



Federal and State Labor Laws for Youth Work-Based Learning

Know the Rules

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Federal and State Labor Laws for Youth Work-Based Learning

Overarching Principles

1. Both Federal and State labor laws apply to students in work-based learning settings.
2. Between Federal and State guidelines, the laws and regulations that are the most restrictive govern what is allowed.
3. Limited exemptions from strict interpretation of some of the laws are possible. Please see exemptions on pages 4 and 6.
4. Regulations for 14- and 15-year-olds are substantially more restrictive than for those 16- and 17-year-olds.
5. Regulations are specified for work hours, prohibited and permitted forms of employment, and agricultural and nonagricultural employment.

14-15 Years of Age

WORK HOURS

	Federal	State	Conclusion
Nonagricultural & Agricultural	<p>Nonagricultural Employment § 570.35 specifies the number or hours and times of day minors under 16 are permitted to work.</p> <p>Agricultural Employment Child Labor Bulletin 102 specifies that minors under the age of 16 may not be employed during school hours unless employed by their parent (pg 4).</p>	<p>Nonagricultural Employment 16VAC15-40-30 specifies the number or hours and times of day minors under 16 are permitted to work.</p> <p>Agricultural Employment 16VAC15-40-40 specifies that minors under the age of 16 may not be employed during school hours unless employed by their parent. They also must be permitted a 30-minute break after five hours of continuous work.</p>	<p>State and federal laws for both nonagricultural and agricultural occupations are identical. In addition, state law stipulates that minors under 16 are not permitted to work more than 5 hours continuously without a 30-minute lunch break.</p>
Exceptions or Exemptions	<p>Work Experience & Career Exploration Program § 570.36, through the WECEP, permits the employment of 14- and 15-year-olds during school hours, for as many as 3 hours on a school day, and for as many as 23 hours in a school week.</p> <p>Work Study Program § 570.37 allows for work hour provisions for certain 14- and 15-year-old students participating in a WSP.</p>	<p>Work-training program 40.1-178 allows for 14- and 15-year-olds who are enrolled in a regular school work-training program and have a work-training certificate (as provided in § 40.1-88 and § 40.1-89) to work during school hours as part of the program.</p>	<p>As long as the 14- or 15-year-old is enrolled in a regular school work-training program that also meets the federal WECEP criteria and has a work-training certificate, he/she may work during school hours for up to 3 hours on a school day and for as many as 23 hours in a school week.</p> <p>See also Parental Exemption (Appendix A)</p>

14-15 Years of Age

PERMITTED EMPLOYMENT

	Federal	State	Conclusion
Nonagricultural	<p>§ 570.34 Occupations that may be performed... Lists nonagricultural jobs that are permitted for 14-15 year-olds. Note: Any job not specifically permitted is prohibited.</p>	<p>16VAC15-30-220 Employment of 14- and 15-year-olds Lists 4 particular jobs that these minors can pursue, but they seem to fall within the federal guidelines.</p>	<p>The federal guidelines are more extensive; state law does not specify any additional permissible areas of employment. State law, however, requires that 14- and 15-year-olds have an employment certificate (§ 40.1-84).</p>
Agricultural	<p>14- and 15-year-olds can work in any non-hazardous agricultural job (Child Labor Bulletin 102, pg 3).</p>	<p>Same as federal law. State law does explicitly state that children 14+ years or older employed on farms may work as a helper on a truck (40.1-100); this does not contradict federal law since serving as a helper on a truck is not listed as a hazardous job.</p>	<p>14- and 15-year-olds can work in any non-hazardous agricultural job, including working as a helper on a truck or commercial vehicle on a farm or orchard.</p>

