has proposed a study of the spending patterns of teenage workers. It seems relevant to know whether teenagers are engaging in luxury spending or saving money for future goals, such as pursuing college education or maintaining an independent household.

In sum, a review of federal and state regulations on the age and hour restrictions on teenage labor indicates that we place surprisingly few restrictions on the labor of high school aged teens. Sixteen and 17-year-olds in most states enjoy extensive freedom to choose the number of hours per week they will work. Although some states are reconsidering their laws in the context of a push toward educational achievement of youths, these states are making only incremental changes to policies that call for systemic revisions.

When considering legislative changes, social scientists often offer enlightening information that can help policy makers determine which direction a particular law should take. However, reviews of social science research often increase frustration in addition to knowledge because social science research rarely answers all our questions. In the area of teenage development and relationships to ages and hours of work, we find important yet incomplete information.

Several social scientists have studied the effect of employment on students.136

136 For an excellent overview of social science research on youth and work, see I. CHARNE & B. FRASER, YOUTH AND WORK: WHAT WE KNOW, WHAT WE DON'T KNOW, WHAT WE NEED TO KNOW (National Institute for Work and Learning 1988).

137 The best and most recent study was performed by researchers Steinberg and Dornbusch. See Negative Correlates, supra note 43. Greenberger and Steinberg presented the most comprehensive summary of research in this area in WHEN TEENAGERS WORK, supra note 16.

Prior to WHEN TEENAGERS WORK, Greenberger and Steinberg, often working with other social scientists, studied and presented numerous articles on the consequences of employment on school aged children. See, e.g., Greenberger, Steinberg, & Ruggiero, A Job Is a Job Is a Job . . . Or Is It? 9 WORK & OCCUPATIONS 79 (1982) (The authors concluded that six different job types provided adolescents with few opportunities for learning); STEINBERG, GREENBERGER, GARDUQUE, & MCAULIFF, HIGH SCHOOL STUDENTS
Studies performed approximately ten years ago indicated that students who work extensive hours (more than 15-20 hours per week during the academic year) experience diminished school performance and school involvement. Additionally, students who engaged in this extensive labor force participation were more likely to use drugs and alcohol, experience decreased closeness to parents, and develop cynical attitudes about work than their peers who worked less than 15-20 hours per week.

IN THE LABOR FORCE: SOME COSTS AND BENEFITS TO SCHOOLING AND LEARNING (1982) (The authors examined the relationship between part-time employment during the school year and numerous variables. The authors concluded that extensive employment lead to lower school involvement and poorer school performance, but facilitated practical knowledge about the business world, money, and consumer transactions); Steinberg, Greenberger, Garduque, Ruggiero & Vaux, Effects of Working on Adolescent Development, 18 DEV'L. PSYCHOLOGY 385 (1982) (The authors concluded that working facilitates the development of personal responsibility but not social responsibility; the benefits of working to the development of autonomy are substantially greater for girls than boys; working diminishes involvement in school, family and peer commitments; working leads to the development of cynical attitudes toward work, and that working leads to the increased use of cigarettes and marijuana); Ruggiero, Greenberger & Steinberg, Occupational Deviance Among Adolescent Workers, 13 YOUTH & SOC'Y 423 (1982) (The researchers determined that working may promote some forms of deviance among adolescents, including employee theft); Greenberger & Steinberg, The Workplace as a Context for the Socialization of Youth, 10 J. YOUTH & ADOLESCENCE 185 (1981) (The authors concluded that few adolescents go “beyond the call of duty” at work, that few workers “experience only modest levels of task interdependence and centrality to a team effort,” and that “the workplace fails to induce meaningful interaction with adults” Id. at 185-86); Greenberger, Steinberg, & Vaux, Adolescents Who Work: Health and Behavioral Consequences of Job Stress, 17 DEV'L. PSYCHOLOGY 691 (1981) (The authors compared teenagers who had never worked); Steinberg, Greenberger, Vaux & Ruggiero, Early Work Experience: Effects on Adolescent Occupational Socialization, 12 YOUTH & SOC'Y 403 (1981) (The study concluded that while adolescents who work appear to develop positive attitudes about their own capabilities and values as workers, they also develop somewhat skeptical attitudes toward the workplace); Greenberger, Steinberg, Vaux & McAuliffe, Adolescents Who Work: Effects of Part-time Employment on Family and Peer Relations, 9 J. YOUTH & ADOLESCENCE 189 (1980) (Data indicated that working attenuates time spent with family but not peers; girls may enter the work force in part as a result of weaker emotional ties to parents; working has a negligible impact on the quality of family and peer relationships; workers do not have complete autonomy over their expenditures, and that the workplace is not a source of close personal relationships with others); Greenberger, Joselson, Knerr & Knerr, The Measurement and Structure of Psychosocial Maturity, 4 J. YOUTH & ADOLESCENCE 127 (1975) (This paper describes the development of an attitude inventory based upon an interdisciplinary model of psychosocial maturity.)

