

HOUSE BILL NO. 275

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Labor and Commerce

on \_\_\_\_\_)

(Patron Prior to Substitute—Delegate Rasoul)

*A BILL to amend and reenact § 40.1-100 of the Code of Virginia, relating to employment prohibition exceptions; apprenticeships; children 16 years of age or older.*

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

**1. That § 40.1-100 of the Code of Virginia is amended and reenacted as follows:**

## § 40.1-100. Certain employment prohibited or limited.

A. No child under 18 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; or 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, any power-driven bakery machine, any 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, in any place where goods of alcoholic content are manufactured, bottled, or sold for consumption on the premises, except in places (i) licensed pursuant to subdivision 6 of § 4.1-206.1, provided that a child employed at the premises shall not serve or dispense in any manner alcoholic beverages or (ii) 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 an automobile, truck, or commercial vehicle; however, children who are at least 17 years of age may drive automobiles or trucks on public roadways if:

a. The automobile or truck does not exceed 6,000 pounds gross vehicle weight, the vehicle is equipped

31 with seat belts for the driver and any passengers, and the employer requires the employee to use the seatbelts  
32 when driving the automobile or truck;

33 b. Driving is restricted to daylight hours;

34 c. The employee has a valid state license for the type of driving involved and has no record of any moving  
35 violations at the time of hire;

36 d. The employee has successfully completed a state-approved driver education course;

37 e. The driving does not involve (i) the towing of vehicles; (ii) route deliveries or route sales; (iii) the  
38 transportation for hire of property, goods, or passengers; (iv) urgent, time-sensitive deliveries; or (v) the  
39 transporting at any time of more than three passengers, including the employees of the employer;

40 f. The driving performed by the employee does not involve more than two trips away from the primary  
41 place of employment in any single day for the purpose of delivering goods of the employee's employer to a  
42 customer;

43 g. The driving performed by the employee does not involve more than two trips away from the primary  
44 place of employment in any single day for the purpose of transporting passengers, other than employees of  
45 the employer;

46 h. The driving takes place within a 30-mile radius of the employee's place of employment; and

47 i. The driving is only occasional and incidental to the employee's employment and involves no more than  
48 one third of the employee's work time in any workday and no more than 20 percent work time in any  
49 workweek;

50 8. In logging or sawmilling or in any lath mill, shingle mill, or cooperage-stock mill or in any occupation  
51 involving slaughtering, meatpacking, processing, or rendering;

52 9. In any occupation determined and declared hazardous by rules and regulations promulgated by the  
53 Commissioner of Labor and Industry *or the U.S. Secretary of Labor*, except as otherwise provided in  
54 subsection D.

55 Notwithstanding the provisions of this section, children 16 years of age or older who are serving a  
56 voluntary apprenticeship as provided in Article 3 (§ 2.2-2043 et seq.) of Chapter 20.2 of Title 2.2 may be  
57 employed in any occupation in accordance with *the federal Fair Labor Standards Act (29 U.S.C. § 201 et*  
58 *seq.) and* rules and regulations promulgated by the Commissioner.

59 B. Except as part of a regular work-training program in accordance with §§ 40.1-88 and 40.1-89, no child  
60 under 16 years of age shall be employed, permitted, or suffered to work:

61        1. In any manufacturing or mechanical establishment; in any commercial cannery; in the operation of any  
62        automatic passenger or freight elevator; in any dance studio; in any hospital, nursing home, clinic, or other  
63        establishment providing care for resident patients as a laboratory helper, therapist, orderly, or nurse's aide; in  
64        the service of any veterinarian while treating farm animals or horses; in any warehouse; in processing work in  
65        any laundry or dry cleaning establishment; in any undertaking establishment or funeral home; in any curb  
66        service restaurant; in hotel and motel room service; in any brick, coal, or lumber yard or ice plant; or in  
67        ushering in theaters. Children 14 years of age or older may be engaged in office work of a clerical nature in  
68        bona fide office rooms in the above types of establishments.

69        2. In any scaffolding work or construction trade; in any outdoor theater, cabaret, carnival, fair, floor show,  
70        pool hall, club, or roadhouse; or as a lifeguard at a beach.

71        C. Children 14 years of age or older may be employed by dry cleaning or laundry establishments in  
72        branch stores where no processing is done on the premises and in hospitals, nursing homes, and clinics where  
73        they may be engaged in kitchen work, tray service, or room and hall cleaning. Children 14 years of age or  
74        older may be employed in bowling alleys completely equipped with automatic pin setters, but not in or about  
75        such machines, and in soda fountains, restaurants, and hotel and motel food service departments. Children 14  
76        years of age or older may work as gatekeepers and in concessions at swimming pools and may be employed  
77        by concessionaires operating on beaches where their duties and work pertain to the handling and distribution  
78        of beach chairs, umbrellas, floats, and other similar or related beach equipment.

79        D. Notwithstanding any other provision of this chapter:

80        1. Children age 16 years or older employed on farms, in gardens, or in orchards may operate, assist in  
81        operating, or otherwise perform work involving a truck, excluding a tractor trailer, or farm vehicle, as defined  
82        in § 46.2-1099, in their employment;.

83        2. Children age 14 years or older employed on farms, in gardens, or in orchards may perform work as a  
84        helper on a truck or commercial vehicle in their employment, while engaged in such work exclusively on a  
85        farm, in a garden, or in an orchard;.

86        3. Children age 16 years or older may participate in all activities of a volunteer fire company; however,  
87        any such child shall not enter a burning structure or a structure that contains burning materials prior to  
88        obtaining certification under National Fire Protection Association 1001, level one, firefighter standards,  
89        pursuant to the provisions of clause (i) of subsection A of § 40.1-79.1, except where entry into a structure that  
90        contains burning materials is during training necessary to attain certification under National Fire Protection

91      Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs;;

92      4. Children age 16 years or older may serve in a barbershop or cosmetology salon licensed by the Board

93      for Barbers and Cosmetology in accordance with regulations of the Board for Barbers and Cosmetology,

94      provided that:

95           a. The child is an apprentice registered in accordance with Article 3 (§ 2.2-2043 et seq.) of Chapter 20.2

96      of Title 2.2;

97           b. The child is employed in a work-training program as provided in § 40.1-89, which is administered in

98      accordance with the rules and regulations promulgated by the Board of Education; or

99           c. The child has obtained a cosmetology or barber license from the Board for Barbers and Cosmetology.

100        5. *Children age 16 years or older may serve in an apprenticeship program or other work-based learning*

101      *experience related to culinary arts or information technology, provided that:*

102           a. *The child is continuously enrolled in an accredited secondary school and receives a letter of support*

103      *from a school counselor or administrator each semester verifying that the child is on track to graduate on*

104      *time;*

105           b. *The child is an apprentice registered in accordance with Article 3 (§ 2.2-2043 et seq.) of Chapter 20.2*

106      *of Title 2.2, 29 C.F.R. § 570.50(b), or 29 C.F.R. § 570.50(c);*

107           c. *The child is employed in a work-training program, as provided in § 40.1-89, that is administered in*

108      *accordance with the rules and regulations promulgated by the Board of Education; and*

109           d. *The work being performed by the child is not in violation of the federal Fair Labor Standards Act (29*

110      *U.S.C. § 201 et seq.), any guidance or regulation promulgated by the Virginia Occupational Safety and*

111      *Health Program, or any law or regulation related to hazardous or prohibited occupations for minors.*