

# CTE Industry Youth Employment Rules and Regulation in the Commonwealth

July 28, 2016 **Transcript**

[00:00] Good afternoon. Welcome to the fourth video training session of the 2016-17 Professional Development Series sponsored by the Office of Career and Technical Education in the Virginia Department of Education. I am Sharon Acuff, specialist for Marketing and Related Clusters and Work-Based Learning Coordinator. Today's session will focus on the Department of Labor and Industry's Youth Employment Rules and Regulations in the commonwealth as they relate to work-based learning programs offered across the commonwealth.

Our agenda today will deal with the Virginia labor laws protecting young student workers in the commonwealth, especially in CTE programs. The federal child labor provisions authorized by the Fair Labor Standards Act of 1938, also known as the child labor laws, were enacted to ensure that when young people work, the work is safe and does not jeopardize their health, well-being, or educational opportunities.

You have probably asked some of these questions at some point.

- At what age can a minor work?
- What are the primary requirements for minors who work?
- Does a minor child need an employment certificate prior to beginning work?
- Where can an employment certificate be obtained?

We are fortunate today to have Mr. Robert Armstrong, Operations Manager at the Virginia Department of Labor and Industry, to help answer these questions and to cover other rules and regulations you must follow to be in compliance with child labor laws in Virginia. Thank you, Bob, for being with us today, and we appreciate the expertise and knowledge you bring to this presentation.

[02:00] The Department of Labor and Industry is charged with enforcing the child labor laws in the Commonwealth of Virginia, and I'll give you a little history of our department.

We were created by the general assembly in 1898 as the Bureau of Labor and Industrial Statistics and became a department in 1927. And we...our primary authority is under the Code of Virginia, Chapter 40.1, the Labor Laws for Virginia. We are under the executive branch of the state government, and report to the Secretary of Commerce and Trade.

The department provides services throughout the state for wage protection, child labor protection, occupational safety, and health. Our headquarters is in Richmond, and we have regional offices throughout the state. We have programs that deal with occupational safety and health, registered apprenticeship, boiler and pressure vessels, and me, I'm from the labor and employment law division.

What we're talking about today, the child labor laws, are found in the Code of Virginia. Virginia has a situation where we have the codes that that are codified in the Code of Virginia, the statutes, but we have a Virginia Administrative Code, which is used by...used to further define the codes in many cases. The regulations will give more direction to the codes, so what we're talking about today comes straight from the Code of Virginia and from the Virginia Administrative Codes.

In Virginia, and under the federal laws also, the occupations are split into two separate divisions, and we're going to start with hazardous occupations. Hazardous occupations are prohibited for everyone under the age of 18. We're going through a list here.

The manufacturing and storing of explosives.

Logging and sawmilling.

Power driven woodworking machines, this...that will include chippers, some of the stuff that you will see with the tree pruning industry, the chippers are included under that.

The exposure to radioactive substances are ionizing radiation.

Power-driven hoisting apparatus. This prohibition includes the high lift trucks, which are the backhoes, the fork lifts, the front-end loaders. And it also includes the lifts that are used to lift patients and handicapped people, their hoisting apparatus and folks under the age of 18 are not allowed to use those.

Power-driven metal forming machines like in a lot of the machine shops.

Mining.

Slaughtering, meatpacking. This prohibition includes the meat slicers that you'll see in a lot of restaurants and delis, grocery stores, and these places, they're prohibited from using those meat slicers until they are 18.

Power driven bakery machines, this does not include the tabletop non-commercial type machines. This is the heavy duty power driven bakery machines; the regulation has more specifics to it. You can Google it to find a lot of the different machines that are definitely prohibited.

Power driven paper product machines.

The manufacturing of bricks, and tile, and kindred products.

The power driven saws-this is a big one-they are not allowed to use any of the reciprocal saws, the circular saws, table saws, including chainsaws. No saws can be used until they are 18.

Demolition jobs are prohibited for those under 18.

Roofing and all of its aspects, you can't even be ground men on a roofing job. You can't pick up the shingles after they've been scraped off the roof. They are still prohibited for folks under 18.

Excavation... firefighting have some real specific exclusions to it. We can get into that if anybody has any questions on it, but firefighting is a hazardous occupation.

They are not allowed to serve alcoholic beverages.

