

LEGAL ALERT

JULY 18, 2023



EMPLOYING MINORS IN CONSTRUCTION

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Are you a contractor that would like to employ 16 or 17-year-olds (“minors”)? House Bill 33 (establishing the state budget for 2023-25) permits minors to work on construction sites in certain limited situations.

Note! There is **nothing** in the new law that **requires** contractors to hire minors – or to engage subcontractors who hire minors – to work on construction sites; the bill only prohibits the Director of Commerce from passing any rule that would prohibit minors from working on construction sites in certain situations. Owners and contractors that do not wish to have minors on the jobsite should explicitly state their desires in the contract/subcontract.

Employer Responsibilities

What does the new law mean to those who wish to employ minors on construction sites? Legally, minors can be employed on certain construction sites if they meet certain criteria relating to

- (1) Age requirement
- (2) Enrolment in a mentoring program in compliance with Ohio’s labor laws
- (3) Compliance with the Fair Labor Standards Act (“FLSA”)

First, minors may be employed on construction sites provided they are at least 16 years old.

Second, minors may be employed on construction sites so long as they are employed under the Ohio construction mentorship program. Among other requirements, the program requires the employment duration be defined, a mentor be assigned to the minor, and the minor be given specific training.

Third, minors may be employed on construction sites so long as they are performing tasks that either (a) are permissible under the FLSA, or (b) fall into an exemption. For the minor to qualify for the exemption they must be enrolled in an approved program.

For example, listed below are two jobs the Department of Labor has deemed to be dangerous and has prohibited minors from performing under the FLSA. However, a minor may perform these tasks if the minor falls into an exemption by virtue of being either a student-learner or apprentice, including being employed under the Ohio construction mentorship program.

- (1) Roofing operations and work performed on or about a roof—bans most jobs in roofing operations, including work performed on the ground and removal of the old roof, and all work on or about a roof.
- (2) Trenching and excavation operations—bans most jobs in trenching and excavation work, including working in a trench more than four feet deep.

A company's employment of minors through the Ohio construction mentorship program creates an opportunity to boost minors' interest in construction and train the next generation of skilled labor. To determine if your policies are in compliance with the new law, please reach out to Hahn Loeser & Parks LLP.

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