

SB119 ENGROSSED



1 SB119
2 QGH7151-2
3 By Senators Stewart, Coleman-Madison, Beasley, Hatcher,
4 Smitherman, Singleton, Orr
5 RFD: Judiciary
6 First Read: 20-Feb-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to child labor; to amend Section 25-8-59, Code of Alabama 1975, to increase civil and criminal penalties for an employer who violates child labor laws; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 25-8-59, Code of Alabama 1975, is amended to read as follows:

"§25-8-59

(a) Any employer who violates this chapter, or who fails or refuses to obey within a reasonable time any lawful order or direction given by the state officials charged with the enforcement of this chapter, and any parent, guardian, or custodian who suffers or permits ~~a person~~ an individual under his or her care or control who is under 19 years of age to work in violation of this chapter, shall be subject to civil penalties in addition to other penalties provided in this chapter.



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29 (b) The department ~~may~~ impose a civil penalty of not
30 less than three hundred dollars (\$300) upon ~~the following a~~
31 ~~determination: An~~ that an employer has violated a statutory
32 provision of Section 25-8-35(17), 25-8-36, 25-8-37, 25-8-38,
33 25-8-39, 25-8-40, 25-8-41, 25-8-44(a), 25-8-44(b), 25-8-45,
34 25-8-54, 25-8-57, 25-8-60, or 25-8-61.

35 (c) The department ~~may~~ shall impose a civil penalty of
36 ~~one thousand dollars (\$1,000) to~~ five thousand dollars
37 (\$5,000) to ten thousand dollars (\$10,000) upon ~~the following~~
38 a ~~determination: An~~ that an employer has violated a statutory
39 provision of Section 25-8-33, 25-8-35(1) ~~-(16), inclusive~~
40 through 25-8-35(16), 25-8-43(a), or 25-8-44(d).

41 (d) In determining the number of violations committed
42 by an employer, the department may assess a separate civil
43 penalty for each individual employee affected by the
44 employer's violation.

45 (e) In addition, the department may assess more than
46 one civil penalty against an employer with respect to the same
47 adversely affected employee if the employer has violated more
48 than one statutory provision ~~in Act 2009-565~~ of this chapter.

49 (f) The employer shall be notified of a civil penalty
50 assessment by the Notice of Violation and Opportunity to Show
51 Cause which shall be sent to the employer.

52 (g) The Notice of Violation and Opportunity to Show
53 Cause shall provide all of the following:

54 (1) The total civil penalty assessed.

55 (2) The right of the employer to request in writing a
56 hearing to show cause why the civil penalty should not be



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57 assessed.

58 (3) An advisement that no hearing shall be granted
59 unless a written request for a hearing is received by the
60 department within 30 days from the date of issue of the
61 notice.

62 (4) The right of the employer to waive the right to
63 request a hearing and to respond in writing to the notice
64 within 30 days of the issue date of the notice.

65 (h) Any employer who seeks to contest a civil penalty
66 assessment shall file, within 30 days from the date the Notice
67 of Violation and Opportunity to Show Cause was issued, a
68 written request for an opportunity to be heard which shall
69 clearly state the reasons for such request, including facts to
70 demonstrate that no violation has occurred.

71 (i) If the secretary or his or her designee determines
72 that the employer has stated adequate facts or legal grounds
73 to warrant a hearing, the secretary or his or her designee
74 shall provide written notice of the hearing to show cause why
75 a civil penalty should not be assessed and shall mail written
76 notice to the employer of the date, time, and place of the
77 hearing. Such determination shall be within the discretion of
78 the secretary or his or her designee. The notice shall inform
79 the employer of ~~its~~ the employer's rights in the hearing
80 including the following:

81 (1) The right to be represented by any person,
82 including an attorney.

83 (2) The right to present documentary evidence and a
84 written argument in support of the employer's position.



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85 (j) A request for postponement of a scheduled hearing
86 ~~so-scheduled~~ shall only be granted where the rights of an
87 employer would be substantially prejudiced by the denial of
88 the request or in a medical emergency. Only the secretary or
89 his or her designee has discretion to grant such requests.

90 (k) Following a hearing or after the employer has
91 waived the right to request a hearing, the secretary or his or
92 her designee may uphold or modify the civil penalty
93 assessment. ~~Such~~ This determination shall be within the sole
94 discretion of the secretary or his or her designee.

95 (l) If the employer requests a hearing but the
96 secretary or his or her designee denies the request for a
97 hearing, the total civil penalty assessed in the notice shall
98 be the final civil penalty.

99 (m) If the employer does not request a hearing or
100 respond in writing to the notice, the total civil penalty
101 assessed in the notice shall be the final civil penalty unless
102 otherwise modified by the secretary or his or her designee.

103 (n) The department may file an action for the
104 collection of civil penalties imposed pursuant to this section
105 against an employer in the county where the violation
106 occurred.

107 (o) All ~~moneys~~ monies received from the assessment of
108 any penalty pursuant to this section shall accrue to the State
109 General Fund.

110 (p) In addition to the civil penalties provided for in
111 subsection (b), an employer who violates ~~Act 2009-565~~ this
112 chapter may be deemed guilty of a Class B or Class C



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113 misdemeanor. A first conviction shall be deemed a Class C
114 misdemeanor. A second or subsequent conviction shall be deemed
115 a Class B misdemeanor.

116 (q) In addition to civil penalties provided for in
117 subsection (c), an employer who is found in violation of
118 subsection (c) involving serious physical injury to or death
119 of a minor may be deemed guilty of a ~~Class A misdemeanor~~
120 ~~or~~ Class B felony or Class C felony. A first conviction shall
121 be deemed a Class ~~A misdemeanor~~ C felony. A second or
122 subsequent conviction shall be deemed a Class ~~C~~ B felony."

123 Section 2. Although this bill would have as its purpose
124 or effect the requirement of a new or increased expenditure of
125 local funds, the bill is excluded from further requirements
126 and application under Section 111.05 of the Constitution of
127 Alabama of 2022, because the bill defines a new crime or
128 amends the definition of an existing crime.

129 Section 3. This act shall become effective on October
130 1, 2024.

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133 Senate

134 Read for the first time and referred20-Feb-24
135 to the Senate committee on Judiciary

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137 Read for the second time and placed06-Mar-24
138 on the calendar:

139 1 amendment

140
141 Read for the third time and passed19-Mar-24
142 as amended

143 Yeas 33

144 Nays 0

145 Abstains 0

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148 Patrick Harris,
149 Secretary.

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