And the manufacturing of paints, colors, white lead, the preparing and using of dangerous, poisonous chemicals and where we get into a lot of that is in the pool industry during the summer for the youngsters that are working, lifeguards and such, they are not allowed to use any of the chlorine or any of the hazardous chemicals that go with the pool industry.

And they're definitely not allowed to perform or be involved in anything that is sexually explicit. That's prohibited for everyone under 18.

Driving, there's some real strict limits, where folks that once they've turned 17, may drive with certain real restricted uses, but anyone under 18 is not allowed to drive like a route truck, or a health runner commercial vehicle.

[07:26] Now we are getting to the other classification of duties and this is the restricted duties. These duties can be performed by someone who is 16 or 17 but if they are 14 and 15, they cannot do these jobs. Mechanical establishments; that's gonna include garages and anything where you use tools, whether hand tools or power tools to fix, repair, or build something. Commercial canneries, elevators, dance studios, dance clubs, this does not include the children's dance schools where they teach the young folks how to dance, the little ones. But they can't work in a dance studio or dance club.

They cannot provide care for patients in any, any manner; they can't be a laboratory helper, therapist, orderly nurses' aid. In the veterinary hospital, and going along hand-in-hand with the veterinary hospital, they can't work in the veterinary hospital, they can't even work in a job that brings them in contact with animals, til they turn 16, they can have no contact with animals while they are being employed.

They can't work in an undertaking or funeral home or curb service at a restaurant is one we see a lot now with the Sonics and some of the new curb service type restaurants. If you're under 16 you cannot provide curb service or you cannot provide hotel or motel room service.

Brick, coal, or lumber yards, they can't work there. Ice plants, ushers in theatres comes up from time to time, they want to be an usher, they can be a clerk for working concessions, but they cannot be ushers at a theatre.

Scaffolding work or construction, that includes all construction trades, all associate trades of construction, they cannot perform any of this until they turn 16. They can't even be on the job site until they turn 16. They can't work in the outdoor theaters, carnivals, fairs, clubs, pool halls,

roadhouses. They can't lifeguard at the beach or at a natural environmental lake, something like that. They can lifeguard under certain restrictions at pools.

Soliciting, that is prohibited under 16. Soliciting even includes the waving like you see with the Statue of Liberty for the Liberty Tax people or they're out spinning the sign to get somebody to come in to buy the sub. That all falls under, falls under soliciting and if you're under 16, you can't do it.

Manufacturing, transportation, they can't work in the transportation industry. They are not allowed in warehouses or storage facilities or in communications and public utilities. They can't work in boiler or engine rooms or any maintenance or repair facilities. They can't work on ladders. They can't, they can wash windows, but they must be standing on the ground.

There's no cooking or baking allowed unless, until you turn 16. You can't work in the freezer or meat coolers. Now, if they're working as a kitchen helper or waitress or something like that and they have to go into the walk-in box or walk-in freezer to get something, that's not prohibited. They just can't have a job that works in a freezer full time.

They can't load or unload from commercial vehicles. We get a lot of that in like the feed stores and such, they have a warehouse and they want to load and unload the trucks; they're not allowed that. Pallets, racks, and lifting apparatuses, they can't work around those, assist those, or use those.

Inflating tires with a split rim, they can't do that. And this is the one that a lot of people don't understand. The power driven mowers and cutters. If you're under 16-years-old, you can't operate any type of power equipment unless it is expressly permitted under another regulation, like the kitchen equipment and such, with the restaurants.

[11:39] With these things we just went over, there are exemptions for the children, for the minors, if they are working in a bona fide office facility, if that establishment, say the funeral home, if you had a few work permits come through for that, they can't work at a funeral home or undertaker but they can work in the office if it is a bona fide office, separate from any of the activities that they are not allowed to do. At the mechanical shop, they can work in the office, but they can't go in the mechanical shop.

Now we have student learner exemptions that are built into some of the laws; the regulations have exemptions built in for the 16- and 17-year-olds. If they are a student learner or a registered apprentice, they can actually do under the student learner agreement, the power driven woodworking machines, the metal forming machines, slaughtering and meat packing, the bakery machines, the paper products machines, the power driven saws, and the roofing. These prohibited occupations for everyone under 18 do have the exemption if the minors are on a student learner agreement and its, they are enrolled through a school. If we have a student learner agreement and the minors are 14s- or 15s, they can do the work that is allowed for the 16 and 17s on that agreement and they can work during school hours with that agreement in place as long as they are in a program and they have the agreement in place.