Other important research has been conducted by social scientists. See, e.g., Finch & Mortimer, Adolescent Work Hours and the Process of Achievement, 5 RESEARCH IN SOCIOLOGY OF EDUCATION AND SOCIALIZATION 171 (1985) (The authors focused on the implications of time spent at work for school achievement and subsequent socio-economic attainment. The authors concluded that work hours in the sophomore and junior years of high school may have a depressant effect on school achievement. Time spent working in the tenth grade had a significant negative effect on grade point average in the eleventh grade. Although workers in the eleventh grade suffered from working, workers in the twelfth grade did not demonstrate the same negative consequences); D'Amico, Does Employment During High School Impair Academic Progress? 57 SOC. OF EDUC. 152 (1984) (Results indicated that very extensive work involvement led to an increase in student drop-out rates, but less intensive work involvement led to increased rates of high school completion); L. McNeil, LOWERING EXPECTATIONS: THE IMPACT OF STUDENT EMPLOYMENT ON CLASSROOM KNOWLEDGE (U.S. Department of Educ. Report No. 84-1, 1984) (The author concluded that students' part-time employment surfaced as one of the factors increasingly causing both students and teachers to disengage from the teaching-learning process.).

138 See Negative Correlates, supra note 43, at 34. See generally When Teenagers Work, supra note 16; see also Finch & Mortimer, supra note 137.

139 Negative Correlates, supra note 43, at 304.
Over the past ten years social scientists have continued to study the relationship between student employment and both educational achievement and social development. Some social scientists have determined that employment has positive benefits for teenagers. Positive benefits of student employment include increased self discipline, self-confidence and responsibility. Teenagers can learn to be more punctual and dependable. Also, some social scientists have determined that employment that is not extensive may encourage some students to stay in school. Most researchers who found benefits in student employment found the positive benefits in students who worked only a few hours per week, as well as in students who worked extensively. Thus, social science evidence suggests that teenagers who work more than 15-20 hours per week suffer negative consequences, and that these workers can achieve the positive benefits of employment by working less than 15-20 hours per week.

A recent study of a heterogeneous sample of approximately 4,000 15-18 year olds confirmed the conclusion that the negative correlates of school-year employment are closely linked to the number of hours students work per week. Regardless of the age, social, economic, or ethnic characteristics of the teenage employees, this study determined that students who work more than twenty hours per week suffered lower academic performance, greater psychological distress, increased drug and alcohol use, delinquency and autonomy from parents.

Even if students do suffer numerous negative consequences from working extensive hours per week, many people believe it is good for students to work if they are saving for their college education or learning skills they can apply in their future careers. Unfortunately, child laborers in America tend to spend their income on luxury items instead of saving for college. Also, as this Article explained earlier, most teenagers work in retail and service establishments. Their jobs are

140 See, e.g., Steinberg, Greenberger, Vaux & McAuliffe, supra note 137; D’Amico, supra note 137.
141 See, e.g., Steinberg, Greenberger, Vaux & McAuliffe, supra note 137.
142 See, e.g., B. Sneider, HARD KNocks: PREPARING YoUTH FOR WoRK (1982).
143 See D’Amico, supra note 137.
145 Id. at 304. Steinberg and Dornbusch used a sample of students from nine high schools, six in northern California, and three in Wisconsin. The researchers surveyed students on several topics, including school performance and drug and alcohol use. The study ultimately focused on approximately 4,000 students.

This study improved the earlier Greenberger and Steinberg research in three major ways. The new study focused on a much larger sample size. It focused on approximately 4,000 students, compared to about 200 in the earlier study. Also, the study in the new sample was more socio-economically and ethnically diverse than the relatively homogeneous group the researchers studied originally. The new study also concentrated on students with a variety of work histories. The first study had focused on adolescents holding their first paid part-time job. Id. at 305.

146 Id. Steinberg and Dornbusch considered in their study not only grades and time spent on homework, but also school misconduct (such as cheating) and extracurricular participation. They studied student involvement in delinquent activities, time spent in family activities, the extent of parental monitoring, and the extent of autonomous decision making.

