CHAPTER 34-07
CHILD LABOR

34-07-01. Employment of minor under fourteen years of age prohibited.

No minor under fourteen years of age may be employed or permitted to work in any occupation except farm labor, domestic service, or in the employment of, and under the direct supervision of, that minor's parent, guardian, or grandparent. Domestic service includes services of a household nature performed by an employee in or about a private home of the employer. No minor under fourteen years of age may be employed in any business or service whatever during any part of the hours when the public schools of the district in which the minor resides are in session.

34-07-02. Certificate of employment required - Inspection - List of minors employed to be kept.

A minor fourteen or fifteen years of age may not be employed or permitted to work in any occupation except farm labor, domestic service, or in the employment of, and under the direct supervision of, the minor's parent or guardian unless the minor is exempt from compulsory school attendance under subdivisions b, c, and d of subsection 1 of section 15.1-20-02 or unless the minor has an employment certificate signed by the minor's parent or guardian in accordance with the provisions of this chapter. Any person, firm, corporation, or limited liability company employing a minor must keep on file a completed employment certificate, for each minor, as provided in this chapter. The employment certificate must be accessible to inspection by the principal of the school which the minor attends, a principal in the municipality in which the minor resides, or the labor commissioner or the commissioner's agent or representative.

34-07-03. Question of age of minor employee - Who may raise - Duties of employer - Evidence required.

Any person, firm, corporation, or limited liability company employing a minor who appears to be under the age of sixteen years and for whom an employment certificate is not filed as required by the provisions of this chapter, either shall furnish satisfactory evidence that such minor is sixteen years of age or older or shall cease to employ such minor or to permit the minor to work in such employment immediately after a demand is made upon the employer to do so by:

1. The principal of the school which the minor attends or a principal in the municipality in which the minor resides;
2. The labor commissioner or the commissioner's agent or representative; or
3. Any other officer charged with the enforcement of child labor, compulsory school attendance, or other child welfare laws.

The officer making such demand may require the same evidence, and only the same evidence, of age of the minor as is required on the issuance of an employment certificate under the provisions of this chapter.

34-07-04. Noncompliance with demand - Prima facie evidence in prosecution.

If it is proved in any prosecution for a violation of the provisions of this chapter that a demand was made by a proper officer upon the person, firm, corporation, or limited liability company named as defendant in such prosecution, that such demand was in accordance with the provisions of section 34-07-03, and that the defendant in such prosecution failed within the time therein limited to comply therewith, such failure constitutes prima facie evidence that the minor for the employment of whom the prosecution was instituted was under sixteen years of age at the time of such employment and was unlawfully employed.

34-07-05. Who may issue certificates - Where certificates may be obtained.

An employment certificate must be in writing and must be issued by the minor's parent or guardian. The parent or guardian who certifies, or rejects, the employment certificate must file a completed copy with the department of labor and human rights, the employer, the principal of

the school which the minor attends, or a principal in the municipality in which the minor resides, within ten days of certification or rejection. No employment certificate is required for any minor then in, or who is about to enter, the minor's own employment or the employment of a firm, corporation, or limited liability company of which the minor is a member, officer, or manager. The labor commissioner shall make the certificates of employment available.

34-07-06. Evidence of age of minor.

The age of a minor who desires an employment certificate must be proved by:

1. A certificate of proof of birth issued by the state registrar of vital statistics; or
2. Documentary evidence satisfactory to the labor commissioner, such as a certificate of arrival in the United States issued by the United States immigration officers and showing the age of the child, a passport showing the age of the child, a valid driver's license, a baptismal certificate, or a life insurance policy. Such other satisfactory documentary evidence must have been in existence for at least one year, and in the case of a life insurance policy, for at least four years.

34-07-07. Letter of prospective employer required before employment certificate issued.

Repealed by S.L. 1993, ch. 351, § 16.

34-07-08. School record of minor required before employment certificate issued - Contents of record.

Repealed by S.L. 1993, ch. 351, § 16.

34-07-09. Number of years of school attendance required before certificate issued.

Repealed by S.L. 1975, ch. 299, § 2.

34-07-10. Vacation employment certificate.

Repealed by S.L. 1993, ch. 351, § 16.

34-07-11. Requirements for certificate for school term but not during daily session - Truant or deficient minor not to be employed.

