

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 542
House Committee Substitute Favorable 8/16/23
Third Edition Engrossed 8/16/23
Proposed Conference Committee Substitute S542-PCCS35370-BB-2

Short Title: DOL Omnibus/Other Changes.

(Public)

Sponsors:

Referred to:

April 5, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE OMNIBUS CHANGES TO THE LABOR LAWS OF NORTH
3 CAROLINA, TO MAKE OTHER TECHNICAL CHANGES, AND TO MODIFY
4 ELEVATOR BIDDING SPECIFICATION REQUIREMENTS ON PUBLIC WORKS
5 PROJECTS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.1.** G.S. 95-25.23(a) reads as rewritten:

8 "(a) Any employer who violates the provisions of G.S. 95-25.5 (Youth Employment) or
9 any regulation issued thereunder, shall be subject to a civil penalty not to exceed five hundred
10 dollars (\$500.00) for the first violation and not to exceed one thousand dollars (\$1,000) for each
11 subsequent violation. In determining the amount of such penalty, the appropriateness of such
12 penalty to the size of the business of the person charged and the gravity of the violation shall be
13 considered. The determination by the Commissioner shall be final, unless within 15 days after
14 receipt of notice thereof by certified mail with return receipt, by signature confirmation as
15 provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26
16 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to include an email address
17 provided by the employer to the Commissioner, with a delivery receipt, that will be effective to
18 give the employer notice of the penalty, or via hand delivery, the person charged with the
19 violation takes exception to the determination, in which event final determination of the penalty
20 shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a
21 judicial proceeding pursuant to Article 4 of Chapter 150B."

22 **SECTION 1.2.** G.S. 95-25.23A(a) reads as rewritten:

23 "**§ 95-25.23A. Violation of record-keeping requirement; civil penalty.**

24 (a) Any employer who violates the provisions of G.S. 95-25.15(b) or any regulation
25 issued pursuant to G.S. 95-25.15(b), shall be subject to a civil penalty of ~~up to two hundred fifty~~
26 ~~dollars (\$250.00) per employee with the maximum not to exceed two thousand dollars (\$2,000)~~
27 seven hundred fifty dollars (\$750.00) per employee with the maximum not to exceed four
28 thousand five hundred dollars (\$4,500) per violation by the Commissioner or the Commissioner's
29 authorized representative. In determining the amount of the penalty, the Commissioner shall
30 consider each of the following:

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



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

10 **SECTION 2.1.** G.S. 95-69.9 reads as rewritten:

11 "**§ 95-69.9. Definitions.**

12 (a) Repealed by Session Laws 2015-221, s. 2.7, effective August 18, 2015.

13 (b) ~~The term "boiler" shall mean a Boiler.~~ – A closed vessel in which water is heated,
 14 steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum
 15 by the direct or indirect application of heat. The term "boiler" shall also include fired units for
 16 heating or vaporizing liquids other than water where these units are complete within
 17 themselves.water.

18 (b1) ~~The term "Chief Inspector" shall mean the Chief Inspector.~~ – The individual
 19 appointed by the Commissioner to hold the office of Chief of the Boiler Safety Bureau within
 20 the Department of Labor. The Chief Inspector serves as the North Carolina member on the
 21 National Board of Boiler and Pressure Vessel Inspectors.

22 (c) ~~The term "Commissioner" shall mean the Commissioner.~~ – The North Carolina
 23 Commissioner of Labor.

24 (d) Repealed by Session Laws 2005-453, s. 1.

25 (d1) ~~The term "Deputy Inspector" shall mean any Deputy Inspector.~~ – Any Boiler and
 26 Pressure Vessel Inspector who is employed by the Department of Labor and is subordinate to the
 27 Chief Inspector.

28 (d2) Imminent Danger. – Any condition or practice in any location that a boiler or pressure
 29 vessel is being operated such that a danger exists that could be expected to cause death or serious
 30 physical harm if the condition is not abated.

31 (e) ~~The term "inspection certificate" or "certificate of inspection" shall mean certification~~
 32 Inspection Certificate or Certificate of Inspection. – Certification by the Chief Inspector that a
 33 boiler or pressure vessel is in compliance with the rules and regulations adopted under this
 34 Article.

