

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH40315-LR-150A

Short Title: 2025 Omnibus Labor Amendments.-AB

(Public)

Sponsors: Representative K. Hall.

Referred to:

A BILL TO BE ENTITLED
AN ACT MAKING OMNIBUS AMENDMENTS TO LAWS PERTAINING TO THE NORTH
CAROLINA DEPARTMENT OF LABOR.

The General Assembly of North Carolina enacts:

SECTION 1.1. Article 16 of Chapter 95 of the General Statutes is amended by
adding a new section to read:

**"§ 95-136.2. Commissioner and employees not subject to subpoena for testimony except in
certain circumstances.**

(a) Neither the Commissioner nor any employee or former employee of the Department
is subject to a subpoena for appearance for purposes of inquiry into any occupational safety and
health inspection, except in one of the following circumstances:

(1) An enforcement proceeding is brought under this Article.

(2) An action is filed in which the Department is a party.

(3) The Commissioner consents in writing to waive the exemption provided by
this section.

(4) A court finds all of the following:

a. The information sought is essential to the underlying case.

b. There are no reasonable alternative means for acquiring the
information.

c. A significant injustice would occur if the requested testimony was not
available.

(b) The party that issued the subpoena shall pay to the Department a witness fee in the
amount of five hundred dollars (\$500.00) per day.

(c) This section does not apply to a subpoena requesting only documents or other
records."

SECTION 1.2. G.S. 150B-21.5 is amended by adding a new subsection to read:

"(c1) OSHA Standard. – The Occupational Safety and Health Division of the Department
of Labor is not required to publish a notice of text in the North Carolina Register or hold a public
hearing when it proposes to adopt a rule that concerns an occupational safety and health standard
that is identical to a federal regulation promulgated by the Secretary of the United States
Department of Labor. The Division shall file the rule with the Commission for the purpose of
receiving written objections to the rule in accordance with G.S. 150B-21.3(b2)."

SECTION 1.3.(a) G.S. 95-135(d) reads as rewritten:

"(d) Every official act of the Commission shall be entered of record and its hearings and
records shall be open to the public. The Commission is authorized and empowered to make such
procedural rules as are necessary for the orderly transaction of its proceedings. Unless the



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Commission adopts a different rule, the proceedings, as nearly as possible, shall be in accordance with the Rules of Civil Procedure, G.S. 1A-1. The Commission may order testimony to be taken by deposition in any proceeding pending before it at any stage of such proceeding. Any person, firm or corporation, and its agents or officials, may be compelled to appear and testify and produce like documentary evidence before the ~~Commission.~~ Commission, except that upon motion of a respondent, the Commission shall require prehearing discovery, order that testimony be taken by deposition, compel production of documents, and compel persons to appear. Witnesses whose depositions are taken under this section, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the State."

SECTION 1.3.(b) This section shall apply to citations issued on or after the effective date of this act.

SECTION 1.4. G.S. 130A-385(e) reads as rewritten:

"(e) In cases where death occurred due to an injury received in the course of the decedent's employment, the Chief Medical Examiner shall forward to the Commissioner of Labor a copy of the medical examiner's report of the investigation, including the location of the fatal injury and the name and address of the decedent's employer at the time of the fatal injury. The Chief Medical Examiner shall forward this report within 30 days of receipt of the information from the medical examiner. Upon written request by the Commissioner of Labor, the Chief Medical Examiner shall provide the finalized autopsy report within five months of the date of the request."

SECTION 1.5. G.S. 95-36.3(c) reads as rewritten:

"(c) The Commissioner of Labor, ~~with the written approval of the Attorney General as to legality,~~ shall have power to adopt, alter, amend or repeal appropriate rules of procedure for selection of the arbitrator or panel and for conduct of the arbitration proceedings in accordance with this Article: Provided, however, that such rules shall be inapplicable to the extent that they are inconsistent with the arbitration agreement of the parties."

SECTION 1.6.(a) G.S. 95-110.2 reads as rewritten:

"§ 95-110.2. Scope.

This Article shall govern the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, alteration, relocation and investigation of accidents involving:

- (1) Elevators, dumbwaiters, escalators, and moving walks;
- (2) Personnel hoists;
- (3) Inclined stairway chair lifts;
- (4) Inclined and vertical wheelchair lifts;
- (5) Manlifts; and
- (6) Special equipment.