14-15 Years of Age

PROHIBITED EMPLOYMENT & EXEMPTIONS/EXEMPTIONS

	Federal	State	Conclusion
Nonagricultural	<p>PROHIBITED JOBS FOR MINORS 14-15</p> <p>§ 570.33 lists nonagricultural jobs that are particularly hazardous to 14- and 15-year-olds.</p> <p>In addition to § 570.33, 14- and 15-year-olds may not be employed in ANY occupation that is declared hazardous by the Secretary of Labor: Codes 570.50 – 570.68 or a simple list of HO #1 – HO #17.</p> <p>EXEMPTIONS/EXCEPTIONS</p> <p>§ 570.36, through the Work Experience and Career Exploration Program, permits 14- and 15-year-olds to be employed in prohibited occupations but only after a specific variance has been granted by the Administrator of the Wage and Hour Division.</p>	<p>PROHIBITED JOBS FOR MINORS 14-15</p> <p>16VAC15-30-220 lists prohibited jobs for 14- and 15-year-olds.</p> <p>In addition to the prohibited jobs in § 570.33, Virginia also prohibits work in additional areas (see Appendix B).</p> <p>EXEMPTIONS/EXCEPTIONS</p> <p>Could not find any exemptions to these prohibited areas of employment even for student learners.</p>	<p>14- and 15-year-olds are prohibited from working in any of the occupations listed in § 570.33 as well as the additional jobs listed in 16VAC15-30-220 (found in Appendix B).</p> <p>Exemptions from these prohibited occupations do not seem to exist – even for student learners. Federal law only provides an exemption through a variance granted by the Administrator of the Wage and Hour Division.</p> <p>See Parental Exemption (Appendix A)</p>
Agricultural	<p>PROHIBITED JOBS FOR MINORS 14-15</p> <p>§ 570.71 lists agricultural occupations that are hazardous for minors below the age of 16.</p> <p>EXEMPTIONS/EXCEPTIONS</p> <p>§ 570.72 lists exemptions that permit 14- and 15- year-olds to be employed in certain hazardous occupations in agriculture. In sum, according to the Department of Labor, student-learners in a bona fide vocational agriculture program may work in Ag.H.O. #.1 through #6, under a written agreement.</p> <p>Record-keeping (page 7) is required for any minor working in a hazardous agriculture job.</p>	<p>PROHIBITED JOBS FOR MINORS 14-15</p> <p>16VAC15-50-20 lists agricultural occupations that are hazardous for minors below the age of 16.</p> <p>EXEMPTIONS/EXCEPTIONS</p> <p>16VAC15-50-30 Exemptions to Hazardous Occupations matches the Federal Exemptions for 14- and 15-year-olds (including the record-keeping requirement). EXCEPT that the state doesn't specifically allow an exemption for HO #5: Loading, unloading, felling, bucking or skidding timber with a butt (large end) diameter of more than 6 inches.</p>	<p>Prohibited agricultural occupations are identical under both federal (§ 570.71) and state (16VAC15-50-20) law for 14- and 15-year-olds. In addition, both federal and state laws provide exemptions to these prohibited occupations and require the same record-keeping requirements when employing a minor in a hazardous occupation. However, while federal law provides exemptions to student learners for HO #.1 - #6, state law only allows exemptions for HO #.1, #.2, #.3, #.4 and #.6 (not #.5).</p> <p>See Parental Exemption (Appendix A)</p>

16-17 Years of Age

WORK HOURS

	Federal	State	Conclusion
Nonagricultural & Agricultural	16- and 17-years-old may work unlimited hours.		16- and 17-year-olds may work unlimited hours.

16-17 Years of Age

PERMITTED EMPLOYMENT

	Federal	State	Conclusion
Nonagricultural	Any job that has not been declared hazardous by the Secretary of Labor is permissible for 16- and 17-year-olds.	§ 40.1-100 : Most jobs, except those that have been deemed hazardous by the Secretary of Labor, are acceptable for 16- and 17-year-olds.	Most jobs not deemed hazardous by the Secretary of Labor are acceptable for this age group.
Agricultural	No specific limitations (hazardous agricultural occupations are only restricted to minors under 16 years of age).	No specific limitations. Outlines particular allowable tasks in § 40.1-100 : 16+ years or older employed on farms, in gardens or in orchards may operate, assist in operating, or otherwise perform work involving a truck, excluding a tractor trailer, or farm vehicle as defined in § 46.2-1099 , in their employment.	No specific limitations.