147 See supra notes 137-46, infra notes 148-59 and accompanying text.
148 See supra notes 47-48 and accompanying text.
typically characterized by high turnover, low pay, and simple, repetitive tasks that require little skill. These jobs rarely train teenagers for future careers.

This Article asserts that one particularly troubling negative consequence of excessive teenage employment is that earning substantial incomes encourages teenagers to engage in spending patterns that are greedy; the workers become excessively desirous of acquiring luxury items.

It seems harsh to label teenagers "greedy," especially when their behavior stems largely from living in a materialistic culture. Most teenagers respond to peer pressure, which encourages them to have certain brands of clothes and cars. Teenagers, like adults, increasingly look to their belongings "to tell them who they are." Given this culture, it seems unfair to attach such a pejorative label as "greedy" to teenagers. On the other hand, we need to step back and reconsider the direction we want teenagers' lives to take. So we want teenagers to continue to believe that what they have acquired through the fruits of their extensive labor market commitments provides their sense of identity? If lawmakers restricted the labor of all teenagers, unless their jobs provide important opportunities for growth, we would expect peer pressure to purchase luxury items to decline.

One argument that has particular appeal to parents is that, despite increased teenage luxury spending (which has the benefit of reducing parents' economic burdens), teenage employment encourages responsibility and maturity in teenagers. Extensive employment is certainly much better than having them engage in delinquent activities, which many would turn to if work did not fill up their hours of free time. This argument is inconsistent with social science research. Researchers with the most expertise in studying the consequences of teenage employment on their development concluded that "the kind of responsibility that working adolescents seem to be developing has a somewhat egocentric flavor. They obtain jobs more to earn spending money than to gain experience or to explore an area of work that might interest them in the future. They view themselves as good workers, and they get to work dependably . . . and do what is required of them-but seldom do more. They control a substantial amount of money, but they spend it largely on themselves to support a higher level of consumption than their parents would, or could, provide." Thus, although working does indeed promote responsibility, it is not necessarily a positive kind of responsibility.

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149 See generally When Teenagers Work, supra note 16.
150 See generally L. Shames, supra note 8.
151 Id.
152 Id. at 146.
153 See supra notes 137-52, infra notes 154-59 and accompanying text.
154 When Teenagers Work, supra note 16, at 106.
Additionally, no social science evidence suggests that teenagers who work stay out of trouble.\textsuperscript{155} In fact, most social scientists who have studied the issue have determined that teenagers who work extensive hours are more likely to engage in delinquent activities than their peers who do not work or work fewer hours.\textsuperscript{156}

If teenagers worked less, they would have more time to interact in a teenage world rather than an adult world.\textsuperscript{157} They could study more, and develop meaningful relationships with adults and their own peers.\textsuperscript{158} Additionally, teens could develop responsibility by performing tasks to help the household run smoothly.\textsuperscript{159} Clearly, we would need parents to supervise this time, otherwise teenagers might choose to increase their TV viewing time.

An important way to reduce some of today's problems with teenage labor is to educate parents. Many parents are blind to the negative consequences of teenage employment, and focus instead on the positive benefits to parents, such as their childrens' ability to pay for their own luxury items, and their belief their children are being supervised and kept out of trouble by their employers.

Another idea regarding teenage employment is that we should let teenagers choose their own lifestyles. If teens want to perform simple, tedious tasks to support their luxury spending, why not let them? The problem with the freedom of choice model is that society suffers the consequences of teenage choices. We as a society should want to encourage our teens toward education, and lifestyles in which teens become responsible, self-sufficient adults. By revising our child labor laws, we could provide appropriate protection for teenagers and society.