35 (f) ~~The term "inspector's commission" shall mean a Inspector's Commission.~~ – A written
 36 authorization by the Commissioner for a person who has met the qualifications set out in this
 37 Article to conduct inspections of boilers and pressure vessels.

38 (f1) Menace to Public Safety. – A boiler or pressure vessel that cannot be operated without
 39 a risk of injury to persons and property.

40 (f1)(f2) ~~The term "National Board" shall mean the National Board.~~ – The National Board of
 41 Boiler and Pressure Vessel Inspectors.

42 (f2)(f3) ~~The term "person" shall mean any Person.~~ – Any individual, association, partnership,
 43 firm, corporation, private organization, or the State of North Carolina or any political subdivision
 44 of the State or any unit of local government.

45 (g) ~~The term "pressure vessel" shall mean a Pressure Vessel.~~ – A vessel in which the
 46 pressure is obtained from an indirect source or by the application of heat from an indirect source
 47 or a direct source, other than those included within the term "boiler"."

48 **SECTION 2.2.** G.S. 95-69.10 reads as rewritten:

49 "**§ 95-69.10. Application of Article; exemptions.**

50 ...

51 (b) This Article shall not apply to:

- 1 (1) Boilers and pressure vessels owned or operated by the federal government,
2 unless the agency in question has asked for coverage by this Article.
- 3 (2) Pressure vessels used for transportation or temporary storage of compressed
4 gases when constructed in compliance with the specifications of the United
5 States Department of Transportation and when charged with gas marked,
6 maintained, and periodically requalified for use, as required by appropriate
7 regulations of the United States Department of Transportation. This
8 exemption shall not apply to permanently installed vessels that are refilled
9 on-site.
- 10 (3) Portable pressure vessels used for agricultural purposes only or for pumping
11 or drilling in an open field for water, gas or coal, gold, talc, or other minerals
12 and metals.
- 13 (4) Boilers and pressure vessels which are located in private residences or in
14 apartment houses of less than six families.
- 15 (5) Repealed by Session Laws 2007-231, s. 1, effective July 18, 2007.
- 16 (6) Air tanks located on vehicles licensed under the rules and regulations of other
17 state authorities operating under rules and regulations substantially similar to
18 those of this State and used for carrying passengers or freight within interstate
19 commerce.
- 20 (7) Air tanks installed on right-of-way of railroads and used directly in the
21 operation of ~~trains~~ trains, if installed with proper pressure relief devices,
22 including vessels associated with electrical apparatus in electrical
23 switchyards.
- 24 (8) Any of the following pressure vessels that do not exceed the listed limitations
25 if the vessel is not equipped with a quick actuating closure:
- 26 a. Five cubic feet in volume and ~~250 psig~~ a maximum allowable working
27 pressure not exceeding 15 psig.
- 28 b. Three cubic feet in volume and a maximum allowable working
29 pressure not exceeding 350 psig.
- 30 c. One and one-half cubic feet in volume and a maximum allowable
31 working pressure not exceeding 600 psig.
- 32 d. An inside diameter of six inches with no limitation on pressure.
- 33 e. Five cubic feet in volume when the pressure vessel is constructed and
34 operated on the same real property zoned industrial and where its
35 operation is undertaken using commercially acceptable safety
36 precautions for the application.
- 37 (9) Pressure vessels operating at a working pressure not exceeding 15 psig.
- 38 (10) ~~Pressure~~ Unfired hot water storage vessels with a nominal ~~water~~ capacity not
39 exceeding 120 gallons and containing water ~~under pressure~~ at a maximum
40 allowable working pressure not exceeding 160 psig or temperatures not
41 exceeding 120°F, including those containing air, the compression of which
42 serves as a cushion. 210°F.
- 43 (11) Boilers and pressure vessels on railroad steam locomotives that are subject to
44 federal railway safety regulations pursuant to 49 C.F.R. § 230.
- 45 (12) Repealed by Session Laws 1985, c. 620, s. 2.
- 46 (13) Coil-type hot water supply boilers, generally referred to as steam jennies,
47 where the water can flash into steam when released directly to the atmosphere
48 through a manually operated nozzle and where adequate safety relief valves
49 and controls are installed on them, provided none of the following limitations
50 are exceeded:
- 51 a. There is no drum, header, or other steam space.