16-17 Years of Age

Prohibited Employment & Exceptions/Exemptions

	Federal	State	Conclusion
Nonagricultural	<p>PROHIBITED JOBS FOR MINORS 16-17</p> <p>§ 570.50 – 570.68 (simple list of HO 1 –17) states that jobs deemed hazardous by the Secretary of Labor are NOT permissible for 16- and 17-year-olds even when the minor is employed by his parents. HOs can be found in Appendix C.</p> <p>EXCEPTIONS/EXEMPTIONS</p> <p>Apprentices and Student Learners</p> <p>Exemptions: 16- and 17-year-old apprentices and student-learners are permitted to perform the following hazardous occupations under certain conditions: HO #5, HO #8, HO # 12, HO #14, HO #16 and HO #17.</p> <p><i>Note that the State does not include HO #17 (trenching/excavating) on its exemption list.</i></p> <p>Driving</p> <p>§ 570.129: permits 17-year-olds to drive but with restrictions.</p>	<p>PROHIBITED JOBS FOR MINORS 16-17</p> <p>16VAC15-30-10 prohibits the same hazardous jobs as outlined under federal codes 570.50-570.68. In addition, the following occupations are also prohibited:</p> <ul style="list-style-type: none"> • 16VAC15-30-190: Minors 16 years and 17 years of age shall not enter a burning structure. • 16VAC15-30-200: Other Prohibited Occupations <p>EXCEPTIONS/EXEMPTIONS</p> <p>Apprentices and Student Learners</p> <p>Allows properly certified apprentices and student-learners to be exempt from the following prohibited occupations: HO #5, HO #8, HO # 10, HO # 11, HO #12, HO #14, and HO #16.</p> <p><i>Note that the Federal Code does NOT include HO #11 (power driven bakery machines) on its exemption list.</i></p> <p>Work-Training Program</p> <p>40.1-89: A child 16 or 17 years of age may be employed in certain hazardous occupations as part of a work-training program in accordance with rules and regulations promulgated by the Virginia Commissioner of Labor and Industry.</p> <p>Driving</p> <p>40.1-100: Permits 17-year-olds to drive but with restrictions.</p> <p>Firefighting</p> <p>40.1-79.1: Permits 16- and 17-year-olds to seek certification under National Fire Protection Association 1001, level one, firefighter standards and, after attaining such certification, to participate fully in all activities of the volunteer fire company.</p>	<p>State and federal laws both prohibit 16- and 17-year-olds from working in occupations deemed hazardous by the Secretary of Labor: § 570.50 – 570.68 (see Appendix C for a simple list of HOs). However, state law prohibits several additional occupations found in 16VAC15-30-190 and 16VAC15-30-200.</p> <p>EXCEPTIONS/EXEMPTIONS</p> <p>Apprentices and Student Learners</p> <p>State and federal law both provide exemptions from certain hazardous occupations to certified apprentices and student-learners. However, these exemptions are not identical. The hazardous occupations that both federal and state law provide exemptions for, include HO #5, HO #8, HO # 12, HO #14, and HO #16.</p> <p>Driving Exemption</p> <p>Both state and federal law provide driving exemptions (with restrictions) to 17-year-olds.</p> <p>Firefighting</p> <p>The state permits 16- and 17-year-olds to become certified firefighters; the federal government does not mention firefighting. However, the federal government does specify that ANY job not on the hazardous occupation list is acceptable for 16- and 17-year-olds, so one could conclude that, because firefighting is not on this list, it is acceptable.</p>
Agricultural	No specific limitations.	No specific limitations.	No specific limitations.

Appendix A

Parental Exemption

Federal Law

570.126: Parental Exemption

A parent or a person standing in place of a parent may employ his own child or a child in his custody under the age of 16 years in any occupation other than the following: (a) Manufacturing; (b) mining; (c) an occupation found by the Secretary to be particularly hazardous or detrimental to health or well-being for children between the ages of 16 and 18 years.