This Article shall not apply to devices and equipment located and operated in a single family ~~residence,~~ residence. This Article shall not apply to conveyors and related equipment within the scope of the American National Standard Safety Standard for Conveyors and Related Equipment (ANSI/ASME B20.1) constructed, installed and used exclusively for the movement of materials, or to mining equipment specifically covered by the Federal Mine Safety and Health Act or the Mine Safety and Health Act of North Carolina or the rules and regulations adopted pursuant thereto."

SECTION 1.6.(b) G.S. 95-110.3 reads as rewritten:

"§ 95-110.3. Definitions.

(a) The term "Commissioner" shall mean the North Carolina Commissioner of Labor or ~~his~~ the Commissioner's authorized representative.

(b) The term "Director" shall mean the Director of the Elevator and Amusement Device ~~Division~~ Bureau of the North Carolina Department of Labor.

...."

1 **SECTION 1.6.(c)** G.S. 95-110.4 reads as rewritten:

2 "**§ 95-110.4. Elevator and Amusement Device ~~Division~~Bureau established.**

3 There is hereby created an Elevator and Amusement Device ~~Division~~Bureau within the
4 Department of Labor. The Commissioner shall appoint a director of the Elevator and Amusement
5 Device ~~Division~~Bureau and such other employees as the Commissioner deems necessary to
6 assist the director in administering the provisions of this Article."

7 **SECTION 1.6.(d)** G.S. 95-110.5 reads as rewritten:

8 "**§ 95-110.5. Powers and duties of Commissioner.**

9 The Commissioner of Labor is hereby ~~empowered~~empowered to do all of the following:

- 10 (1) To delegate to the Director of the Elevator and Amusement Device ~~Division~~
11 Bureau such powers, duties and responsibilities as the Commissioner
12 determines will best serve the public interest in the safe operation of lifting
13 devices and ~~equipment~~equipment.
- 14 (2) To supervise the Director of the Elevator and Amusement Device
15 ~~Division~~Bureau.
- 16 (3) To adopt, modify, or revoke such rules and regulations as are necessary for
17 the purpose of carrying out the provisions of this Article including, but not
18 limited to, those governing the design, construction, installation, plans review,
19 testing, inspection, certification, operation, use, maintenance, alteration and
20 relocation of devices and equipment subject to the provisions of this Article.
21 The rules and regulations promulgated pursuant to this rulemaking authority
22 shall conform with good engineering practice as evidenced generally by the
23 most recent editions of the American National Standard Safety Code for
24 Elevators, Dumbwaiters, Escalators and Moving Walks, the National
25 Electrical Code, the American National Standard Safety Requirements for
26 Personnel Hoists, the American National Standard Safety Code for Manlifts,
27 the American National Standard Safety Standard for Conveyors and Related
28 Equipment and similar codes promulgated by agencies engaged in research
29 concerning strength of material, safe design, and other factors bearing upon
30 the safe operation of the devices and equipment subject to the provisions of
31 this Article. The rules and regulations may apply different standards to devices
32 and equipment subject to this Article depending upon their date of installation.
33 The rules and regulations for special equipment shall not adopt specifically
34 any portion of the American National Standard Safety Code for Elevators,
35 Dumbwaiters, Escalators and Moving Walks to inclined and vertical
36 reciprocating ~~conveyors~~conveyors.
- 37 (4) To enforce rules and regulations adopted under authority of this
38 ~~Article~~Article.
- 39 (5) To inspect and have tested for acceptance all new, altered or relocated devices
40 or equipment subject to the provisions of this ~~Article~~Article.
- 41 (6) To make maintenance and periodic inspections and tests of all devices and
42 equipment subject to the provisions of this Article as often as every six
43 ~~months~~months.
- 44 (7) To issue certificates of operation which certify for use such devices and
45 equipment as are found to be in compliance with this Article and the rules and
46 regulations promulgated ~~thereunder~~thereunder.
- 47 (8) To have free access, with or without notice, to the devices and equipment
48 subject to the provisions of this Article, during reasonable hours, for purposes
49 of inspection or ~~testing~~testing.