- 1 b. No steam is generated within the coil.
- 2 c. Maximum 1 inch tube size.
- 3 d. Maximum 3/4 inch nominal pipe size.
- 4 e. Maximum 6 gallon nominal water storage capacity.
- 5 f. Water temperature of 350°F.
- 6 (14) Pressure vessels containing water under pressure, including those containing
- 7 air, the compression of which serves as a cushion, at a temperature not
- 8 exceeding 110 degrees ~~fahrenheit~~–Fahrenheit and a maximum allowable
- 9 working pressure not exceeding 300 psig, except that this provision shall not
- 10 exclude hydropneumatic pressure vessels providing potable water service
- 11 from regulation.
- 12 (15) An air tank that does not exceed eight cubic feet in volume that is installed on
- 13 a service vehicle.
- 14 (16) Autoclaves in medical offices and hospitals that are less than five cubic feet
- 15 in volume, even if they are equipped with a quick actuating closure.
- 16 (17) Coil-type hot water supply boilers of the instantaneous type where adequate
- 17 safety relief valves and controls are installed if none of the following
- 18 limitations are exceeded:
- 19 a. There is no drum or header.
- 20 b. No steam is generated within the coil.
- 21 c. Maximum one-inch tube size.
- 22 d. Maximum three-quarter-inch nominal pipe size.
- 23 e. Maximum six-gallon nominal water storage capacity.
- 24 f. Water temperature not to exceed 250°F.
- 25 g. Maximum heat input does not exceed 400,000 Btu/hr or 110 kW.
- 26 h. Maximum allowable working pressure of 260 psig.
- 27 (18) Toy boilers, if all of the following apply:
- 28 a. The water containing volume of the boiler is less than one quart.
- 29 b. The operating pressure does not exceed 15 psig.
- 30 c. The maximum outside diameter of the shell is no greater than six
- 31 inches.
- 32 d. The boiler is manually fired by solid fuels.
- 33 (19) Pressure vessels ~~associated with electrical apparatus in electrical switchyards~~
- 34 ~~if the pressure vessels have proper pressure relief devices.~~providing potable
- 35 water service having an internal bladder for containing an air cushion,
- 36 provided the vessels are not connected to a continuous air source for the
- 37 purpose of monitoring and maintaining air pressure or volume.
- 38 (20) Carbon dioxide tanks used in beverage dispensing service.
- 39 (c) The construction and inspection requirements established by the Department of Labor
- 40 shall not apply to hot water supply boilers or water heaters which are directly fired with oil, gas,
- 41 or electricity, or to ~~hot water storage tanks~~indirect fired water heaters heated by steam or any
- 42 other indirect means, if they are equipped with ASME Code and National Board certified safety
- 43 relief valves and do not exceed any of the following limitations:
- 44 (1) Heat input of 200,000 Btu/hr or 58.6 kW.
- 45 (2) Repealed by Session Laws 2005-453, s. 2.
- 46 (3) Nominal water capacity of 120 gallons.
- 47 "

SECTION 2.3. G.S. 95-69.17 reads as rewritten:

"§ 95-69.17. Noncomplying devices; appeal.

- 50 (a) If the Commissioner determines that a boiler or pressure vessel is subject to the
- 51 provisions of this Article and that the operation of the boiler or pressure vessel is exposing the

1 public to an unsafe condition likely to result in serious personal injury or property damage, the
2 Commissioner may immediately order in writing that the use of the boiler or pressure vessel be
3 stopped or limited until the Commissioner determines that the boiler or pressure vessel has been
4 made safe for operation.

5 (b) If the Commissioner determines that the provisions of this Article or the rules adopted
6 pursuant to this Article have not been complied with, to include nonpayment of fees within 30
7 days of assessment, the Commissioner may refuse to issue or renew or may revoke, suspend, or
8 amend an inspection certificate.