A certificate permitting the employment of a minor during the school term, but not during the daily period of the school session, may be granted if such minor maintains a passing grade in all studies pursued by the minor in such school. No minor may be employed who at the time is guilty of truancy or of deficiency in studies, as determined by the minor's parent or guardian, or the principal of the school which the minor attends, or a principal in the municipality in which the minor resides, or the labor commissioner or the commissioner's agent or representative.

34-07-12. Contents of employment certificate.

The employment certificate must state the date of birth of the minor, a description of the job duties and responsibilities of the minor, and must also be signed by the minor's parent or guardian and the employer.

34-07-13. Certificate returned to officer issuing the same upon termination of employment - New certificate.

Repealed by S.L. 1993, ch. 351, § 16.

34-07-14. Revocation of certificate - Notice - Return of revoked certificate.

Whenever it appears to the minor's parent or guardian, or the principal of the school which the minor attends, a principal in the municipality in which the minor resides, or the labor commissioner or the commissioner's agent or representative who issued an employment certificate, or to the person's successor, that such certificate has been improperly or illegally issued or that the physical or moral welfare of the minor would be best served by the revocation of the certificate, such certificate may be revoked. The revoking officer shall give notice of the

revocation by registered or certified mail to the person employing such minor and to the minor holding the certificate. Immediately upon receiving notice of the revocation of the certificate, the employer shall return the revoked certificate to the officer revoking the same and shall discontinue the employment of the minor. Revocation of a permit must be registered with the labor commissioner or the commissioner's agent within ten days.

34-07-15. Maximum hours of labor of minors fourteen or fifteen years of age - Notice to be posted.

1. A minor fourteen or fifteen years of age may not be employed or permitted to work at any occupation, except in sports-attendant services, in domestic services, and at farm labor, before the hour of seven a.m. nor after the hour of seven p.m., except that these hours are seven a.m. to nine p.m. from June first through labor day, nor more than eighteen hours during schoolweeks, nor more than three hours on schooldays, nor more than forty hours during nonschoolweeks, nor more than eight hours on nonschooldays. A schoolweek is considered to be any week Sunday through Saturday in which a youth is required to be in attendance, for any period of time, four or more days. Provided, however, that the limitations restricting hours of work during schoolweeks and schooldays do not apply to minors who are not attending school because they are excepted from compulsory school attendance by subdivisions b, c, and d of subsection 1 of section 15.1-20-02.
2. Every employer shall post, in a conspicuous place where minors are employed, a printed notice stating the hours of work required of the minors each day of the week, the hours of commencing and stopping work, and the hours allowed for dinner or other meals. The printed form of the notice must be furnished by the labor commissioner. The employment of any minor for a longer period than that stated in the notice is a violation of this chapter.

34-07-15.1. Sports-attendant services - Exception.

1. The time and hour limitations of subsection 1 of section 34-07-15 do not apply to a minor fourteen or fifteen years of age employed in the performance of sports-attendant services at a professional sporting event.
2. Permissible duties of a sports-attendant include:
   a. Pregame and postgame or practice setup of balls, items, and equipment.
   b. Supplying and retrieving balls, items, and equipment during a sporting event.
   c. Clearing the field or court of debris and moisture during play.
   d. Providing ice, drinks, and towels to players during play.
   e. Running errands for trainers, managers, coaches, or players before, during, and after a sporting event.
   f. Returning or storing balls, items, and equipment in a clubhouse or locker room after a sporting event.

34-07-16. Prohibited employments and occupations of minors.

No minor fourteen or fifteen years of age may be employed or permitted to work in:

1. Any employment involving the use of any power-driven machinery; but this prohibition does not apply to the use of:
   a. Office machines, such as adding machines or typewriters;
   b. Tagging, pricing, or similar machines used in retail stores;
   c. Domestic-type machines used in food service operations, such as toasters, coffee grinders, or milkshake blenders;
   d. Machines used in service stations such as those in connection with car cleaning, washing, or polishing, or in the dispensing of gasoline or oil; provided, however, that no work may be done in connection with cars and trucks if such work involves the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring; or
   e. Lawnmowers.