We have a code that specifically talks about the work training agreement and the student learner agreements and this is what the code says is required in that that agreement:

It is managed by the coordinator of the schools.

It certifies that the student is enrolled in a course, a course in the school.

And it does allow the 16- and 17-year-olds to be exempt from the hazardous occupations.

The fourteen and 15-year-olds can do the restricted occupations as long as we have the student learner agreement in place.

It states that the work that is hazardous will be incidental to the training, it'll be intermittent for short period of times, and under close supervision.

And safety instruction will be given by the school and linked to on-the-job training for the safety and it contains a schedule of organized and progressive work processes.

Now all of the minors in the state who are under 16 have hours' restrictions. The work training agreement/student learner agreement will allow a student learner to work during school hours but all the other hours restrictions will still apply. The employers cannot require a minor to work in violation of local curfew ordinance, and these are the hours that are allowed for folks under 16-years-old. They are pretty much the same.

In the summer, they can work a 40-hour week.

They can't work over 8 hours a day and the late time goes to 9 p.m.

During the school year, they can't work past 7 p.m.

They can't work over 3 hours on a school day or over 18 hours in a school week.

Now on Saturdays, Sundays, and non-school days, they can work as many as 8 hours.

And on a non-school week, they can work 40 hours.

But during the school year, in a week that there's any days of school, they are restricted to the 18 hours.

[15:28] The one big thing is if a minor under 16, works five consecutive hours, his time sheet, his records, must show a 30-minute break. A 20-minute break doesn't make it; it causes a violation of the law. Two 15-minute breaks won't work. It must be a continuous 30-minute break after 5 hours of work, and it must be documented, must be shown on your time record.

And we have to go into instructor liability. Under 40.1-113, if anyone does something that could causes a harm, or injury, or death to a child, there can be penalties. So, we want everybody to do their due diligence and make sure that they are following the laws to get these children working and training and doing it all legally and responsibly.

This is what we can offer to the career and technical educators; if you have a work place that you want to put a child, a minor in, you can contact us and we can arrange a date to meet there and look at the place If you have any questions about it, we can come and talk to you about the laws

and what is required of you. And we can supply you with copies of the laws or anything that you might need to help you make the right choices with your minors, your students.

Like Sharon said in the introduction, the federal government has child labor laws on the Fair Labor Standards Act. They pretty much mirror the state laws. There are some differences and whenever there's a question about it, the most stringent law will apply. So, ah, I cannot speak for the feds, they, you would have to contact them to see what the federal laws actually said. Our laws are pretty close to the feds, so in most cases, if you are complying with our law, you are probably in compliance with the feds. But I can't tell you that's correct. You would always have to check with the feds.

This is the most important thing I can give you. These are our child labor compliance people, their phone numbers, and their e-mail addresses. If you have any questions, you can talk to Sharon, or you can talk to us, and we will try to get you the right answer.

[18:03] The Virginia Department of Labor and Industry Laws and Regulations, under the Code of Virginia, in many ways are a mirror image of the federal laws and regulations pertaining to the Fair Labor Standards Act. We would encourage administrators to go to the federal site and review these regulations; however, the state and federal regulations match very, very closely.

In situations where there is a difference, the stricter law will always be the prevailing decision and the stricter law will always be the prevailing action.

The next video streaming session will be held on August 25<sup>th</sup>. The focus will be implementing career clusters, preparing students for high skill, high demand, and high wage careers. Please make plans to view this session.

In closing, please take a few minutes to go to the website and complete the evaluation of the session. We take your feedback very seriously and use your input to continually improve the type of video training sessions that are offered throughout the school year in an effort to provide just-in-time technical assistance.

Thank you for your participation today. We hope that this training session has been useful and we'll certainly assist you in ensuring that students are engaged in work-based learning through the 2016-17 school year in accordance with policies and regulations of the Code of Virginia. Certainly, if you have any questions pertaining to work-based learning, you can contact me at the Virginia Department of Education. I wish you a very successful 2016-17 school year and wish meaningful work-based learning experiences for the students in your school division. Good day.