

**WORK EXPERIENCE OPPORTUNITY
STUDY AND REPORT**

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I. Statutory Directive and Responsibilities

The Department of Labor was directed in 2014 Acts and Resolves No. 199 with preparing a report detailing work-experience opportunities for Vermonters between the ages of 15 and 18 and to make recommendations for increasing these opportunities.

This report details the types of work-experience opportunities available to 15 to 18 year olds and the legal requirements or barriers that accompany each type of opportunity. It examines the ways in which State and Federal law interact regarding the employment of minors, particularly the legal prohibitions on employment in hazardous occupations. Finally, the report makes recommendations to increase the work-experience opportunities available for minors in Vermont.

II. Recommendations

The Department recommends that the Legislature convene a working group to bring together interested parties and make recommendations to increase work-experience opportunities for 16 and 17 year olds in Vermont, with a particular focus on working in hazardous occupations.

The group shall be made up of the Commissioner of Labor or designee; the Department of Labor Workforce Education and Training Coordinator; the Secretary of Commerce and Community Development or designee; the Secretary of Education or designee; a Center for Technology Education Director appointed by the Secretary of Education; one member of the House of Representatives appointed by the Chair of the House Committee on Commerce and Economic Development; and one member of the Senate appointed by the Chair of the Senate Committee on Economic Development, Housing & General Affairs..

The goal of the group is to consider all of the issues that attend to increasing work-experience opportunities in Vermont, including financing, workplace safety, educational requirements, and legal barriers, and to issue a report and make recommendations.

III. Work-experience and the Employment of Minors

The greatest barrier to minors seeking work-experience opportunities, particularly in occupations where work-location hazards are an issue, are the requirements of State and Federal law restricting the types of work that they may perform. Generally, the law prohibits minors from employment in any occupation that is deemed “hazardous.” (A list of hazardous occupations can be found in Appendix 2.) This includes manufacturing and mining and most work involving power driven equipment.

The other factors affecting work-experience opportunities include whether a minor is a student, whether the work-experience is part of a school-supervised program, and whether the minor is 15 years old or 16 or 17 years old. All of these factors determine the types of work-experience that a minor can participate in and also affects the payment of wages.

As a general rule, minors may not work in hazardous occupations. This prohibition applies to any work done outside of a school program and regardless of whether the minor is a student. However, there are exceptions to this prohibition based on the minor’s age and whether he or she is working as part of a school-supervised program.

14 and 15 year olds are never allowed to work in a hazardous occupation and are limited to specifically authorized occupations unless part of a school-supervised work experience and career exploration program.

16 and 17 year olds are permitted to work in any non-hazardous occupation and may work in a hazardous occupation only as part of an apprenticeship program or as a student-learner.

Wages are also affected by a minor's status as a student or non-student. Vermont exempts students that work during the school year from its minimum wage laws. This exemption allows students to be paid the Federal minimum wage of \$7.25 instead of the Vermont minimum wage of \$9.15. Further, the Federal law allows students to be paid a subminimum wage of \$5.44 in certain instances.

The following sections examine work-experience opportunities, apprenticeships, and wages in more detail.

IV. Work experience opportunities for 16 and 17 year olds

“Hazardous occupation” exceptions 29 CFR 570.50

An individual who is 16 or 17 years old may be employed in a hazardous occupation as an apprentice or a student learner.

A. Apprenticeship 29 CFR 570.50(b)

A 16 or 17 year old may be employed in a hazardous occupation as an apprentice if the following criteria are met:

- 1) The apprentice is employed in a craft recognized as an apprenticeable trade.
- 2) The work of the apprentice in the occupations declared hazardous is incidental to his or her training.
- 3) The work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of the apprenticeship training.
- 4) The apprentice is registered with the Vermont Department of Labor.

B. Student-learner 29 CFR 570.50(c)

A 16 or 17 year old may be employed in a hazardous occupation when enrolled in a course of study and training in a cooperative vocational training program approved by the State Board of Education.

Vermont law gives responsibility for overseeing career technical education to the State Board of Education. (16 V.S.A. § 1531.) The Board has adopted rules allowing students to enroll in approved cooperative technical education courses which allow student-learners to gain work experience as part of their technical education.

The Board has delegated the authority to approve technical education programs to the Regional Advisory Board.

In order to be approved all cooperative technical education courses must meet the following requirements:

- 1) Each placement shall be planned and supervised by the school and employer so that the experience contributes to the student's education and employability.
- 2) The minimum age of students placed shall be 16.
- 3) All local, state, and federal laws applying to wage and hour regulations shall be followed.
- 4) Students shall be covered by workers' compensation or comparable individual, school, or employer insurance while on the job.
- 5) Students shall have on file at the school a properly completed training agreement signed by the student, the student's parent, the cooperative technical education coordinator and the employer.
- 6) Students shall be visited regularly at the work site by the coordinator to assess student progress.
- 7) Students shall receive an educational program that addresses core technical competencies and tasks directly related to job-seeking and job-keeping skills.
- 8) Students shall be eligible to receive credit toward graduation upon successful completion of approved cooperative technical education programs when it is part of a state-approved course of study in technical education. (Vermont Agency of Education Vocational-Technical Education Rule 2385(2)(B)).

