

§ 40.1-78. Employment of children under fourteen and sixteen.

A. No child under fourteen years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation except as specified in this chapter.

B. No child under sixteen years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation during school hours unless he has reached the age of fourteen and is enrolled in a regular school work-training program and a work-training certificate has been issued for his employment as provided in § 40.1-88.

C. Nothing in this section shall affect the provisions of §§ 40.1-100 A, 40.1-100.1, 40.1-100.2, 40.1-101 and 40.1-102.

(Code 1950, § 40-96; 1956, c. 567; 1960, c. 434; 1968, c. 264; 1970, c. 321; 1991, c. 511.)

§ 40.1-79.

Repealed by Acts 1991, c. 511.

§ 40.1-79.01. Exemptions from chapter generally.

A. Nothing in this chapter, except the provisions of §§ 40.1-100 A, 40.1-100.1, 40.1-100.2, and 40.1-103, shall apply to:

1. A child engaged in domestic work when such work is performed in connection with the child's own home and directly for his parent or a person standing in place of his parent;

2. A child employed in occasional work performed outside school hours where such work is in connection with the employer's home but not in connection with the employer's business, trade, or profession;

3. A child twelve or thirteen years of age employed outside school hours on farms, in orchards or in gardens with the consent of his parent or a person standing in place of his parent;

4. A child between the ages of twelve and eighteen employed as a page or clerk for either the House of Delegates or the Senate of Virginia;

5. A child participating in the activities of a volunteer rescue squad;

6. A child under sixteen years of age employed by his parent in an occupation other than manufacturing; or

7. A child thirteen years of age or older employed by an eleemosynary organization or unit of state or local government as a referee for sports programs sponsored by that eleemosynary, state, or local organization or by an organization of referees sponsored by an organization recognized by the United States Olympic Committee under 36 U.S.C. § 391.

B. Nothing in this chapter, except §§ 40.1-100.1, 40.1-100.2, and 40.1-103, shall be construed to apply to a child employed by his parent or a person standing in place of his parent on farms, in orchards or in gardens owned or operated by such parent or person.

(1991, c. 511; 1998, c. 30.)

§ 40.1-79.1. Exemptions from chapter generally; local ordinance authorizing participation in volunteer fire company activities.

A. Any county, city or town may authorize by ordinance any person sixteen years of age or older, with parental or guardian approval, to work with or participate fully in all activities of a volunteer fire company, provided such person has attained certification under National Fire Protection Association 1001, level one, fire fighter standards, as administered by the Department of Fire Programs.

B. Any trainer or instructor of such persons mentioned in subsection A of this section and any member of a paid or volunteer fire company who supervises any such persons shall be exempt from the provisions of § 40.1-103 when engaged in activities of a volunteer fire company, provided that the volunteer fire company or the governing body of such county, city or town has purchased insurance which provides coverage for injuries to or the death of such persons in their performance of activities under this section.

(1982, c. 344; 1983, c. 123; 1991, c. 511.)

§ 40.1-80.

Repealed by Acts 1991, c. 511.

§ 40.1-80.1. Employment of children.

A. Except as provided in §§ 40.1-79.01, 40.1-88, 40.1-102, and 40.1-109, no child under sixteen years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation more than the number of hours per week or more than the number of hours per day or during the hours of the day that the Commissioner shall determine by regulations to be detrimental to the lives, health, safety or welfare of children. These regulations shall incorporate the standards contained in regulations promulgated by the United States Secretary of Labor pursuant to the Fair Labor Standards Act (29 U.S.C. § 201 et seq.) concerning the number of hours per week, hours per day, and the hours of the day that children under the age of sixteen may work in, about, or in connection with, any gainful occupation.

B. No child shall be employed or permitted to work for more than five hours continuously without an interval of at least thirty minutes for a lunch period, and no period of less than thirty minutes shall be deemed to interrupt a continuous period of work.

(1991, c. 511.)

§ 40.1-81.

Repealed by Acts 1972, c. 480.

§ 40.1-81.1. Records to be kept by employers.