\textsuperscript{155} See supra note 137 and accompanying text.
\textsuperscript{156} See supra note 137 and accompanying text. But see Gottredson, Youth Employment, Crime and Schooling: A Longitudinal Study of a National Sample, 21 DevL't. Psychology 419 (1985) (The author states that evidence from this study implies that teenagers working do not increase delinquency and do not have a detrimental effect on commitment to education, involvement in extracurricular activities, time spent on homework, attachment to school, or attachment to parents.)
\textsuperscript{157} See generally M. Winn, Children Without Childhood (1983). In this book, Winn writes about "unchildlike children and about their newly unprotected position in today's changing society." Id. at 7. The first part of the book covers a wide range of topics that focus on changes in childhood over time, including the shrinking boundaries between children and adults, and the influence of television on children's free time. Id. The second part "considers the historical antecedents of the change" in childhood. Id. It also considers the changing roles of women in society today, and the instability of marriage. Id. The third section suggests that children should enjoy "a prolonged period of protection and innocence at the beginning of life." Id.
\textsuperscript{158} See generally id; see also When Teenagers Work, supra note 16. Greenberger and Steinberg strongly advocate the position that teenagers should enjoy increased free time in which to develop important relationships. These researchers believe legislators should make sure teenagers do not work extensive hours. Id.
\textsuperscript{159} See generally W. Stephens, Our Children Should Be Working (1979). This author discusses how children who are put to work in the home develop a sense of helpfulness and responsibility. Id. The author states that children can learn to manage their own affairs, and prepare for life situations. Id.
A PROPOSAL FOR REVISING THE AGES, HOURS, AND NATURE OF CHILD LABOR

Our child labor laws should be revised to reflect a response to current problems with child labor. The laws that state and federal governments enacted in the early 1900's have been revised only incrementally. These laws certainly did not envision the changes in American values and priorities over the years. Legislators in the early 1900's could not have predicted the increasing wealth and propensity to spend in America. Specifically, they could not have predicted that teenagers today would be working to support "needs" such as stereos and cars.

As this Article asserted earlier, perhaps it is unfair to refer to teenagers today as "greedy." The level of desires of most teens is based largely upon peer pressure. This peer pressure has developed in the context of an adult society that also engages in extensive luxury spending, and encourages the younger generation to do the same.

Thus, we cautiously refer to teenagers' behavior as greedy. Assuming teenagers are indeed greedy, we believe that teenagers should not be free to choose to continue to engage in this lifestyle. Parents and legislators have a duty to encourage teens to place less emphasis on working to purchase luxury goods. Increased education for parents is necessary, as are revisions in our child labor laws to encourage teens to become well-educated, responsible, self-sufficient adults.

Our child labor laws should, of course, continue to protect children who are poor and exploited. Increased enforcement of child labor laws is necessary. In addition, legislators should develop two types of child labor regulations for students who work part-time.

First, for students who work in establishments in which the jobs provide little educational value, such as fast food restaurants and retail stores, legislation should place far more significant restrictions on the ages and hours teenagers may work. For sixteen and seventeen year old students who want to acquire spending money by working in jobs that provide little educational value or opportunity for adult contact, legislatures should consider limiting the hours of this kind of labor to ten per week during the academic year, and twenty hours per week during vacation periods.

Second, for employers who plan to develop a meaningful mentor relationship with teenage employers that would resemble the work environment of the 1950's, the number of hours worked could be more extensive.\textsuperscript{160} Employers would be

\textsuperscript{160} See generally Lerman & Pouncy, The Compelling Case for Youth Apprenticeships, 101 The Pub. INTEREST 62 (1990). These authors focus on the problems of youth who work and do not plan to attend college. Apprenticeships would provide training for these youths. Our article does not focus on apprenticeships because we are focusing on more affluent youths, who probably will attend college. For more information on less affluent youths who are unlikely to attend college, see supra note 62.
required to apply for permission to act as a mentor, and government regulators would ensure that the work environment yielded positive benefits to the student. Hopefully, employer/mentors would encourage employees to save part of their wages for either future education or to eventually establish an independent household.

For this second category of labor, sixteen and seventeen year olds could work twice as much—perhaps twenty hours per week during the school year and forty hours per week during vacation periods.

Federal and state legislators must consider seriously whether children under age sixteen should participate in the labor market at all. Children under age sixteen should perform household chores to encourage responsibility and maturity, but only in rare circumstances should they work for pay. Children should concentrate on studying, playing, and being responsible family members.

These limits are a radical departure from current regulations, but we need systematic rather than incremental changes in our child labor laws to protect teenagers and society.

**Conclusion**

This Article presents ideas for increased parental involvement in teenagers’ lives at a time in which parents have other important demands on their time. This Article also suggests increased government regulation in an area that cherishes a laissez-faire philosophy. We believe strongly, however, that parents and legislators must intervene to protect teenagers and society from the greed encouraged by our materialistic culture. One way to curb this undesirable youth culture is to place serious restrictions on the employment of school-aged youths. Instead of considering incremental changes to present laws, legislators should start from scratch and begin with the premise that teens should not be working extensive hours unless their jobs provide opportunities for healthy social development. Then, legislators must enact specific policies that are consistent with the value priorities we want to encourage for today’s youth.