

# 2025 SESSION

INTRODUCED

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1 **SENATE BILL NO. 840**

2 Offered January 8, 2025

3 Prefiled January 2, 2025

4 *A BILL to amend and reenact §§ 40.1-2, 40.1-79.01, and 40.1-80.1 of the Code of Virginia and to amend the*  
5 *Code of Virginia by adding sections numbered 40.1-109.1, 40.1-109.2, and 40.1-109.3 relating to child*  
6 *labor; child engaged in the work of content creation; trust account.*

7 Patron—VanValkenburg

8 Referred to Committee on Commerce and Labor

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That §§ 40.1-2, 40.1-79.01, and 40.1-80.1 of the Code of Virginia are amended and reenacted and**  
11 **that the Code of Virginia is amended by adding sections numbered 40.1-109.1, 40.1-109.2, and**  
12 **40.1-109.3 as follows:**

13 **§ 40.1-2. Definitions.**

14 As used in this title, unless the context clearly requires otherwise, the following terms have the following  
15 meanings:

16 "Board" means the Safety and Health Codes Board.

17 "Business establishment" means any proprietorship, firm, or corporation where people are employed,  
18 permitted, or suffered to work, including agricultural employment on a farm.

19 "Commission" means the Safety and Health Codes Board.

20 "Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly  
21 indicates the contrary, any reference to "Commissioner" shall include his authorized representatives.

22 "Content" means audiovisual content shared on an online platform in exchange for compensation.

23 "Content creator" means an individual or individuals 18 years of age or older, including family members,  
24 who create video content performed in the Commonwealth in exchange for compensation, and includes any  
25 proprietorship, partnership, company, or other corporate entity assuming the name or identity of a particular  
26 individual or family for the purposes of the content creation. "Content creator" does not include a child who  
27 produces his own video content.

28 "Department" means the Department of Labor and Industry.

29 "Domestic service" means services related to the care of an individual in a private home or the  
30 maintenance of a private home or its premises, on a permanent or temporary basis, including services  
31 performed by individuals such as companions, cooks, waiters, butlers, maids, valets, and chauffeurs.  
32 "Domestic service" does not include work that is irregular, uncertain, or incidental in nature and duration.

33 "Employ" shall include to permit or suffer to work.

34 "Employee" means any person who, in consideration of wages, salaries, or commissions, may be  
35 permitted, required, or directed by any employer to engage in any employment directly or indirectly.

36 "Employer" means an individual, partnership, association, corporation, legal representative, receiver,  
37 trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who employs  
38 another to work for wages, salaries, or on commission and shall include any similar entity acting directly or  
39 indirectly in the interest of an employer in relation to an employee.

40 "Female" or "woman" means a female 18 years of age or over.

41 "Machinery" means machines, belts, pulleys, motors, engines, gears, vats, pits, elevators, conveyors,  
42 shafts, or tunnels, including machinery being operated on farms in connection with the production or  
43 harvesting of agricultural products.

44 "Online platform" means any public-facing website, web application, or digital application, including a  
45 mobile application. "Online platform" includes a social network, advertising network, mobile operating  
46 system, search engine, email service, or Internet access service.

47 **§ 40.1-79.01. Exemptions from chapter generally.**

48 A. Nothing in this chapter, except the provisions of §§ subsection A of § 40.1-100 A, and §§ 40.1-100.1,  
49 40.1-100.2, and 40.1-103, shall apply to:

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

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

54 3. A child 12 or 13 years of age employed outside school hours on farms, in orchards, or in gardens with  
55 the consent of his parent or a person standing in place of his parent;

56 4. A child between the ages of 12 and 18 employed as a page or clerk for either the House of Delegates or

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59 the Senate of Virginia;  
60 5. A child participating in the activities of a volunteer emergency medical services agency;  
61 6. A child under 16 years of age employed by his parent in an occupation other than manufacturing; or  
62 7. A child 12 years of age or older employed by an eleemosynary organization or unit of state or local  
63 government as a referee for sports programs sponsored by that eleemosynary, state, or local organization or  
64 by an organization of referees sponsored by an organization recognized by the United States Olympic  
65 Committee under 36 U.S.C. § 220522.

