

VFBL and Junior Firefighters

A long time tradition of volunteer fire departments is to bring youths into the program to promote the concept of serving the community by becoming a volunteer firefighter. These youths can perform hands-on training and education on what it takes to become a firefighter. This is now more important than ever as many fire departments are finding it difficult to find and attract new volunteers. The question then becomes, if one of these individuals is injured while participating in appropriate fire department training, which insurance policy can I turn to? For this article, we will review how Volunteer Firefighters' Benefit Law (VFBL) would likely respond.

First, in order for VFBL to apply to any injured person at a fire department, that individual first must be categorized as an "Active Member". Whether they are Full Members, Probationary, or Junior, they must be considered an "Active Member" based on the Department's bylaws. If the Fire Department, in their bylaws, categorized youths sixteen or seventeen as some sort of sub-section of "Active Member", such as "Junior Member" or "Active Trainee", then they would have coverage under VFBL for injuries sustained that are compensable under the VFBL Law. If these individuals are not under the category of "Active Member," then there would be **NO** coverage under the VFBL. The Attorney General has opined that the labor law does not prevent a person sixteen or seventeen years of age from being an "Active Member" of a Fire Department.

For all other non-Active Duty volunteer firefighter trainees, youth programs exist under section 204-b of the General Municipal Law. Explorers or other youth who are fifteen years of age or younger should be categorized as participants in a youth program. Again, they may not participate in an emergency operation or a hazardous activity and

are **NOT** covered under VFBL. The department must determine what is such an operation or activity. You can refer to Federal and State Child Labor Laws to confirm any potential hazardous restrictions. (The Penal Law can penalize adults who knowingly permit a minor to participate in a hazardous activity with a substantial risk of harm if the hazardous activity causes injuries to the minor. For purposes of this law, only persons under the age of seventeen are protected.) This law should be a factor in a decision to permit persons who are sixteen years of age to participate in a hazardous activity.

Again, for individuals not categorized as active duty volunteer firefighters and/or trainees, there is no coverage under WC or VFBL. You can check with the GL policy to see if there is some medical coverage for these types of individuals. Or if the FD has an Accident policy, there may be medical coverage afforded youth participants.