9 (c) Any action taken under this section by the Commissioner shall be final, unless within
10 15 days after receipt of notice thereof by certified mail with return receipt, by signature
11 confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized
12 pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to include an
13 electronic mail address provided by the person to the Commissioner, with a delivery receipt, that
14 will be effective to give the person notice of the penalty, or via hand delivery, the person against
15 whom such action was taken takes exception to the determination, in which event the final
16 determination of the action shall be made in an administrative proceeding and in a judicial
17 proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act."

18 **SECTION 2.4.** G.S. 95-69.18 is amended by adding a new subsection to read:

19 "(d) No person may operate or permit to be operated any boiler or pressure vessel subject
20 to the provisions of this Article after the Commissioner has refused to issue, refused to renew, or
21 has revoked an inspection certificate for nonpayment of fees."

22 **SECTION 2.5.** G.S. 95-69.19 reads as rewritten:

23 "**§ 95-69.19. Violations; civil penalties; appeals.**

24 (a) ~~Any person who violates G.S. 95-69.18(a) or (b) (operation without inspection~~
25 ~~certificate; operation not in accordance with Article or rules and regulations) shall be subject to~~
26 ~~a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each day each boiler or~~
27 ~~pressure vessel is so operated or used.~~

28 (b) ~~Any person who violates G.S. 95-69.18(c) (operation after refusal to issue or after~~
29 ~~revocation of inspection certificate) G.S. 95-69.18 shall be subject to a civil penalty not to exceed~~
30 ~~five hundred dollars (\$500.00) for each day any such boiler or pressure vessel is so operated or~~
31 ~~used, verified by an inspector to be operated or used in a condition considered to be a menace to~~
32 ~~public safety or an imminent danger.~~

33 (c) ~~In determining the amount of any penalty ordered under authority of this section, the~~
34 ~~Commissioner shall give due consideration to the appropriateness of the penalty with respect to~~
35 ~~the size of the business of the person being charged, the gravity of the violation, the good faith~~
36 ~~of the person, and the record of previous violations.~~

37 (d) The determination of the amount of the penalty by the Commissioner shall be final,
38 unless within 15 days after receipt of notice thereof by certified mail with return receipt, by
39 signature confirmation as provided by the U.S. Postal Service, by a designated delivery service
40 authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to
41 include an email address provided by the person to the Commissioner, with a delivery receipt,
42 that will be effective to give the person notice of the violation, or via hand delivery, the person
43 charged with the violation takes exception to the determination in which event the final
44 determination of the penalty shall be made in an administrative proceeding and in a judicial
45 proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

46 (e) The Commissioner may file in the office of the clerk of the superior court of the
47 county where the violation occurred or where the person against whom a civil penalty has been
48 ordered resides, or if a corporation is involved in the county where the corporation maintains its
49 principal place of business, a certified copy of a final order of the Commissioner unappealed
50 from, or of a final order of the Commissioner affirmed upon appeal. Upon filing of the final
51 order, the clerk of superior court shall enter judgment in accordance with the order and notify the

1 parties. The judgment shall have the same force and effect as a judgment by the superior court of
2 the General Court of Justice."

3 **SECTION 3.1.** G.S. 95-110.6(c) reads as rewritten:

4 "(c) Any action taken under this section by the Commissioner shall be final, unless within
5 15 days after receipt of notice thereof by certified mail with return receipt, by signature
6 confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized
7 pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to include an
8 electronic mail address provided by the person to the Commissioner, with a delivery receipt, that
9 will be effective to give the person notice, or via hand delivery, the person against whom such
10 action was taken takes exception to the determination, in which event the final determination of
11 the action shall be made in an administrative proceeding and in a judicial proceeding pursuant to
12 Chapter 150B of the General Statutes, the Administrative Procedure Act."

