



# HOUSE BILL 374: 2017 DOL Technical Changes.

**This Bill Analysis  
reflects the  
contents of the bill  
as it was presented  
in committee.**

2017-2018 General Assembly

<b>Committee:</b>	House State and Local Government II	<b>Date:</b>	April 3, 2017
<b>Introduced by:</b>	Reps. McElraft, Howard, Johnson, Hurley	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	First Edition		Committee Co-Counsel

**OVERVIEW:** *House Bill 374 would make a number of technical, conforming, and other changes to the labor laws of North Carolina. The act would become effective July 1, 2017.*

[As introduced, this bill was identical to S501, as introduced by Sens. Wade, Brock, which is currently in Senate Rules and Operations of the Senate.]

### BILL ANALYSIS:

#### Section 1:

Under current law, the Wage and Hour Act allows the Commissioner of Labor and county directors of social services to review and approve youth employment certificates. Section 1 would remove the ability of county directors of social services or their designees from approving youth employment certificates.

#### Section 2:

Section 2 makes a number of changes to the Passenger Tramway Safety Act. It adds definitions for "funicular" and "gondola" and clarifies that these terms fit within the definition of "passenger tramway."

#### Section 3:

Under current law, the Commissioner of Labor has authority to adopt and modify rules for carrying out the Passenger Tramway Safety Act. The rules must conform to standards contained in the B77.1-American National Standards Safety Requirements for Aerial Passenger Tramways and conform with good engineering and safety standards, formulas, and practices.

Section 3 removes the requirement that rules must conform to standards contained in the B77.1-American National Standards Safety Requirements for Aerial Passenger Tramways.

#### Section 4:

Section 4 makes the following changes to the Passenger Tramway Safety Act:

**Operation of Unsafe Devices-** provides that no person must operate, permit to be operated, or use any device subject to the provisions of this Article if the person knows or reasonably should know that the operation or use of the device will expose the public to an unsafe condition which is likely to result in personal injury or property damage.

**Reports Required-** requires the owner or an agent to notify the Commissioner within 24 hours when either of the following occurs:

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1. Death or injury requiring medical treatment, other than first aid, by a physician.
2. Damage to the device indicating a substantial defect in design, mechanics, structure, or equipment that affects the future safe operation of the device. (No reporting required for normal wear and tear).

Upon receipt of an occurrence, the Commissioner must complete an investigation, and a report is placed on file. The owner may include independent investigations in the file.

If #1 or #2 above occurs, then: (i) a person may not operate or attempt to move a device without the approval of the Commissioner unless doing so to prevent injury of another person and (ii) a person shall not remove or attempt to remove any part of the device or repair or attempt to repair any damaged part necessary to a complete investigation.

**Civil Penalties-** Section 4 creates the following civil penalties:

1. Violation of registration and application procedures- A civil penalty for not to exceed \$1,250 for each day each device is so operated or used.
2. Violation of required liability insurance or reporting requirements- A civil penalty not to \$2,500 for each day each device is so operated and used.
3. Violation of operation of unsafe device- Civil penalty not to exceed \$5,000 for each day each device is so operated and used.

In determining the amount of the penalty, the Commissioner must consider the annual gross volume of the person charged, the gravity of the violation, whether good faith was exercised, and the record of previous violations. There is a mechanism for appealing the decision of the Commissioner under Chapter 150B. The Commissioner may file with the clerk of superior court a certified copy of a final order unappealed from or a final order affirmed upon appeal. The clerk shall enter judgment and notify the parties, and the judgment has the same affect as if entered by the superior court.

## **Criminal Penalties-**

It is a Class 2 misdemeanor to willfully violate any provision of Article 15 of Chapter 95 and may include a fine of up to \$10,000.

It is a Class 1 misdemeanor if a conviction is for a violation committed after a first conviction and may include a fine of not more than \$20,000.

A person who willfully violates Article 15 of Chapter 95 and the violation causes the serious injury or death of a person, is guilty of a Class E felony which shall include a fine.

Nothing in these provisions prevents a prosecution charging any degree of willful or culpable homicide.

## **Sections 5-10**

Sections 5-10 update terminology throughout the Hazardous Chemicals Right to Know Act. They delete the term "Standard Industrial Classification (SIC)" and substitute the term "North American Classification System (NAICS)." These sections also delete the term "Material Safety Data Sheets (MSDS)" and substitute the term "Safety Data Sheets (SDS)."

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## **Section 11**

Under current law, employers with rate modifiers (an experience rating set by the Rate Bureau in determining workers' comp premiums) higher than 1.5 must establish safety and health program committees.

Section 11 would repeal the requirement that the Commission notify an employer when the employer's experience rate modifier falls below 1.5 and the requirement that an employer subject to these provisions notify the Commissioner if the employer no longer employs 11 or more employees and has discontinued or will discontinue the safety and health committee.

**EFFECTIVE DATE:** July 1, 2017.