

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SENATE BILL 208
RATIFIED BILL

AN ACT MAKING VARIOUS CHANGES TO THE LABOR LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 74-24.2 reads as rewritten:

"§ 74-24.2. Definitions.

In this Article, unless the context otherwise requires: The following definitions apply in this Article:

- (1) ~~The term "accident" means an Accident.~~ – An unexpected event resulting in injury to, illness of, or death of a person or persons as a result of mining operations and any mine explosion, mine ignition, mine fire, mine inundation, mine cave-in, or other event which could have readily resulted in serious physical harm.
- (2) ~~The term "Advisory Council" shall mean the Advisory Council or body authorized to be established under this Article.~~
- (3) ~~The term "agent" means any Agent.~~ – Any person charged by the operator with responsibility for the operation of all or part of a mine or supervision of the miners in a mine, and for the purposes of this Article includes contractors, subcontractors, or independent contractors employed by the operator to perform any work or services at, in, or on the mine.
- (4) ~~The term "Commissioner" means the Commissioner.~~ – The Commissioner of Labor of North Carolina.
- (5) ~~The term "Director" means the Director.~~ – The person authorized under G.S. 74-24.19 and appointed by the Commissioner for the purpose of assisting in the administration of this Article.
- (6) ~~The term "imminent danger" means the Imminent danger.~~ – The existence of any condition or practice in a mine which could reasonably be expected to cause death or serious physical harm immediately to any miner if such condition or practice is not abated at once.
- (7) ~~The term "mine" means an Mine.~~ – An area of land and all private ways and roads appurtenant thereto, structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed or constructed on, under, or above the surface of such land by any person, used in, or to be used in, or resulting from (including the reclamation of mined areas or the storage of materials in mined areas), or to facilitate the work of exploring for, developing of, or extracting by any means or method in such area all minerals, inorganic and organic, from their natural deposits. The term "mine" also includes all mineral processing and milling facilities except those used in the processing of source materials as defined in the Atomic Energy Act of 1954, as amended.



- (8) ~~The term "miner" means any Miner.~~ – Any individual, other than an operator or an agent, working in or about a mine.
- (9) ~~The term "operator" means an Operator.~~ – An individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization owning, operating, leasing, controlling, or supervising a mining operation.
- (10) ~~The term "repeated violation" means a Repeated violation.~~ – A violation for which an operator was issued a notice or an order on an inspection and which is found to exist again on the next regular inspection, even though the violation was abated within the time fixed for abatement.
- (11) ~~The term "State" means the State.~~ – The State of North Carolina."

SECTION 1.(b) G.S. 74-24.4(a) reads as rewritten:

"(a) The Commissioner shall develop, adopt, revise, and promulgate safety and health standards for the purpose of the protection of life, the promotion of safety and health, and the prevention of "accidents" in mines which are subject to this Article. In the development of safety and health standards, the Commissioner shall consult with ~~the Advisory Council~~, interested federal agencies, appropriate representatives of other State agencies, appropriate representatives of mine operators and miners, and other interested persons and organizations whose participation would further the purposes of this Article."

SECTION 1.(c) G.S. 74-24.6 is repealed.

SECTION 2. G.S. 95-111.3(a) reads as rewritten:

"(a) The term "amusement device" shall mean any mechanical or structural device or attraction that carries or conveys or permits persons to walk along, around or over a fixed or restricted route or course or within a defined area including the entrances and exits thereto, for the purpose of giving such persons amusement, pleasure, thrills or excitement. This term shall not include any of the following:

- (1) Devices operated on a river, lake, or any other natural body of water.
- (2) Wavepools.
- (3) Roller skating rinks.
- (4) Ice skating rinks.
- (5) Skateboard ramps or courses.
- (6) Mechanical bulls.
- (7) Buildings or concourses used in laser games.
- (8) All-terrain vehicles.
- (9) Motorcycles.
- (10) Bicycles.
- (11) Mopeds.
- (12) Rock walls that are in a fixed, permanent location.
- (13) Zip-lines.
- (14) Funhouses, haunted houses, and similar walk-through devices that are erected temporarily on a seasonal basis and do not have mechanical components.
- (15) Playground equipment, including but not limited to soft contained play equipment, swings, seesaws, slides, stationary spring-mounted animal features, jungle gyms, rider-propelled merry-go-rounds, and trampolines.
- (16) Any train or device previously or currently approved for use on the public rail transit system."

SECTION 3. G.S. 95-133(b) reads as rewritten:

"(b) Subject to the general supervision of the Commissioner and Deputy Commissioner, the Director shall be responsible for the administration and enforcement of all laws, rules and regulations which it is the duty of the Division to administer and enforce. The Director shall have the power, jurisdiction and authority to:

...