21 V.S.A. § 438 requires that the work places, machinery, and equipment in a technical education program be inspected and approved by the Commissioner of Labor.

V. Work-experience opportunities for 15 year olds

The opportunities for work experience for 15 year olds are more restricted than those available to 16 and 17 year olds. Generally, employment is limited to specifically authorized work, mainly in retail, food service, and gasoline service stations. However, there is an exception which allows a 15 year old under certain conditions to participate in a work experience and career exploration program.

A. Permitted occupations for 14 and 15 year olds 29 CFR 570.34

The following occupations are authorized for 14 and 15 year olds:

1. Office and clerical work, including operation of office machines.
2. Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping.
3. Price marking and tagging by hand or by machine, assembling orders, packing and shelving.
4. Bagging and carrying out customers' orders.
5. Errand and delivery work by foot, bicycle, and public transport.

6. Cleanup work, including the use of vacuum cleaners and non-commercial floor waxers, and maintenance, of grounds, but not including the use of power driven mowers or cutters.
7. Kitchen work and other work involved in preparing and serving food and beverages, including the operations of machines and devices used in the performance of such work, such as dishwashers, toasters, dumb waiters, popcorn poppers, and milkshake blenders.
8. Work in connection with cars and trucks, if confined to the following: Dispensing gas and oil. Courtesy services on the premises of the gasoline service station. Hand car cleaning, washing, and polishing. Other occupations permitted by this section, but not including work involving 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.
9. Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing, and stocking goods when performed in areas physically separate from areas where meat is prepared for sale, and outside freezers or meat coolers.

B. Work experience and career exploration program 29 CFR 570.36

Federal law allows 15 year olds to be employed in occupations other than those listed above as part of a work experience and career exploration program. However, the exception does not extend to occupations that are deemed hazardous for 16 and 17 year olds.

A work experience and career exploration program is a school administered and supervised program that allows 15 year olds to work in prohibited occupations under certain circumstances.

A program must meet certain criteria including a limit on the number of students in the program and the hours worked. Programs must not displace any established employee.

VI. Internships

A final area for work-experience opportunity is an unpaid internship. An internship that meets the criteria established by the Fair Labor Standards Act is not considered employment; therefore the prohibition on employment in hazardous occupations does not apply.

A private “for-profit” employer may use unpaid interns if the following criteria are met:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
2. The internship experience is for the benefit of the intern;
3. The intern does not displace regular employees, but works under the supervision of existing staff;
4. The employer that provides the training derives no immediate advantage from the activities of the intern, and on occasion its operations may actually be impeded;

5. The intern is not necessarily entitled to a job at the conclusion of the internship; and
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

If the employer cannot meet the criteria, the internship would be considered employment and would be prohibited if it was in a hazardous occupation.

Unpaid internships in the public sector and for non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible.

VII. Wages

Students working during all or any part of the school year or regular vacation periods are exempt from Vermont's minimum wage law. (21 V.S.A. § 383.) Therefore, an employer may pay a student the Federal minimum wage of \$7.25 instead of the Vermont minimum wage of \$9.15.

A. Student subminimum wage 29 CFR 520.300

The Federal law allows an employer to pay an hourly wage of \$5.44 to a student who is at least 16 years of age and is:

- 1) receiving instruction in an accredited school, college, or university; and
- 2) is employed on a part-time basis pursuant to a bona fide vocational training program.

Note: This subminimum wage only applies to 16 and 17 year olds employed in a nonhazardous occupation. 16 and 17 year olds employed in a hazardous occupation pursuant to the student-learner exception in section 3 of this report would be required to be paid \$7.25 hourly.

Appendix 1

Act 199

Sec. 45. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

On or before January 15, 2015, the Commissioner of Labor shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report that details the internship opportunities available to Vermonters between 15 and 18 years of age and recommends one or more means to expand these opportunities through the Vermont Career Internship Program, 10 V.S.A. § 544, or through other appropriate mechanisms.

Appendix 2

Hazardous occupations

The following occupations are prohibited for all minors except for 16 and 17 year olds working as an apprentice or student-learner.

1. Manufacturing and storing explosives.
2. Motor vehicle driving.
3. Coal mining.
4. Logging and sawmilling.
5. Power-driven woodworking machines.
6. Exposure to radioactive substances.
7. Power-driven hoisting apparatus.
8. Power-driven metal forming, punching, and shearing machines.
9. Mining, other than coal mining
10. Slaughtering, meatpacking, processing, or rendering.
11. Power-driven bakery machines.
12. Power-driven paper-products machines,
13. Manufacturing brick, tile, and kindred products.
14. Power-driven circular saws, band saws, and guillotine shears.
15. Wrecking, demolition, and shipbreaking operations.
16. Roofing operations.
17. Excavation operations.