Every employer employing minors under sixteen years of age shall keep a time book or time cards or other appropriate records for such minor employees which shall show the beginning and ending time of work each day together with the amount of time designated as a free-from-duty meal period, which is deductible from the schedule of hours of work. The record for the preceding twelve months for each such minor employee shall be kept on the premises for a period of thirty-six months from the date of the latest work period recorded for the minor employee involved.

(1972, c. 480; 1982, c. 134; 1991, c. 511.)

§ 40.1-82.

Repealed by Acts 1979, c. 219.

§ 40.1-83.

Repealed by Acts 1991, c. 511.

§ 40.1-84. Employment certificate required.

No child under sixteen years of age shall be employed, permitted or suffered to work, in, about or in connection with any gainful occupation with the exception of volunteer work or work on farms, orchards and in gardens and except as provided in §§ 40.1-79.01, 40.1-101, and 40.1-102 unless the person, firm or corporation employing such child, procures and keeps on file and accessible to any school attendance officer, representative of the Department or other authorized persons, charged with the enforcement of this chapter, the employment certificate as hereinafter provided, issued for such child.

(Code 1950, § 40-100; 1960, c. 434; 1966, c. 603; 1970, c. 321; 1972, cc. 480, 824; 1974, cc. 283, 525; 1979, c. 219; 1991, c. 511.)

§ 40.1-85. Kinds of employment certificates.

Employment certificates shall be of two kinds: work-training certificate and vacation or part-time employment certificate.

(Code 1950, § 40-100.1; 1970, c. 321; 1982, c. 135; 1991, c. 511.)

§ 40.1-86.

Repealed by Acts 1979, c. 219.

§ 40.1-87. Vacation or part-time employment certificate.

A vacation or part-time employment certificate shall permit the employment of a child between fourteen and sixteen years of age only during school vacation periods or on days when school is not in session, or outside school hours on school days.
(Code 1950, § 40-100.3; 1958, c. 164; 1970, c. 321; 1979, c. 219; 1982, c. 136; 1991, c. 511.)

§ 40.1-88. Work-training certificate.

A work-training certificate shall permit the employment of a child between fourteen and sixteen years of age during school hours when enrolled in a regular school work-training program pursuant to a written agreement containing the same provisions as specified in § 40.1-89.
(Code 1950, § 40-100.4; 1970, c. 321; 1979, c. 219; 1982, c. 670.)

§ 40.1-89. Same; employment not allowed; revocation of certificate.

No child shall be employed pursuant to a work-training certificate as provided in § 40.1-88 where such employment requires such child to work in any occupation which is deemed hazardous under § 40.1-100 A or regulations promulgated thereunder. However, a child sixteen or seventeen years of age may be employed in certain such occupations as part of a work-training program in accordance with rules and regulations promulgated by the Commissioner. No child shall work in a work-training program except pursuant to a written agreement which shall provide: (1) that the work of such child shall be incidental to his training, shall be intermittent and for short periods of time and shall be under the direct and close supervision of a competent and experienced person; (2) that safety instruction shall be given by the school and correlated with on-the-job training given by the employer; and (3) that a schedule of organized and progressive work processes to be performed shall have been prepared. Such written agreement shall set forth the name of the child so employed and shall be signed by the employer and the coordinator of schools having jurisdiction. Copies of such agreement shall be retained by the school and the employer, and a copy thereof shall be filed with the Department.

Any such work-training certificate or written agreement may be revoked at any time that it shall appear that reasonable precautions for the safety of such child have not been observed.

(Code 1950, § 40-100.4:1; 1960, c. 434; 1968, c. 277; 1970, c. 321; 1982, c. 252; 1991, c. 511.)

§§ 40.1-90. , 40.1-91.

Repealed by Acts 1991, c. 511.

§ 40.1-92. Issuance of certificates.