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

69 C. *Nothing in this chapter, except subsection A of § 40.1-100 and §§ 40.1-100.1, 40.1-100.2, 40.1-103,  
70 40.1-109.1, 40.1-109.2, and 40.1-109.3, shall apply to a child engaged in the work of content creation as  
71 described in § 40.1-109.1.*

72 **§ 40.1-80.1. Employment of children.**

73 A. Except as provided in §§ 40.1-79.01, 40.1-88, 40.1-102, and 40.1-109, 40.1-109.1, and 40.1-109.2, no  
74 child under ~~sixteen~~ 16 years of age shall be employed, permitted, or suffered to work in, about, or in  
75 connection with any gainful occupation more than the number of hours per week or more than the number of  
76 hours per day or during the hours of the day that the Commissioner shall determine by regulations to be  
77 detrimental to the lives, health, safety, or welfare of children. These regulations shall incorporate the  
78 standards contained in regulations promulgated by the ~~United States~~ U.S. Secretary of Labor pursuant to the  
79 Fair Labor Standards Act (29 U.S.C. § 201 et seq.) concerning the number of hours per week, hours per day,  
80 and the hours of the day that children under the age of ~~sixteen~~ 16 may work in, about, or in connection with,  
81 any gainful occupation.

82 B. No child shall be employed or permitted to work for more than five hours continuously without an  
83 interval of at least ~~thirty~~ 30 minutes for a lunch period, and no period of less than ~~thirty~~ 30 minutes shall be  
84 deemed to interrupt a continuous period of work.

85 **§ 40.1-109.1. Child engaged in the work of content creation; criteria.**

86 A. *A child is considered engaged in the work of content creation when the following criteria are met at  
87 any time during the previous 12-month period:*

88 1. *At least 30 percent of the content creator's compensated video content produced within a 30-day period  
89 included the likeness, name, or photograph of the child. Content percentage is measured by the percentage of  
90 time the likeness, name, or photograph of the child or, if more than one child regularly appears in the  
91 creator's content, any of the children visually appears or is the subject of an oral narrative in a video  
92 segment as compared to the total length of the segment; and*

93 2. *The number of views received per video segment on any online platform met the online platform's  
94 threshold for the generation of compensation or the content creator received actual compensation for video  
95 content equal to or greater than \$0.10 per view.*

96 B. *A child who is under 14 years of age is prohibited from engaging in the work of content creation as  
97 described in subsection A. If a child under 14 years of age is featured in any video by a (i) content creator or  
98 (ii) child 14 years of age or older engaged in the work of content creation as the producer, creator, and  
99 publisher of such video, the child shall receive 100 percent of the proceeds of the content creator's  
100 compensation for the video content such child appeared in, less any amount owed to another child who  
101 appeared in the video content. If more than one child under 14 years of age appeared in the video content,  
102 the proceeds of the compensation shall be split equally among them.*

103 C. *All content creators whose video content features a child 14 years of age or older engaged in the work  
104 of content creation shall maintain the following records and retain the records until the child reaches 21  
105 years of age:*

106 1. *The name and documentary proof of the age of the child engaged in the work of content creation;*  
107 2. *The number of videos that generated compensation as described in subsection A during the reporting  
108 period;*  
109 3. *The total number of minutes of the video content that the content creator received compensation for  
110 during the reporting period;*  
111 4. *The total number of minutes each child was featured in video content during the reporting period;*  
112 5. *The total compensation generated from video content featuring a child during the reporting period; and*  
113 6. *The amount deposited into the trust account for the benefit of the child engaged in the work of content  
114 creation, as required by § 40.1-109.2.*

115 D. *The records required to be maintained and retained pursuant to subsection C shall be readily  
116 accessible to the child for review and the content creator shall provide notice to the child of the existence of  
117 the records.*

118 E. *If a child appears incidentally in a video that depicts a public event that a reasonable person would  
119 know to be broadcast, including a concert, competition, or sporting event, and is published by a content*

120 creator, such video appearance shall not be considered a violation of this section and shall not be considered  
 121 in determining the content threshold described in subsection A.