13 **SECTION 3.2.** G.S. 95-110.10(e) reads as rewritten:

14 "(e) The determination of the amount of the penalty by the Commissioner shall be final,
15 unless within 15 days after receipt of notice thereof by certified mail with return receipt, by
16 signature confirmation as provided by the U.S. Postal Service, by a designated delivery service
17 authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to
18 include an electronic mail address provided by the person to the Commissioner, with a delivery
19 receipt, that will be effective to give the person notice, or via hand delivery, the person charged
20 with the violation takes exception to the determination in which event the final determination of
21 the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant
22 to Chapter 150B of the General Statutes, the Administrative Procedure Act."

23 **SECTION 4.1.** G.S. 95-111.6(c) reads as rewritten:

24 "(c) Any action taken under this section by the Commissioner shall be final, unless within
25 15 days after receipt of notice thereof by certified mail with return receipt, by signature
26 confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized
27 pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to include an
28 electronic mail address provided by the person to the Commissioner, with a delivery receipt, that
29 will be effective to give the person notice, or via hand delivery, the person against whom such
30 action was taken takes exception to the determination, in which event the final determination of
31 the action shall be made in an administrative proceeding and in a judicial proceeding pursuant to
32 Chapter 150B of the General Statutes, the Administrative Procedure Act."

33 **SECTION 4.2.** G.S. 95-111.13(g) reads as rewritten:

34 "(g) The determination of the amount of the penalty by the Commissioner is final, unless
35 within 15 days after receipt of notice thereof by certified mail with return receipt, by signature
36 confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized
37 pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to include an
38 electronic mail address provided by the person to the Commissioner, with a delivery receipt, that
39 will be effective to give the person notice, or via hand delivery, the person charged with the
40 violation takes exception to the determination, in which event final determination of the penalty
41 shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter
42 150B of the General Statutes, the Administrative Procedure Act."

43 **SECTION 5.1.** G.S. 95-123 reads as rewritten:

44 "**§ 95-123. Orders.**

45 If, after investigation, the Commissioner finds that a violation of any of his rules and
46 regulations exists, or that there is a condition in passenger tramway construction, operation, or
47 maintenance which endangers the safety of the public, the Commissioner shall forthwith issue
48 his written order setting forth his findings, the corrective action to be taken, and fixing a
49 reasonable time for compliance therewith. The order shall be sent to the affected operator by
50 certified mail with return receipt, by signature confirmation as provided by the U.S. Postal
51 Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with

1 delivery receipt, by electronic means to include an electronic mail address provided by the person
2 to the Commissioner, with a delivery receipt, that will be effective to give the person notice, or
3 via hand delivery, and shall become final unless the operator contests the order by filing a petition
4 for a contested case under G.S. 150B-23 within 20 days after receiving the order. The
5 Commissioner shall have the power to institute injunctive proceedings in any court of competent
6 jurisdiction of the district court district as defined in G.S. 7A-133 or superior court district or set
7 of districts as defined in G.S. 7A-41.1, as the case may be, in which the passenger tramway is
8 located for the purpose of restraining the operation of said tramway or for compelling compliance
9 with any lawful order of the Commissioner. Judicial review of a final decision under this section
10 may be obtained under Article 4 of Chapter 150B of the General Statutes."

11 **SECTION 5.2.** G.S. 95-125.3(e) reads as rewritten:

12 "(e) The Commissioner's determination of the amount of the penalty is final, unless within
13 15 days after receipt of notice thereof by certified mail with return receipt, by signature
14 confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized
15 pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to include an
16 electronic mail address provided by the person to the Commissioner, with a delivery receipt, that
17 will be effective to give the person notice, or via hand delivery, the person charged with the
18 violation takes exception to the determination, in which event final determination of the penalty
19 shall be made in an administrative proceeding pursuant to Chapter 150B of the General Statutes,
20 the Administrative Procedures Act."