Employment certificates shall be issued only by the division superintendent of schools, or by any person designated by him and only upon application in person of the child desiring employment, accompanied by the parent, guardian or custodian of such child. In lieu of a personal appearance, such parent, guardian, or custodian may submit a notarized statement granting permission for the employment of the child. The division superintendent of schools shall designate one person to grant such permits in every city or county. The person issuing such certificate shall have authority to administer the oath provided for therein, or to make any investigation or examination necessary for the issuance thereof. No fee shall be charged for issuing any such certificate nor for administering any oath or rendering any services in respect thereto. The officer issuing the certificate shall retain a copy of each such certificate and all documents connected therewith shall be mailed to the Commissioner by the end of the week in which the same shall have been issued for review and approval. The Commissioner shall file and preserve such certificates and documents.

(Code 1950, § 40-101; 1960, c. 434; 1970, c. 321; 1979, c. 219; 1991, c. 511.)

§ 40.1-93. Proof required for employment certificate.

The person authorized to issue an employment certificate shall not issue such certificate until he has received, examined, approved and filed the following papers:

1. Except for work coming within one of the exceptions in § 40.1-79.01, a statement signed by the prospective employer, or someone duly authorized on his behalf, stating that he expects to give such child present employment, setting forth the specific nature of the occupation in which he intends to employ such child, and the number of hours per day and of days per week which said child shall be employed and of the period for lunch.
2. Proof of age as provided in § 40.1-94.

(Code 1950, § 40-102; 1960, c. 434; 1970, c. 321; 1972, c. 480; 1991, c. 511.)

§ 40.1-94. Proofs of age.

The evidence of age required by this chapter shall consist of one of the following proofs of age, which shall be required in the order herein designated:

- (1) A birth certificate or attested transcript issued by a registrar of vital statistics or other officer charged with the duty of recording births.
- (2) A baptismal record or duly certified transcript thereof showing the date of birth and place of baptism of the child.
- (3) Other documentary proof of age specified by the Commissioner.

(Code 1950, § 40-103; 1970, c. 321.)

§ 40.1-95.

Repealed by Acts 1991, c. 511.

§ 40.1-96. Contents of employment certificates.

The employment certificate required to be issued shall state the name, sex, date of birth and place of residence of the child. It shall certify that all the conditions and requirements for issuing an employment certificate under the provisions of this chapter have been fulfilled and shall be signed by the person issuing it. It shall state the kind of evidence of age accepted for the employment certificate. Except for work coming within one of the exceptions in § 40.1-79.01, the certificate shall show the name and address of the employer for whom and the nature of the specific occupation in which the employment certificate authorizes the child to be employed and shall be valid only for the occupation so designated. It shall bear a number, shall show the date of its issue, and shall be signed by the child for whom it is issued in the presence of the person issuing it. It shall be issued in triplicate, one copy to be mailed to the employer, one copy to be sent to the Commissioner and one copy to be retained and kept on file by the issuing officer.

(Code 1950, § 40-105; 1960, c. 434; 1970, c. 321; 1978, c. 596; 1991, c. 511.)

§ 40.1-97.

Repealed by Acts 1972, c. 480.

§§ 40.1-98. , 40.1-99.

Repealed by Acts 1991, c. 511.

§ 40.1-100. Certain employment prohibited or limited.

A. No child under eighteen years of age shall be employed, permitted or suffered to work:

1. In any mine, quarry, tunnel, underground scaffolding work; in or about any plant or establishment manufacturing or storing explosives or articles containing explosive components; in any occupation involving exposure to radioactive substances or to ionizing radiations including X-ray equipment;
2. At operating or assisting to operate any grinding, abrasive, polishing or buffing machine, any power-driven metal forming, punching or shearing machine, power-driven bakery machine, power-driven paper products machine, any circular saw, band saw or guillotine shear, or any power-driven woodworking machine;

