

339.335 Definitions for section -- Work program for minors twelve or thirteen years old with nonprofit organization -- Requirements -- Approval process -- Administrative regulations.

- (1) As used in this section:
 - (a) "Department" means the Department of Workplace Standards;
 - (b) "Nonprofit organization" means an organization that:
 1. Is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and
 2. Is not an enterprise under the Fair Labor Standards Act of 1938, as amended;
 - (c) "Student attendance day" has the same meaning as in KRS 158.070; and
 - (d) "Work week" means seven (7) consecutive twenty-four (24) hour periods, as established by the employer.
- (2)
 - (a) A nonprofit organization may submit an application to the department to create a work program that allows a minor who is twelve (12) or thirteen (13) years of age to work for the nonprofit organization under this section.
 - (b) Any work program established by a nonprofit organization under this section shall exist to provide minors with life skills and employment skills, and the primary benefit of the work performed shall be for the vocational and educational value to the minors.
 - (c) Hourly wages paid to minors participating in a work program under this section shall comply with the wage requirements of KRS 337.275.
- (3) If approved by the department, participation in a work program established under this section shall:
 - (a) Except as provided in subsection (5) of this section, not occur on a student attendance day;
 - (b) Not exceed three (3) hours per day;
 - (c) Except as outlined in subsection (5) of this section, occur only between the hours of 7 a.m. and 7 p.m.;
 - (d) Not exceed eighteen (18) hours per work week;
 - (e) Be subject to the lunch and rest period provisions of KRS 339.270 and the recordkeeping requirements of KRS 339.400;
 - (f) Not involve activities that engage in interstate commerce or the production of goods for interstate commerce, as defined in the Fair Labor Standards Act of 1938, as amended;
 - (g) Be limited to the nonhazardous occupations allowed for minors fourteen (14) and fifteen (15) years of age as determined by the United States Secretary of Labor under provisions of the Fair Labor Standards Act of 1938, as amended; and
 - (h) Not occur in, about, or in connection with any establishment where alcoholic beverages are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption, or dispensed.

- (4) Prior to participating in a work program under this section, the parent or guardian of a minor shall sign a form prescribed by the department giving permission for the minor to participate in the program.
- (5) A nonprofit organization that is currently operating or that has previously operated a work program under this section may submit an application to the department, along with any other documentation that the department may require, to allow a minor to work under this section on student attendance days. Work by a minor under this subsection shall not occur during regular school hours. It shall be the burden of the nonprofit organization to prove to the department the necessity, benefit, and worthiness of operating a work program on student attendance days. A minor shall not be allowed to work on a student attendance day if the nonprofit organization is aware that the minor missed school that day.
- (6) The department shall be the sole decision maker in the approval or denial of applications for work programs under this section. The department shall evaluate the work program of each applicant for compliance with subsection (2)(b) of this section. A nonprofit organization that has been denied by the department shall have the right to a hearing conducted in accordance with KRS Chapter 13B, if a written request for a hearing is made within ten (10) days after service of notice of the denial.
- (7) A nonprofit organization may allow a minor who has passed his or her fourteenth birthday but is under eighteen (18) years of age to also participate in any work program established under this section. Minors participating in a work program under this subsection shall be subject to the gainful occupation standards established in this chapter.
- (8) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and to properly protect the life, health, safety, and welfare of minors, including but not limited to establishing the criteria for work program approval and documentation required by a nonprofit organization for application. The department may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, nature of the employment, and other pertinent factors. In promulgating administrative regulations, the department may mirror similar protections as outlined for minors fourteen (14) years of age or older by the United States Secretary of Labor under the Fair Labor Standards Act of 1938, as amended. For minors twelve (12) or thirteen (13) years of age, the administrative regulations shall have no effect on the definition of "gainful occupation" in KRS 339.210.

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