Federal and State Labor Laws for Youth Work-Based Learning

Know the Rules

June 2017

Office of Career, Technical, and Adult Education
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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

<table>
<thead>
<tr>
<th></th>
<th>Federal</th>
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<th>Conclusion</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nonagricultural &amp; Agricultural</strong></td>
<td>Nonagricultural Employment</td>
<td>$570.35 specifies the number or hours and times of day minors under 16 are permitted to work.</td>
<td>Nonagricultural Employment</td>
</tr>
<tr>
<td></td>
<td>Agricultural Employment</td>
<td>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).</td>
<td>Agricultural Employment</td>
</tr>
<tr>
<td><strong>Exceptions or Exemptions</strong></td>
<td>Work Experience &amp; Career Exploration Program</td>
<td>§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.</td>
<td>Work-training program</td>
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<td></td>
<td>Work Study Program</td>
<td>§570.37 allows for work hour provisions for certain 14- and 15-year-old students participating in a WSP.</td>
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### PERMITTED EMPLOYMENT

<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>Nonagricultural</strong></td>
<td>$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.</td>
<td>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.</td>
<td>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).</td>
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<tr>
<td></td>
<td>14- and 15-year-olds can work in any non-hazardous agricultural job (Child Labor Bulletin 102; pg 3).</td>
<td>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.</td>
<td>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.</td>
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<tr>
<td><strong>Agricultural</strong></td>
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*Career and Technical Education in Virginia*
# PROHIBITED EMPLOYMENT & EXCEPTIONS/EXEMPTIONS

<table>
<thead>
<tr>
<th>Nonagricultural</th>
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<tr>
<td>PROHIBITED JOBS FOR MINORS 14-15</td>
<td>§ 570.33 lists nonagricultural jobs that are particularly hazardous to 14- and 15-year-olds. 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.</td>
<td>PROHIBITED JOBS FOR MINORS 14-15</td>
<td>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). 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.</td>
</tr>
<tr>
<td>EXEMPTIONS/EXCEPTIONS</td>
<td>§ 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.</td>
<td>EXEMPTIONS/EXCEPTIONS</td>
<td>Could not find any exemptions to these prohibited areas of employment even for student learners.</td>
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<thead>
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<tr>
<td>PROHIBITED JOBS FOR MINORS 14-15</td>
<td>§ 570.71 lists agricultural occupations that are hazardous for minors below the age of 16.</td>
<td>PROHIBITED JOBS FOR MINORS 14-15</td>
<td>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).</td>
</tr>
<tr>
<td>EXEMPTIONS/EXCEPTIONS</td>
<td>§ 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. Record-keeping (page 7) is required for any minor working in a hazardous agriculture job.</td>
<td>EXEMPTIONS/EXCEPTIONS</td>
<td>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.</td>
</tr>
</tbody>
</table>

## Conclusion

- **Federal** legislation prohibits minors aged 14-15 from working in hazardous occupations. However, through specific variances, minors may be employed in prohibited occupations in agriculture and non-agriculture.
- **State** laws, in conjunction with Federal regulations, provide additional protections and exemptions for student learners.
- **Conclusion** highlights the limitations and exceptions provided by both federal and state laws for minors aged 14-15.
### 16-17 Years of Age

#### WORK HOURS

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<tr>
<td>Nonagricultural &amp; Agricultural</td>
<td>16- and 17-years-old may work unlimited hours.</td>
<td></td>
<td>16- and 17-year-olds may work unlimited hours.</td>
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#### PERMITTED EMPLOYMENT

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<tr>
<td>Nonagricultural</td>
<td>Any job that has not been declared hazardous by the Secretary of Labor is permissible for 16- and 17-year-olds.</td>
<td>§ 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.</td>
<td>Most jobs not deemed hazardous by the Secretary of Labor are acceptable for this age group.</td>
</tr>
<tr>
<td>Agricultural</td>
<td>No specific limitations (hazardous agricultural occupations are only restricted to minors under 16 years of age).</td>
<td>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.</td>
<td>No specific limitations.</td>
</tr>
</tbody>
</table>
### 16-17 Years of Age

#### Prohibited Employment & Exceptions/Exemptions

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<td><strong>PROHIBITED JOBS FOR MINORS 16-17</strong></td>
<td>§ 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.</td>
<td><strong>PROHIBITED JOBS FOR MINORS 16-17</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>EXCEPTIONS/EXEMPTIONS</strong> Apprentices and Student Learners</td>
<td><strong>Exclusions:</strong> 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. Note that the State does not include HO #17 (trenching/excavating) on its exemption list.</td>
<td><strong>EXCEPTIONS/EXEMPTIONS</strong> Apprentices and Student Learners</td>
<td><strong>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.</strong></td>
</tr>
<tr>
<td><strong>Driving</strong></td>
<td>§ 570.129: permits 17-year-olds to drive but with restrictions.</td>
<td><strong>Driving Exemption</strong></td>
<td>Both state and federal law provide driving exemptions (with restrictions) to 17-year-olds.</td>
</tr>
<tr>
<td><strong>Firefighting</strong></td>
<td></td>
<td><strong>Firefighting</strong></td>
<td>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.</td>
</tr>
</tbody>
</table>

#### 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 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 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]