



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Kailey M. Henry

H.B. 551

132nd General Assembly
(As Introduced)

Reps. Perales and Romanchuk, Antani, Arndt, Butler, Green, Kick, Reineke, Retherford, Seitz, Vitale

BILL SUMMARY

- Prohibits the Director of Commerce from adopting any rule to prohibit a minor who is 16- or 17-years old who receives specified training from being employed in a construction or manufacturing occupation if the minor's employment in the occupation is permitted under federal law.
 - Requires an employer to provide a 16- or 17-year old minor employed in a construction or manufacturing occupation with the training specified in the bill before the minor can engage in any workplace activity.
 - Requires the Director to specify a list of tools that a 16- or 17-year old minor who has completed the training may operate during the minor's employment in a construction or manufacturing occupation.
 - Prohibits an employer from either (1) permitting a 16- or 17-year old minor from operating a tool described above unless the minor has completed the bill's training, or (2) permitting a minor who has completed the training from operating a tool prohibited for use by minors of that age under federal and state law.
 - Establishes a civil penalty for whoever violates the bill's prohibitions.
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CONTENT AND OPERATION

Hazardous occupations prohibited for minors

Continuing law requires the Director of Commerce, after consulting with the Director of Health, to adopt rules prohibiting the employment of minors in occupations that are hazardous or detrimental to the health and well-being of minors. The Director

of Commerce must consider the hazardous occupation orders issued pursuant to the federal Fair Labor Standards Act¹ (FLSA) when adopting the rules. The bill prohibits the Director from adopting any rule that would prohibit a minor who is 16- or 17-years old and receives the training described under "**Training for a construction or manufacturing occupation**," below from being employed in a construction occupation or manufacturing occupation if the hazardous occupation orders issued pursuant to the FLSA permit the employment of the minor in the construction or manufacturing occupation (see **COMMENT**).²

For purposes of the bill, a "construction occupation" is employment consisting of the construction, reconstruction, enlargement, alteration, repair, remodeling, renovation, demolition, or painting of a building or other structure, road, bridge, or other work, and includes preparing a site for new construction. A "manufacturing occupation" is employment consisting of the mechanical, physical, or chemical transformation of materials, substances, or components into new products for sale, and includes assembling component parts into a finished product.³

Training for a construction or manufacturing occupation

The bill requires an employer (a person who employs any individual in a construction occupation or manufacturing occupation) to provide a 16- or 17-year old minor employed in a construction or manufacturing occupation with training before the minor can engage in any workplace activity. The employer must include all of the following in the training:

- A ten-hour course in construction or general industry safety and health hazard recognition and prevention approved by the U.S. Department of Labor's Occupation Safety and Health Administration (OSHA) (the minor may participate in an OSHA-approved 30-hour course if the minor has already successfully completed a ten-hour course);
- Instructions on how to operate the specific tools the minor will use during the minor's employment;
- The general safety and health hazards that the minor may be exposed to at the minor's workplace;

¹ 29 United States Code (U.S.C.) 201 *et seq.*

² R.C. 4109.05.

³ R.C. 4109.22(A).



- The value of safety and management commitment;
- Information on the employer's drug testing policy.

A 16- or 17-year old minor who completes the training is allowed to work in any construction or manufacturing occupation that is not prohibited for minors of that age by Ohio's Minor Labor Law⁴ or rules adopted under the Law. The bill requires the employer to pay any costs associated with providing a minor with the training.⁵

List of approved tools

The bill requires the Director of Commerce, in consultation with employers, to adopt rules in accordance with the Administrative Procedures Act specifying a list of the tools that a 16- or 17-year old minor who has completed the bill's training may operate during the minor's employment in a construction or manufacturing occupation. The Director must use the "Field Operations Handbook" issued by the U.S. Department of Labor's Wage and Hour Division for guidance in developing the list. Nothing in the bill requires the Director to include a tool on the list if the FLSA hazardous occupation orders and Ohio's Minor Labor Law or rules adopted under it specifically permit 16- or 17- year olds to operate the tool.⁶

Prohibitions

The bill prohibits an employer from doing either of the following:

(1) Permitting a 16- or 17-year old minor to operate a tool a minor of that age is permitted to operate under the rules described in "**List of approved tools**" above unless the minor completes the bill's required training;

(2) Permitting a 16- or 17-year old minor who has completed the bill's required training to operate a tool that a minor of that age is prohibited from using by the FLSA and Ohio's Minor Labor Law or rules adopted under it.⁷

Penalty for violation

Under continuing law, the Director is required to designate enforcement officials to enforce Ohio's Minor Labor Law. An enforcement official who discovers a violation

⁴ R.C. Chapter 4109.

⁵ R.C. 4109.22(A), (B), and (D).

⁶ R.C. 4109.22(C).

⁷ R.C. 4109.22(E).



of the Law is required to file a complaint against an offending employer in any court of competent jurisdiction after providing notice to the employer of the violation. An employer found to have violated the Law by the court may be assessed a penalty, which is paid into the fund of the school district in which the violation was committed.⁸

Under the bill, an employer who violates the bill's prohibitions is assessed a civil penalty of up to \$1,730 for each violation.⁹

COMMENT

An employer or employee may be subject to the FLSA or Ohio's Minor Labor Law, or both laws, depending on the employer type and size and whether the employer or employee engages in interstate commerce. In the situation where an employer or an employee is subject to both federal and Ohio law and the laws differ, the law that provides the most protection for the minor applies.¹⁰

HISTORY

ACTION	DATE
Introduced	03-13-18

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⁸ R.C. 4109.13, not in the bill.

⁹ R.C. 4109.99.

¹⁰ 29 U.S.C. 218 and 29 Code of Federal Regulations 570.50.

