

HIRING EMPLOYEES UNDER THE AGE OF 18: A REFRESHER ON FEDERAL AND STATE CHILD LABOR LAWS

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Recently, an accident in the trenches of a Northern Virginia construction site resulted in the injuring of one employee and the death of another. News reports allege that the deceased employee was only 16 years old. Under both Federal and Virginia child labor laws, the 16-year old should not have been working on the excavation project.

This tragedy reminds employers, especially those working in construction, that hiring individuals under the age of 18 requires a diligent adherence to both federal and state child labor laws. Under the Fair Labor Standards Act (“FLSA”), 18 is the minimum age for certain nonagricultural occupations that have been declared by the Secretary of Labor to be particularly hazardous or detrimental to the health of minors. There are currently 17 federal Hazardous Occupation Orders (“HO”) that cover a variety of occupations, stretching from manufacturing to occupations requiring power-driven machinery. The HOs prohibiting work in trenching, excavation, roofing, wrecking, or demolition operations are specifically relevant for construction employers.

Likewise, Virginia’s Child Labor laws prohibit individuals under the age of 18 from working in hazardous occupations. Like the federal HOs, Virginia law prohibits employees under the age of 18 from working in excavation, demolition, roofing, or wrecking operations. Additionally, unless the underage individual is a part of a regular work-training program, Virginia prohibits the child from working in any scaffolding or construction trade.

What happened at the Northern Virginia construction site was a tragedy, but it should also serve as a reminder for employers to stay current on the federal and state hazardous occupation regulations. Virginia construction employers should avoid this problem by opening their jobs only to individuals 18 and older. At the very least, the age of every new hire should be verified through two forms of identification. Once an employee under the age of 18 is identified, make sure to consult a lawyer to confirm that the employee’s job description does not encompass any of the prohibited federal or state hazardous occupations. The lawyers at Vandeventer Black LLP are available to assist you regarding all aspects of employment law. For additional information, please contact the authoring attorney.