- (13) Obtain relevant medical records. The Occupational Safety and Health Division is a health oversight agency as defined in 45 C.F.R. § 164.501, Standards for Privacy of Individually Identifiable Health Information. A covered entity, as defined by the Health Insurance Portability and Accountability Act, may disclose protected health information to health oversight agencies, including the Occupational Safety and Health Division, as necessary for law enforcement, judicial, and administrative purposes. The Commissioner or the Director, or their authorized agents, may obtain medical records of injured or deceased employees that are both directly related to the investigation being conducted and are necessary to conduct investigations and enforcement proceedings under this Article. The medical records to be obtained shall be restricted to the evaluation, diagnosis, or treatment of an employee injury or fatality. Such records shall only consist of those compiled and maintained by the Department of Health and Human Services, by hospitals participating in the statewide trauma system, or by emergency medical services providers in connection with the dispatch, response, treatment, or transport of individual patients. The medical records obtained by the Department shall be kept separate from any investigative file, shall be strictly confidential, are not public records within the meaning of G.S. 132-1, and shall not be released to any employer under investigation except as necessary to support the issuance of a citation in an OSHANC enforcement proceeding."

SECTION 4.(a) Article 5B of Chapter 95 of the General Statutes is repealed.

SECTION 4.(b) G.S. 1-539.12(c) reads as rewritten:

"(c) The provisions of this section apply to any employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with the provisions of this section. For the purposes of this section, "employer" also includes a job placement service but does not include a private personnel service as defined in G.S. 95-47.1 ~~or a job listing service as defined in G.S. 95-47.19~~ except as provided hereinafter. The provisions of this section apply to a private personnel service as defined in ~~G.S. 95-47.1 and a job listing service as defined in G.S. 95-47.19~~ G.S. 95-47.1 only to the extent that the service conveys information derived from credit reports, court records, educational records, and information furnished to it by the employee or prior employers and the service identifies the source of the information."

SECTION 5. G.S. 95-25.5(a) reads as rewritten:

"(a) No youth under 18 years of age shall be employed by any employer in any occupation without a youth employment certificate unless specifically exempted. The Commissioner of Labor shall prescribe regulations for youths and employers concerning the issuance, maintenance and revocation of certificates. Certificates will be issued by the ~~Commissioner, both directly and electronically.~~ Commissioner."

SECTION 6. G.S. 95-25.7 reads as rewritten:

"§ 95-25.7. Payment to separated employees.

Employees whose employment is discontinued for any reason shall be paid all wages due on or before the next regular payday either through the regular pay channels or by trackable mail if requested by the ~~employee.~~ employee in writing. Wages based on bonuses, commissions or other forms of calculation shall be paid on the first regular payday after the amount becomes calculable when a separation occurs. Such wages may not be forfeited unless the employee has been notified in accordance with G.S. 95-25.13 of the employer's policy or practice which results in forfeiture. Employees not so notified are not subject to such loss or forfeiture."

SECTION 7. G.S. 95-25.13 reads as rewritten:

"§ 95-25.13. Notification, posting, and records.

Every employer ~~shall~~shall do all of the following:

- (1) Notify its employees, ~~orally or~~ in writing at the time of hiring, of the promised wages and the day and place for ~~payment~~payment.
- (2) Make available to its employees, in writing or through a posted notice maintained in a place accessible to its employees, employment practices and policies with regard to promised ~~wages~~wages.
- (3) Notify employees, in ~~writing or through a posted notice maintained in a place accessible to its employees, at least 24 hours~~ writing, at least one pay period prior to any changes in promised wages. Wages may be retroactively increased without the prior notice required by this ~~subsection~~subsection.
- (4) Furnish each employee with an itemized statement of deductions made from that employee's wages under G.S. 95-25.8 for each pay period such deductions are made."

SECTION 8. G.S. 95-25.23A(a) reads as rewritten:

"(a) Any employer who violates the provisions of G.S. 95-25.15(b) or any regulation issued pursuant to G.S. 95-25.15(b), shall be subject to a civil penalty of up to two hundred fifty dollars (\$250.00) per employee with the maximum not to exceed two thousand dollars (\$2,000) per ~~investigation~~ violation by the Commissioner or the Commissioner's authorized representative. In determining the amount of the penalty, the Commissioner shall consider each of the following:

- (1) The appropriateness of the penalty for the size of the business of the employer charged.
- (2) The gravity of the violation.
- (3) Whether the violation involves an employee under 18 years of age.

The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a judicial proceeding pursuant to Article 4 of Chapter 150B."

SECTION 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Destin Hall
Presiding Officer of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2021