122 F. Any content containing the likeness of a child shall be deleted and removed from any online platform  
 123 by the individual who posted such content, the online platform's account owner, or another person who has  
 124 control over such account when the request is made by a child 13 years of age or older whose likeness  
 125 appears in the content, or by an adult who was under the age of 18 when his likeness was used in such  
 126 content.

127 **§ 40.1-109.2. Child engaged in the work of content creation; trust account.**

128 A. A child engaged in the work of content creation as described in subsection A of § 40.1-109.1 shall be  
 129 compensated by the content creator. The content creator shall set aside gross earnings on the video content  
 130 that includes the likeness, name, or photograph of the child in a trust account to be preserved for the benefit  
 131 of the child upon attaining 18 years of age or having been declared emancipated, according to the following  
 132 distribution:

133 1. Where only one child meets the content threshold described in § 40.1-109.1, the percentage of total  
 134 gross earnings on any video segment including the likeness, name, or photograph of the child that is equal to  
 135 or greater than half of the content percentage that includes the child as described in § 40.1-109.1; or

136 2. Where more than one child meets the content threshold described in § 40.1-109.1 and a video segment  
 137 includes more than one of those children, the percentage described in subdivision 1 for all children in any  
 138 segment shall be equally divided among the children, regardless of differences in percentage of content  
 139 provided by the individual children.

140 B. A trust account required under this section shall provide, at a minimum, the following:

141 1. That the funds in the account shall be available only to the child engaged in the work of content  
 142 creation;

143 2. That the account shall be held by a financial institution, corporate fiduciary, or trust company;

144 3. That the funds in the account shall become available to the child engaged in the work of content  
 145 creation upon the child attaining the age of 18 years or when the child is declared emancipated; and

146 4. That the account meets the requirements of the Virginia Uniform Transfers to Minors Act (§ 64.2-1900  
 147 et seq.).

148 C. If a content creator knowingly or recklessly violates this section, a child engaged in the work of content  
 149 creation as described in subsection A of § 40.1-109.1, or his parent or guardian on behalf of such child, may  
 150 commence an action to enforce the provisions of this section regarding the trust account. In any action  
 151 brought in accordance with this section, the court may award the following damages: (i) compensatory  
 152 damages; (ii) punitive damages; and (iii) the costs of the action, including reasonable attorney fees and  
 153 costs. No action shall be commenced under this section more than two years after the date on which the child  
 154 engaged in the work of content creation has attained 21 years of age.

155 D. This section does not affect any right or remedy available under any other provision of law.

156 E. Nothing in this section shall be construed to have any effect on a party that is neither the content  
 157 creator nor the child engaged in the work of content creation.

158 **§ 40.1-109.3. Enforcement; civil cause of action; violations.**

159 A. Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is  
 160 engaging in, or is about to engage in any violation of § 40.1-109.1 or 40.1-109.2, the Attorney General is  
 161 empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis  
 162 to civil investigative demands issued pursuant to this subsection.

163 B. Notwithstanding any contrary provision of law, the Attorney General may cause an action to be  
 164 brought in the appropriate circuit court in the name of the Commonwealth to enjoin any violation of §  
 165 40.1-109.1 or 40.1-109.2. The circuit court having jurisdiction may enjoin such violation notwithstanding the  
 166 existence of an adequate remedy at law. In any action brought pursuant to this subsection, it shall not be  
 167 necessary that damages be proved.

168 C. Along with the civil action provided in subsection C of § 40.1-109.2, a child engaged in the work of  
 169 content creation, or his parent or guardian on behalf of such child, may commence a civil action against a  
 170 content creator for damages, injunctive relief, and any other relief the court finds just and equitable to  
 171 enforce § 40.1-109.1 or 40.1-109.2.