21 **SECTION 6.1.** G.S. 95-137(b) reads as rewritten:

22 "(b) Procedure for Enforcement. –

23 (1) If, after an inspection or investigation, the Director issues a citation under any
24 provisions of this Article, the Director shall, within a reasonable time after the
25 termination of such inspection or investigation, notify the employer by
26 certified mail with return receipt, by signature confirmation as provided by
27 the U.S. Postal [Service], by a designated delivery service authorized pursuant
28 to 26 U.S.C. § 7502(f)(2) with delivery receipt, by electronic means to
29 include an electronic mail address provided by the person to the
30 Commissioner, with a delivery receipt, that will be effective to give the person
31 notice, or via hand delivery of any ~~penalty, citation,~~ if any, the Director has
32 recommended to the Commissioner to be proposed under the provisions of
33 this Article and that the employer has 15 working days within which to notify
34 the Director in writing that the employer wishes to:

- 35 a. Contest the citation or proposed assessment of penalty; or
- 36 b. Request an informal conference.

37 Following an informal conference, unless the employer and Department have
38 entered into a settlement agreement, the Director shall send the employer an
39 amended citation or notice of no change. The employer has 15 working days
40 from the receipt of the amended citation or notice of no change to notify the
41 Director that the employer wishes to contest the citation or proposed
42 assessment of penalty, whether or not amended. If, within 15 working days
43 from the receipt of the notice issued by the Director, the employer fails to
44 notify the Director in writing that the employer requires an informal
45 conference to be held or intends to contest the citation or proposed assessment
46 of penalty, and no notice is filed by any employee or representative of
47 employees under the provisions of this Article within such time, the citation
48 and the assessment as proposed to the Commissioner shall be deemed final
49 and not subject to review by any court.

50 (2) If the Director has reason to believe that an employer has failed to correct a
51 violation for which a citation has been issued within the period permitted for

1 its correction (which period shall not begin to run until the entry of a final
 2 order by the Commission in case of any review proceedings under this Article
 3 initiated by the employer in good faith and not solely for a delay or avoidance
 4 of penalties), the Director shall notify the employer by certified mail with
 5 return receipt, by signature confirmation as provided by the U.S. Postal
 6 Service, by a designated delivery service authorized pursuant to 26 U.S.C. §
 7 7502(f)(2) with delivery receipt, by electronic means to include an electronic
 8 mail address provided by the person to the Commissioner, with a delivery
 9 receipt, that will be effective to give the person notice, or via hand delivery of
 10 such failure and of the penalty proposed to be assessed under this Article by
 11 reason of such failure and that the employer has 15 working days within which
 12 to notify the Director that the employer wishes to contest the Director's
 13 notification of the proposed assessment of penalty. If, within 15 working days
 14 from the receipt of notification issued by the Director, an employer fails to
 15 notify the Director that the employer intends to contest the notification or
 16 proposed recommendation of penalty, the notification and the proposed
 17 assessment made by the Director shall be final and not subject to review by
 18 any court.

19"

20 **SECTION 7.1.** G.S. 95-234(a) reads as rewritten:

21 "(a) Any examiner who violates the provisions of this Article shall be subject to a civil
 22 penalty of up to two hundred fifty dollars (\$250.00) per affected examinee with the maximum
 23 not to exceed one thousand dollars (\$1,000) per investigation by the Commissioner of Labor or
 24 his authorized representative. In determining the amount of the penalty, the Commissioner shall
 25 consider:

- 26 (1) The appropriateness of the penalty for the size of the business of the employer
 27 charged; and
- 28 (2) The gravity of the violation.

29 The determination by the Commissioner shall be final, unless within 15 days after receipt of
 30 notice thereof by certified mail with return receipt, by signature confirmation as provided by the
 31 U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. §
 32 7502(f)(2) with delivery receipt, by electronic means to include an electronic mail address
 33 provided by the person to the Commissioner, with a delivery receipt, that will be effective to give
 34 the person notice, or via hand delivery, the person charged with the violation takes exception to
 35 the determination, in which event final determination of the penalty shall be made in an
 36 administrative proceeding pursuant to Article 3 of Chapter 150B and which final determination
 37 shall be subject to judicial review in a judicial proceeding pursuant to Article 4 of Chapter 150B."

38 **SECTION 8.1.** G.S. 95-255 and G.S. 95-255.1 are repealed.

39 **SECTION 8.2.** G.S. 95-250 reads as rewritten:

40 "Article 22.