3. In oiling or assisting in oiling, wiping and cleaning any such machinery;
 4. In any capacity in preparing any composition in which dangerous or poisonous chemicals are used;
 5. In any capacity in the manufacturing of paints, colors, white lead, or brick tile or kindred products, or in any place where goods of alcoholic content are manufactured, bottled, or sold for consumption on the premises except in places where the sale of alcoholic beverages is merely incidental to the main business actually conducted, or to deliver alcoholic goods;
 6. In any capacity in or about excavation, demolition, roofing, wrecking or shipbreaking operations;
 7. As a driver or a helper on a truck or commercial vehicle of more than two axles. The provisions of this paragraph shall not apply to the drivers of school buses;
 8. In logging or sawmilling, or in any lath mill, shingle mill or cooperage-stock mill, or in any occupation involving slaughtering, meatpacking, processing or rendering;
 9. In any occupation determined and declared hazardous by rules and regulations promulgated by the Commissioner of Labor and Industry.
- Notwithstanding the provisions of this section, children sixteen years of age or older who are serving a voluntary apprenticeship as provided in Chapter 6 (§ 40.1-117 et seq.) of this title may be employed in any occupation in accordance with rules and regulations promulgated by the Commissioner.
- B. Except as part of a regular work-training program in accordance with §§ 40.1-88 and 40.1-89, no child under sixteen years of age shall be employed, permitted or suffered to work:
1. In any manufacturing or mechanical establishment, in any commercial cannery; in the operation of any automatic passenger or freight elevator; in any dance studio; or in any hospital, nursing home, clinic, or other establishment providing care for resident patients as a laboratory helper, therapist, orderly, or nurse's aide; in the service of any veterinarian while treating farm animals or horses; in any warehouse; in processing work in any laundry or dry cleaning establishment; in any undertaking establishment or funeral home; in any curb service restaurant, in hotel and motel room service; in any brick, coal or lumber yard or ice plant or in ushering in theaters. Children fourteen years of age or more may be engaged in office work of a clerical nature in bona fide office rooms in the above types of establishments.
 2. In any scaffolding work or construction trade; or in any outdoor theater, cabaret, carnival, fair, floor show, pool hall, club, or roadhouse; or as a lifeguard at a beach.
- C. Children fourteen years of age or more may be employed by dry cleaning or laundry establishments in branch stores where no processing is done on the premises, and in hospitals, nursing homes, and clinics where they may be engaged in kitchen work, tray service or room and hall cleaning. Children fourteen years of age or more may be employed in bowling alleys completely equipped with automatic pin setters, but not in or about such machines, and in soda fountains, restaurants and hotel and motel food service departments. Children fourteen years of age or more may work as gatekeepers and in concessions at swimming pools and may be employed by concessionaires operating on beaches where their duties and work pertain to the handling and distribution of beach chairs, umbrellas, floats and other similar or related beach equipment.
- D. Notwithstanding any other provision of this chapter:
1. Children sixteen years of age or more 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;
 2. Children fourteen years of age or more employed on farms, in gardens or in orchards may perform work as a helper on a truck or commercial vehicle in their employment, while engaged in such work exclusively on a farm, in a garden or in an orchard.
- (Code 1950, § 40-109; 1956, cc. 443, 463; 1958, c. 321; 1960, c. 434; 1964, c. 503; 1968, c. 278; 1970, c. 321; 1972, c. 824; 1973, c. 13; 1979, cc. 219, 348; 1991, c. 511; 1994, c. 156.)

§ 40.1-100.1. Employment where hazard capable of causing serious physical harm or death.

No person shall employ, suffer, or permit a child to work in any gainful occupation that exposes such child to a recognized hazard capable of causing serious physical harm or death to such child. Any person violating this section shall be subject to a civil monetary penalty in accordance with § 40.1-113 of this chapter. (1991, c. 511.)

§ 40.1-100.2. Employment involving sexually explicit visual material prohibited.

A person under eighteen years of age shall not perform in or be a subject of sexually explicit visual material. As used in this section, "sexually explicit visual material" means a picture, photograph, drawing, sculpture, motion picture film or similar visual representation which is obscene for children, as defined in § 18.2-374.1, and which depicts nudity, sexual excitement, sexual conduct, sexual intercourse or sadomasochistic abuse, as defined in § 18.2-390, or a book, magazine or pamphlet which contains such a visual representation. An undeveloped photograph or similar visual material may be sexually explicit material notwithstanding that processing or other action is necessary to make its sexually explicit content apparent. A person who employs, permits or suffers a person to be employed or work in violation of this section is guilty of a Class 6 felony. (1991, c. 511.)