Child Labor Bulletin 101: Non Agricultural Occupations (page 3)

The federal child labor provisions do not apply to:

- Children 16- and 17-years-old employed by their parents in occupations other than those declared hazardous by the Secretary of Labor
- Children under 16 years of age employed by their parents in occupations other than manufacturing or mining, or occupations declared hazardous by the Secretary of Labor.

Child Labor Bulletin 102: Agricultural Occupations (page 3)

Parental Exemption from the Agricultural Provisions of the FLSA: A child of any age may be employed by his or her parent or person standing in place of the parent at any time in any occupation on a farm owned or operated by that parent or person standing in place of that parent.

State Law

§40.1-79.01: A child under 16 years of age employed by his parent or a person standing in place of his parent in an occupation (including farms, orchards and gardens) other than manufacturing owned or operated by such parent or person is exempt from the state labor laws.

Appendix B

Code of Virginia:

Prohibited Occupations for 14- and 15-year-olds

In addition to the prohibited jobs in Federal Code 570.33, the state of Virginia prohibits work in the following areas:

- **Manufacturing/Industry/Manual Labor:**
Any mechanical establishment; commercial cannery; the operation of any automatic passenger or freight elevator; any brick, coal, or lumber yard.
- **Health Care/Medicine:**
Any hospital, nursing home, clinic, or other establishments providing care for resident patients; as a laboratory helper, therapist, orderly, or nurse's aide; at any veterinary hospital.
- **Restaurants/Hotels**
In curb service at restaurants and hotel and motel room service.
- **Theater/Entertainment/Dance:**
Any dance studio; as ushers in theaters; in any outdoor theater, cabaret, carnival, fair, floor show, pool hall, club, or roadhouse.
- **Miscellaneous Occupations:**
As a lifeguard at a beach; in any undertaking establishment or funeral home; in the solicitation, sale, or obtaining of subscription contracts or orders for books, magazines, or other periodical publications other than newspapers.
- **[16VAC15-30-200](#): Other Prohibited Occupations:** Manufacturing of paints, colors, white lead; working in places where goods of alcoholic content are manufactured, bottled or sold for consumption; performing in or being the subject of sexually explicit visual material.
- **[16VAC15-30-190](#):** Minors 14- and 15-years-old shall not participate in firefighting or support activities at the fire scene, enter a burning structure, enter a structure which contains burning materials, or engage in any other activity prohibited in this chapter.

Additional Resource: [Code 40.1-100: Employment Prohibited/Limited](#)

Appendix C

Occupations Deemed Hazardous by the Secretary of Labor

Occupations Particularly Hazardous for the Employment of Minors between 16 and 18 Years of Age

Note: General exemptions apply to all of these occupations, while limited apprentice/student-learner [exemptions](#) apply to those occupations marked with an *.

§570.51-570.68 (17 orders)

- HO 1. Manufacturing and storing of explosives.
- HO 2. Driving a motor vehicle and being an outside helper on a motor vehicle;
- HO 3. Coal mining.
- HO 4. Forest fire fighting and fire prevention, timber tract management, forestry services, logging, and saw mill occupations.
- HO 5. *Power-driven woodworking machines.
- HO 6. Exposure to radioactive substances and ionizing radiation.
- HO 7. Power-driven hoisting apparatus.
- HO 8. *Power-driven metal-forming, punching, and shearing machines.
- HO 9. Mining, other than coal mining.
- HO 10. Meat and poultry packing or processing (including the use of power-driven meat slicing machines).
- HO 11. Power-driven bakery machines.
- HO 12. *Balers, compactors, and paper-products machines.
- HO 13. Manufacturing brick, tile, and related products.
- HO 14. *Power-driven circular saws, band saws, guillotine shears, chain saws, reciprocating saws, wood chippers, and abrasive cutting discs.
- HO 15. Wrecking, demolition, and shipbreaking operations.
- HO 16. * Roofing operations and all work on or about a roof.
- HO 17. *Trenching or Excavation operations.

[Detailed explanation of each of the 17 Hazardous Occupations](#)



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