



**JOSEPH T. DETERS**

HAMILTON COUNTY PROSECUTING ATTORNEY  
ADMINISTRATION DIVISION  
230 EAST NINTH STREET, SUITE 4000  
CINCINNATI, OH 45202-2151  
PHONE: (513) 946-3000  
FAX: (513) 946-3017  
WWW.HCPROS.ORG  
WRITER'S DIRECT DIAL NUMBER  
(513) 946-3006

August 26, 2022

The Honorable Dave Yost  
Ohio Attorney General  
James A. Rhodes, State Office Tower  
30 E. Broad Street, 14<sup>th</sup> Floor  
Columbus, OH 43215

Re: Request for Formal Opinion

Dear Attorney General Yost:

I write this letter to request a formal opinion from the Ohio Attorney General regarding the applicability of Ohio wage laws to minor league baseball players when engaging in baseball-related activities in the State of Ohio.

There currently are three Major League Baseball ("MLB") Clubs that have a total of five minor league affiliates in Ohio. The minor league teams in Ohio are the Columbus Clippers, Akron RubberDucks, and Lake County Captains (affiliated with the Cleveland Guardians), the Dayton Dragons (affiliated with the Cincinnati Reds), and the Toledo Mud Hens (affiliated with the Detroit Tigers). Minor league baseball's significant presence in the State of Ohio provides amusement to countless Ohioans and tourists in a family-friendly and affordable setting, which vitally contributes to the economies of the local communities in which the teams play.

I am seeking confirmation that minor league baseball players are exempt from Ohio's minimum wage and overtime requirements when performing baseball-related activities in the State of Ohio, pursuant to two exemptions under the federal Fair Labor Standards Act ("FLSA"): (1) the Save America's Pastime Act ("SAPA") (*see* 29 U.S.C. § 213(a)(19)); and (2) the seasonal amusement or recreational establishment exemption (*see* 29 U.S.C. § 213(a)(3)).

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With regard to the SAPA exemption, SAPA provides that minor league baseball players who are paid pursuant to a contract at least the federal minimum wage for at least 40 hours each week during the Championship Season, irrespective of the number of hours the employee devotes to baseball related activities, are otherwise exempt from the FLSA's minimum wage and overtime requirements. It would appear, providing the players meet these requirements, that they are exempted from the minimum wage requirements in O.R.C. §§ 4111.01 *et seq.* pursuant to O.R.C. § 4111.14(B)(1), but I seek your opinion on this matter.

With regard to the seasonal amusement or recreational establishment exemption, the FLSA provides at 29 U.S.C. § 213(a)(3), incorporated into Ohio law at O.R.C. § 4111.14(B)(1), that:

[A]ny employee employed by an establishment which is an amusement or recreational establishment [is exempt from the minimum wage and overtime requirements]...if (A) it does not operate for more than seven months in any calendar year.

I am seeking your opinion as to whether or not minor league players as described above are covered by the FLSA's seasonal exemption and are thus exempt from Ohio's minimum wage and overtime requirements.

Given the significant popularity of minor league baseball activity in Ohio, a formal opinion from you confirming the applicability of these exemptions to minor league baseball players and confirmation that such players fall outside the ambit of Ohio's minimum wage and overtime laws would provide useful clarity to ensure the continued smooth operation of these teams, who are so important to countless Ohioans across the State.

Please do not hesitate to contact my office should you have any questions or concerns, or require any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. T. Deters", with a stylized flourish at the end.

Joseph T. Deters  
Hamilton County Prosecuting Attorney

JTD/mag

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