2. Construction work other than cleaning, errand running, moving, stacking, loading, or unloading materials by hand.
3. Lumbering or logging operations.
4. Sawmills or planing mills.
5. The manufacture, disposition, or use of explosives.
6. The operation of any steam boiler, steam machinery, or other steam generating apparatus.
7. The operation or assisting in the operation of laundry machinery.
8. Preparing any composition in which dangerous or poisonous acids are used.
9. The manufacture of paints, colors, or white lead.
10. Operating or assisting in the operation of passenger or freight elevators.
11. Any mine or quarry.
12. The manufacture of goods for immoral purposes.
13. Any other employment not herein specifically enumerated that may be considered dangerous to life or limb or in which health may be injured or morals depraved.
14. Occupations which involve working on an elevated surface, with or without use of safety equipment, including ladders and scaffolds in which the work is performed higher than six feet from the ground surface.
15. Security positions or any such occupations that require the use of a firearm or other weapon.
16. Door-to-door sales of any kind.
17. Occupations involving the loading, handling, mixing, applying, or working around or near any fertilizers, herbicides, fungicides, pesticides, insecticides, or any other chemicals, toxins, or heavy metals.
18. Occupations in or in connection with medical or other dangerous wastes.
19. Occupations which involve the handling or storage of blood, blood products, body fluids, and body tissues.
20. Cooking, baking, grilling, or frying.
21. Warehouse or storage work of any kind in which the main objective of the operation is distribution.
22. Trucking or commercial driving of any kind.

Nothing contained in this section prohibits a minor from doing ordinary farm labor or from operating farm machinery. No person fourteen or fifteen years of age may be employed in any capacity if such employment compels the person to remain standing constantly. This section does not prevent the education of a minor in music nor the employment of a minor as a singer or musician in a church, school, or academy, or in any school or home talent exhibition given by the people of a local community.

34-07-17. Permit to work in theater or place of amusement.

A minor under sixteen years of age may be employed to act or perform in a theater or place of amusement if a permit so to do is obtained from the minor's parent or guardian and the labor commissioner or the commissioner's agent or representative, if such person decides that the appearance of such minor will not be detrimental to the minor's morals, health, safety, welfare, or education.

34-07-17.1. Newspaper and shopper carrier exemption.

The provisions of this chapter do not apply to newspaper or shopper carriers. This exemption applies to carriers engaged in making deliveries to subscribers' homes or to other newspaper or shopper consumers. It applies to carriers engaged in the street sale or delivery of newspapers or shoppers to the consumer, but it does not include persons engaged in hauling newspapers or shoppers to drop stations, distributing centers, newsstands, newsracks, vending machines, or similar locations or items.

34-07-17.2. Minors working in hazardous occupations.

A minor who is at least sixteen years of age may be employed or permitted to work in a hazardous occupation if the minor is in a registered apprenticeship program or is a student learner of an approved career and technical education program. Under this section, a parental signature is required for the minor to participate as an apprentice or student learner. This section does not limit the ability of a minor who is at least sixteen years of age to work in an occupation already permitted by law.

34-07-18. Inspection of factories and establishments by peace officers - Report - Complaints.

Peace officers may visit any business establishments within their several jurisdictions to ascertain whether any minors are employed therein contrary to the provisions of this chapter. The peace officers shall report all cases of illegal employment to the labor commissioner. Such officers may require that the employment certificates of employees which an employer is required to keep under the provisions of this chapter be produced for inspection. Complaints for offenses under this chapter may be made by any peace officer or by any other person cognizant of the facts.

34-07-19. Duties of labor commissioner.

The labor commissioner shall prepare all employment certificates necessary in the administration of this chapter, shall distribute such employment certificates to the school officers, parents, guardians, and authorities of this state, shall exercise general supervision, interpretation, and exemption powers over the administration of the provisions of this chapter, and shall enforce the same. The commissioner and the commissioner's agents and representatives have full power of visitation and inspection of all business establishments in which minors may be employed or permitted to work.

34-07-20. Commissioner may issue orders with reference to employment of minors.

In addition to the powers vested in the labor commissioner by the provisions of chapter 34-06, the commissioner may issue general and special orders with reference to the employment of minors and may prohibit or exempt the employment of minors in any employment or place of employment which is dangerous or prejudicial to the life, health, safety, or welfare of such minors. Any such regulation or order is in addition to the regulations specified in this chapter.

34-07-21. Penalty.

Any person who employs any minor contrary to the provisions of this chapter or of any order or regulation promulgated by the labor commissioner as provided by law is guilty of an infraction.