§ 40.1-101. Qualifications as to theaters.

Notwithstanding the provisions of §§ 40.1-100 and 40.1-100.1, a child under sixteen years of age, whether a resident or nonresident of the Commonwealth, may be employed, permitted or suffered to participate in the presentation of a drama, play, performance, concert or entertainment, provided the management of the theater or other public place where such performance is to be held in the Commonwealth shall secure a permit from the Commissioner; provided, that no such permit shall be required for any nonprofit dance or music recital, nor for any television or radio broadcast in which the children participating are selected by the television or radio broadcasting station for sustaining noncommercial programs. (Code 1950, § 40-110; 1960, c. 434; 1970, c. 321; 1973, c. 13; 1979, c. 348; 1991, c. 511.)

§ 40.1-102. Issuance of theatrical permit.

No permit shall be issued unless the Commissioner is satisfied that the environment in which the drama, play, performance, concert or entertainment is to be produced is a proper environment for the child and that the conditions of such employment are not detrimental to the health or morals of such child and that the child's education will not be neglected or hampered by its participation in such drama, play, performance, concert or entertainment. Applications for permits and every permit granted shall specify the name, age and sex of each child, together with such other facts as may be necessary for the proper identification of each child and the dates when, and the theaters or other places of amusement in which such drama, play, performance, concert or entertainment is to be produced and shall specify the name of the drama, play, performance, concert or entertainment in which each child is permitted to participate. Such application shall be filed with the Commissioner not less than five days before the date of such drama, play, performance, concert or entertainment. A permit shall be revocable by the Commissioner should it be found that the environment in which the drama, play, performance, concert or entertainment is being produced is not a proper environment for the child and that the conditions of such employment are detrimental to the health or morals of such child. The Commissioner shall prescribe and supply the forms required for carrying out the provisions of this section. (Code 1950, § 40-111; 1960, c. 434; 1970, c. 321.)

§ 40.1-103. Cruelty and injuries to children.

It shall be unlawful for any person employing or having the custody of any child willfully or negligently to cause or permit the life of such child to be endangered or the health of such child to be injured, or willfully or negligently to cause or permit such child to be placed in a situation that its life, health or morals may be endangered, or to cause or permit such child to be overworked, tortured, tormented, mutilated, beaten or cruelly treated. Any person violating this section shall be guilty of a Class 6 felony. (Code 1950, § 40-112; 1970, c. 321; 1991, c. 511.)

§ 40.1-104. Age certificates.

An age certificate shall be issued, upon request of the employer or the worker, for a person sixteen years of age or over. It shall be issued by the person authorized to issue employment certificates under the provisions of this chapter upon presentation of the same evidence of age as required for an employment

certificate. The age certificate shall show the person's name and address, his date of birth and signature, the signature of the person issuing the certificate and the evidence accepted as proof of age.

An employment or age certificate duly issued shall be conclusive evidence of the age of the person for whom issued in any proceeding involving the employment of the person under any of the labor laws of this Commonwealth as to any act occurring subsequent to its issuance and prior to its revocation. (Code 1950, § 40-113; 1970, c. 321; 1972, c. 824; 1979, c. 219.)

§ 40.1-105.

Repealed by Acts 1991, c. 511.

§§ 40.1-106 through 40.1-108.

Repealed by Acts 1979, c. 219.

§ 40.1-109. Newspaper carriers on regular routes; hours.

Notwithstanding the other provisions of this chapter, any child between twelve and sixteen years of age may daily engage in the occupation of distributing newspapers on regularly established routes between the hours of four o'clock ante meridian and seven o'clock post meridian, excluding the time public schools are actually in session.

(Code 1950, § 40-118; 1960, c. 434; 1962, c. 352; 1970, c. 321; 1972, c. 807; 1973, c. 13; 1979, c. 219; 1982, c. 83; 1991, c. 511.)

§ 40.1-110.

Repealed by Acts 1979, c. 219.

§ 40.1-111.