41 "Safety and Health Programs and Committees.

42 **"§ 95-250. Definitions.**

43 The following definitions shall apply in this Article:

- 44 (1) "Experience rate modifier" means the numerical modification applied by the
 45 Rate Bureau to an experience rating for use in determining workers'
 46 compensation premiums.
- 47 (2) "Worksite" means a single physical location where business is conducted or
 48 where operations are performed by employees of an employer.

49 The definitions of Article 16 of this Chapter shall also apply to this Article, except that
 50 "employee" for the purposes of G.S. 95-252(a), 95-252(c)(1)b., ~~95-255,~~ and 95-256 means an

1 employee employed for some portion of a working day in each of 20 or more calendar weeks in
2 the current or preceding calendar year."

3 **SECTION 9.1.(a)** Section 20.4(b) of S.L. 2022-74, as amended by Section 22(a) of
4 S.L. 2023-46, reads as rewritten:

5 "SECTION 20.4.(b) ~~G.S. 147-69.22(a)(22)~~ G.S. 147-69.2(a)(22) and G.S. 147-69.6A are
6 repealed."

7 **SECTION 9.1.(b)** This section is effective retroactively to July 1, 2022.

8 **SECTION 10.1.(a)** G.S. 133-3 reads as rewritten:

9 **"§ 133-3. Specifications to carry competitive items; substitution of materials.**

10 (a) All architects, engineers, designers, or ~~draftsmen, drafters,~~ when providing design
11 services, or writing specifications, directly or indirectly, for materials to be used in any city,
12 county or State work, shall specify in their plans the required performance and design
13 characteristics of such materials. However, when it is impossible or impractical to specify the
14 required performance and design characteristics for such materials, then the architect, engineer,
15 designer or ~~draftsman-drafter~~ may use a brand name specification so long as they cite three or
16 more examples of items of equal design or equivalent design, which would establish an
17 acceptable range for items of equal or equivalent design. The specifications shall state clearly
18 that the cited examples are used only to denote the quality standard of product desired and that
19 they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they
20 are used only to set forth and convey to bidders the general style, type, character and quality of
21 product desired; and that equivalent products will be acceptable. Where it is impossible to specify
22 performance and design characteristics for such materials and impossible to cite three or more
23 items due to the fact that there are not that many items of similar or equivalent design in
24 competition, then as many items as are available shall be cited. On all city, county or State works,
25 the maximum interchangeability and compatibility of cited items shall be required. The brand of
26 product used on a city, county or State work shall not limit competitive bidding on future works.
27 Specifications may list one or more preferred brands as an alternate to the base bid in limited
28 circumstances. Specifications containing a preferred brand alternate under this ~~section~~ subsection
29 must identify the performance standards that support the preference. Performance standards for
30 the preference must be approved in advance by the owner in an open meeting. Any alternate
31 approved by the owner shall be approved only where (i) the preferred alternate will provide cost
32 savings, maintain or improve the functioning of any process or system affected by the preferred
33 item or items, or both, and (ii) a justification identifying these criteria is made available in writing
34 to the public. Substitution of materials, items, or equipment of equal or equivalent design shall
35 be submitted to the architect or engineer for approval or disapproval; such approval or
36 disapproval shall be made by the architect or engineer prior to the opening of bids. The purpose
37 of this statute is to mandate and encourage free and open competition on public contracts.

38 (b) Specifications for the purposes of competitively bidding components, systems,
39 construction services, or maintenance services that relate to elevators pursuant to subsection (a)
40 of this section:

41 (1) Shall not list preferred brands as an alternate to the base bid.

42 (2) Shall not require a specified time greater than five years that a bidder must
43 have conducted business within this State.

44 (3) Shall include the statement, "Cited examples are used only to denote the
45 quality standard of product desired and do not restrict bidders to a specific
46 brand, make, manufacturer or specific name.", when utilizing brand name
47 specification.

48 (4) Shall include a reference to G.S. 143-59."

49 **SECTION 10.1.(b)** This section is effective when it becomes law.

50 **SECTION 11.1.** Except as otherwise provided, this act is effective when it becomes
51 law.