- (9) To obtain an Administrative Search and Inspection Warrant in accordance with the provisions of Article 4A of Chapter 15 of the General ~~Statutes; Statutes.~~
- (10) To investigate accidents involving the devices and equipment subject to the provisions of this Article to determine the cause of such accident, and he shall have full subpoena powers in conducting such ~~investigation; investigation.~~
- (11) To institute proceedings in the civil or criminal courts of this State, when a provision of this Article or the rules and regulations promulgated thereunder has been ~~violated; violated.~~
- (12) To issue a limited certificate of operation for any device or equipment subject to the provisions of this Article to allow the temporary or restricted use ~~thereof; thereof.~~
- (13) To adopt, modify or revoke rules and regulations governing the qualifications of ~~inspectors; inspectors.~~ The Commissioner may waive or amend the American National Safety Standards from the American National Standards Institute as those standards relate to the qualifications of inspectors in this State if the Commissioner sets alternative standards that are reasonably equivalent, as determined by the Commissioner.
- (14) To grant exceptions from the requirements of the rules and regulations promulgated under authority of this Article and to permit the use of other devices when such exceptions and uses will not expose the public to an unsafe condition likely to result in serious personal injury or property ~~damage; damage.~~
- (15) To require that a construction permit must be obtained from the Commissioner before any device or equipment subject to the provisions of this Article is installed, altered or moved from one place to another and to require that the Commissioner must be supplied with whatever plans, diagrams or other data he deems necessary to determine whether or not the proposed construction is in compliance with the provisions of this Article and the rules and regulations promulgated ~~thereunder; thereunder.~~
- (16) To prohibit the use of any device or equipment subject to the provisions of this Article which is found upon inspection to expose the public to an unsafe condition likely to cause personal injury or property damage. Such device or equipment shall be made operational only upon the Commissioner's determination that such device or equipment has been made ~~safe; safe.~~
- (17) To order the payment of all civil penalties provided by this Article. Funds collected pursuant to a civil penalty order shall be deposited with the State ~~Treasurer; Treasurer.~~
- (18) To require that any device or equipment subject to the provisions of this Article which has been out-of-service and not continuously maintained for one or more years shall not be returned to service without first complying with all rules and regulations governing existing ~~installations; and installations.~~
- (19) To coordinate enforcement and inspection activity relative to equipment, devices and operations covered by this Article in order to minimize duplication of liability or regulatory responsibility on the part of the employer or owner.
- (20) To establish fees not to exceed ~~two hundred dollars (\$200.00) one thousand dollars (\$1,000)~~ for the inspection and issuance of certificates of operation for all devices and equipment subject to this Article upon installation or alteration, for each follow-up inspection, and for annual periodic inspections thereafter."

SECTION 1.6.(e) G.S. 95-110.9(b) reads as rewritten:

"(b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) has occurred, shall make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the office of the ~~division~~ bureau and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation."

SECTION 1.7.(a) G.S. 95-111.3(6) reads as rewritten:

"(6) Director. – The Director of the Elevator and Amusement Device ~~Division~~ Bureau of the North Carolina Department of Labor."

SECTION 1.7.(b) G.S. 95-111.4 reads as rewritten:

"§ 95-111.4. Powers and duties of Commissioner.

The Commissioner of Labor is hereby empowered to do all of the following:

(1) To delegate to the Director of the Elevator and Amusement Device ~~Division~~ Bureau such powers, duties and responsibilities as the Commissioner determines will best serve the public interest in the safe operation of amusement devices.

(2) To supervise the Director of the Elevator and Amusement Device ~~Division~~ Bureau.

...

(13) To adopt, modify or revoke rules and regulations governing the qualifications of inspectors. The Commissioner may waive or amend the American National Safety Standards from the American National Standards Institute as those standards relate to the qualifications of inspectors in this State if the Commissioner sets alternative standards that are reasonably equivalent, as determined by the Commissioner.

...

(19) To establish fees not to exceed ~~two hundred fifty dollars (\$250.00)~~ one thousand dollars (\$1,000) for the inspection and issuance of certificates of operation for devices subject to this Article that are in use."

SECTION 1.7.(c) G.S. 95-111.10(b) reads as rewritten:

"(b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) has occurred, shall make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the office of the ~~division~~ bureau and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation."

SECTION 1.8. G.S. 95-125.2(b) reads as rewritten:

"(b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) of this section has occurred, shall make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the office of the ~~division~~ bureau and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation."

SECTION 2.1. Unless otherwise provided, this act is effective when it becomes law.