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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Department of Labor and Industry
Virginia Administrative Code (VAC) Chapter citation(s)	16 VAC15-40
VAC Chapter title(s)	Virginia Work for Minors
Date this document prepared	April 17, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

This regulation is mandated by the Code of Virginia, §40.1-80.1, which requires the Commissioner of Labor and Industry to promulgate by regulation the hours of work for minors under sixteen years of age. This regulation differentiates between hours of work in nonagricultural employment and agricultural employment. The regulation stipulates:

- The number of hours a minor under 16 may work during the school session and the number of hours they may work when school is not in session,
- The number of hours a minor is allowed to work in one day,
- Times of day within which a minor cannot work before or after,
- A lunch period of at least 30 minutes once a minor has worked 5 hours continuously.

The regulatory section also requires incorporation of the standards contained in regulations promulgated by the United States Secretary of Labor pursuant to the Fair Labor Standards Act (29 USC §201 et seq.) concerning hours of work for minors under 16 years of age.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

The hours of work for minors under sixteen years of age is mandated by the Code of Virginia, §40.1-80.1, and is required to be identical to federal regulations. Therefore, the Commissioner has no discretion in the promulgation of this regulation. Accordingly, there are no alternatives to consider to achieve the purpose of this regulation.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

The comment period began on July 8, 2019 and ended on July 29, 2019. The Department did not receive any comments.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation is necessary to protect the health, safety, and welfare of minors in Virginia by establishing maximum limits on the number of hours that minors under the age of sixteen may work. The regulation also protects by prohibiting inappropriate child labor conditions and by assuring the minor’s work does not interfere with school attendance.

The regulation is clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The Commissioner retained this regulation as is.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This regulation should have minimal economic impact on small businesses. The regulation also offers clarity and guidance for small businesses that employ minors under sixteen years of age.

This regulation does not overlap, duplicate or conflict with federal or state law or regulation. This regulation was last reviewed four years ago. There have not been significant changes in technology, economic conditions, or other factors in the area affected by the regulation since it became effective.

The Department has determined that retaining the regulation without amendment is consistent with the stated objectives of applicable law, and is the most effective way to minimize the economic impact of regulations on small businesses.
