

West Virginia Child Labor Requirements

FACT SHEET 1 GENERAL REQUIREMENTS

West Virginia Division of Labor Wage & Hour Section

Child Labor Fact Sheet 1 - West Virginia Code Chapter 21, Article 6

(June 2021)

GENERAL WORK GUIDELINES RELATING TO 14 THRU 17-YEAR-OLD MINORS

West Virginia Child Labor laws apply to the employment of all minors under the age of eighteen. With the exception of those activities that are specifically exempted by statute, a minor must be at least fourteen years of age to enter the workforce. Fourteen through seventeen (14 – 17) year-olds are permitted gainful employment as long as the requirements of state law relating to child labor are honored.

Exclusions §21-6-1

West Virginia's child labor laws only apply when an employment relationship exists between the minor and employer. That means activities such as casual labor for babysitting and running errands for friends and neighbors are not applicable to state child labor laws and may be performed by minors of any age. Minors may also work for a business solely owned by a parent or guardian at any age outside of state child labor requirements, as long as the type of work being performed is not considered hazardous by state or federal law.

Other Exemptions Include:

- Domestic services provided within the residence of the employer.
- Performing as an actor or actress in motion pictures, theatrical, radio or television productions.
- Newspaper delivery.
- Agricultural occupations.

As federal child labor laws may still apply to the following occupations, parents and employers should always check with the United States Department of Labor to make sure that such work is also permissible under federal law.

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State Versus Federal Jurisdiction

As both the state of West Virginia and the federal government enforce laws relating to the employment of minors, the requirements of both laws must be considered to ensure the higher standard of each law is observed relating to the safety and well-being of minors in the workplace. Should state and federal law differ concerning a certain issue, the rule of a higher standard applies, meaning the law containing the strictest requirement will take precedence.

Requirements Specific to 14 & 15-Year-Old's

Mandatory Work Permit Requirement - West Virginia requires minors fourteen and fifteen years of age to obtain a work permit from an individual authorized to issue permits by the county Superintendent of Schools or by a person authorized to issue education credentials pursuant to §18-8-12 in the county where they reside before accepting gainful employment. Minors that live outside the state of West Virginia must also obtain a work permit before accepting employment in this state. In such cases, an authorized individual from the minor's home county and state must issue the work permit using forms prescribed by the Commissioner of the West Virginia Division of Labor.

Work Permits require the promise of a job, that the minor is attending school, and parental consent. Homeschooled minors are also eligible to obtain Work Permits.

As federal law does not require a permit of any kind for a minor to be eligible to work, West Virginia's work permit and age certificate requirements will apply in all cases relating to the employment of minors.

Hours of Work

Both state and federal child labor laws contain provisions relating to permissible hours of work for fourteen and fifteen-year-olds. Both laws currently mirror each other relating to these requirements. Should a conflict occur, the law containing the higher standard, or the strictest requirement, will apply. Minors that are homeschooled must also comply with these standards.

Permissible Hours of Work for 14 & 15-Year-Old's

On DAYS when Public School is in Session

*May not work more than 3 hours per day
May not work before 7:00 a.m. or after 7:00 p.m.*

On DAYS when Public School is not in Session

*May not work more than 8 hours per day
May not work before 7:00 a.m. or after 7:00 p.m.*

During WEEKS when Public School is in session

*May not work than 18 hours per week
May not work before 7:00 a.m. or after 7:00 p.m.*

During WEEKS Public School is in Session but Not Open

*May not work more than 8 hours per day
May nor work more than 40 hours per week
May not work before 7:00 a.m. or after 7:00 p.m.*

WHEN PUBLIC SCHOOLS ARE OUT OF SESSION FOR THE SUMMER (June through Labor Day)

May work 40 hours per week, until 9:00 p.m.

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Requirements Specific to 16 & 17-Year-Old's

Age Certificates - Although not required by law, employers may require a sixteen or seventeen-year-old to obtain an Age Certificate for the sole purpose of verifying the minor's true age. This is often required by the employer's worker's compensation insurance. Age Certificates are issued by an authorized individual, in the county where the minor resides and do not require that the minor is attending school or parental consent. Whenever a West Virginia employer requires a minor living out of state to obtain an Age Certificate, an authorized individual from the minor's home county and state must issue the Certificate using forms prescribed by the Commissioner of the West Virginia Division of Labor.

Permissible Hours of Work – A sixteen or seventeen-year-old may work the same hours as an adult, without restriction.

Break Requirements – A sixteen or seventeen-year-old is only entitled to the same break requirements that are provided for adults, which is a minimum of twenty minutes after working six or more hours in one day or shift.

Restrictions for All Minors under 18

Minors 14 – 17 may not:

- Work in a bar or other establishment where the primary business activity involves the consumption of alcohol.
- Be permitted, employed, or suffered to sell, dispense or serve alcoholic beverages in a place where the consumption of alcoholic beverages is permitted by law.
- May not operate a motor vehicle as a principal part of his or her employment or for delivery purposes.

Hazardous Occupations

Both state and federal law address occupations that are considered hazardous for minors of specific age groups. There are seventeen hazardous occupations, or occupation categories, that apply to minors 14 – 17, and many more that apply specifically to 14 & 15-year-old's.

Any occupation this is considered hazardous under federal law is also considered hazardous under state. When unsure if an occupation would be considered hazardous for a specific age group, please contact the Wage & Hour Section of the West Virginia Division of Labor for information. Our contact information is provided below.

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For information relating to federal child labor requirements, visit the United States Department of Labor's website @ www.dol.gov or www.youthrules.gov.