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HOUSE BILL NO. 2495

Offered January 14, 2009

A *BILL to amend and reenact § 40.1-100 of the Code of Virginia, relating to prohibited employment for children.*

Patron—Alexander

Referred to Committee on Commerce and Labor

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; 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, power-driven bakery machine, 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, or 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 5 of § 4.1-207, 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 ~~a an~~ *automobile*, truck, or commercial vehicle of ~~more than two~~ *more than two* axles; 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 with seat belts for the driver and any passengers, and the employer requires the employee to use the seatbelts when driving the automobile or truck;*

b. *Driving is restricted to daylight hours;*

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

d. *The employee has successfully completed a State-approved driver education course;*

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

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

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

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

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

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

9. In any occupation determined and declared hazardous by rules and regulations promulgated by the Commissioner of Labor and Industry, except as otherwise provided in subsection D.

Notwithstanding the provisions of this section, children 16 years of age or older who are serving a voluntary apprenticeship as provided in Chapter 6 (§ 40.1-117 et seq.) of this title may be employed in

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59 any occupation in accordance with rules and regulations promulgated by the Commissioner.

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

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

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

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

82 D. Notwithstanding any other provision of this chapter:

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

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

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