Repealed by Acts 1991, c. 511.

§ 40.1-112. Solicitation generally.

A. In order to provide for enforcement of the child labor laws and the protection of employees, it shall be unlawful for any person, firm or corporation, except a nonprofit organization as defined in § 501 (c) (3) of the United States Internal Revenue Code, to engage in or to employ any person for, or suffer or permit any person in his employment to work in, any trade in any street or public place, including but not limited to candy sales or soliciting for commercial purposes, selling, or obtaining subscription contracts or orders for books, magazines or other periodical publications other than newspapers, without obtaining from the Commissioner a permit to conduct such business. No permit shall be required for the placement of advertisements or literature on or near a business or private residence, if there is no attempt, in person, to solicit business or make a sale at the time of the placement of the material.

B. Such permits shall be valid from the date of issuance until June 30 next following the date of issuance. Applications may be made not more than thirty days prior to the requested date of issuance on forms furnished by the Commissioner, and the applicant shall supply such information as is required concerning his place or places of business, the prospective number of his employees, and the proposed hours of work and rate of compensation for such employees. A separate permit shall be required for each place of business which the applicant operates within this Commonwealth.

C. Each permittee shall maintain such records as may be prescribed by the Commissioner showing the name, residence address and age of each employee, the hours worked by each employee, the place where such work was performed, and the compensation paid and payable to such employee. Such records shall be available for inspection by the Commissioner or a representative designated by him during business hours.

D. No child shall be employed or permitted to work by or for any permittee unless all the following conditions are satisfied:

1. The child is at least sixteen years of age;
2. The permittee has a permanent business address within this Commonwealth; and
3. The child works at all times under the immediate supervision of an adult.

E. No child shall be required, permitted or directed to make any false statement representing himself, his employer or products or services in his employment.

F. Any person violating any provision or condition of this section shall be guilty of a Class 1 misdemeanor for each such violation. Any violation of this section by a permittee or with his knowledge and consent shall in addition be grounds for revocation of the permit.

(Code 1950, § 40-118.3; 1964, c. 315; 1966, c. 603; 1968, c. 743; 1970, c. 321; 1973, c. 13; 1979, c. 219; 1982, c. 137; 1991, c. 511; 1998, c. 157.)

§ 40.1-113. Child labor offenses; civil penalties.

A. Whoever employs, procures, or, having under his control, permits a child to be employed, or issues an employment certificate in violation of any of the provisions of this chapter other than §§ 40.1-100.2, 40.1-103 and 40.1-112, shall be subject to a civil penalty not to exceed \$1,000 for each violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The determination by the Commissioner shall be final, unless within fifteen days after receipt of such notice the person charged with the violation notifies the Commissioner by certified mail that he intends to contest the proposed penalty before the appropriate general district court.

B. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the treasury of the Commonwealth. The Commissioner shall prescribe procedures for the payment of proposed penalties which are not contested by employers.

(Code 1950, § 40-119; 1964, c. 504; 1970, c. 321; 1973, c. 425; 1979, c. 348; 1982, c. 416; 1991, c. 511.)

§ 40.1-114. Enforcement of child labor law.

The Commissioner with the assistance of state and local law-enforcement officers, shall enforce the provisions of this chapter and shall have authority to appoint such representatives as may be necessary to secure the enforcement of this chapter. He shall make all necessary rules and regulations for carrying out the purposes of this chapter, and shall prescribe and supply to the proper officials blanks for employment certificates and such other forms as may be required for carrying out the provisions of this chapter.

(Code 1950, § 40-120; 1970, c. 321; 1979, c. 219.)

§ 40.1-115. School attendance.

Nothing contained in this chapter shall be construed as qualifying in any way the provisions of the compulsory education laws of this Commonwealth, nor as authorizing the employment of any child who is absent unlawfully from school.

(Code 1950, § 40-121; 1970, c. 321.)

§ 40.1-116. Curfew ordinances not affected.

Nothing in this chapter shall be construed to permit the violation of a curfew ordinance of any city.

(Code 1950, § 40-122; 1970, c. 321.)