



HOUSE BILL 400: Omnibus Labor Law Changes.

2019-2020 General Assembly

Committee:	House Commerce. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 1, 2019
Introduced by:	Rep. McElraft	Prepared by:	Bill Patterson
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: House Bill 400 would:

- *Exempt from Public Records Act disclosure records of certain ongoing Department of Labor (DOL) investigations and enforcement proceedings*
- *Exclude trains from the definition of amusement devices regulated by DOL*
- *Authorize DOL's Occupational Safety and Health Division Director to obtain medical records of patients relating to occupational safety and health investigations and enforcement proceedings*
- *Prevent DOL employees responsible for enforcing occupational safety and health requirements from being compelled to appear in third-party legal or administrative proceedings*
- *Limit the admissibility in third-party proceedings of information and reports developed pursuant to occupational safety and health inspections or investigations*

CURRENT LAW AND BILL ANALYSIS:

Currently three articles in Chapter 95 of the General Statutes authorize the Department of Labor (DOL) to conduct investigations and proceedings to enforce State requirements applicable to the construction, operation, and use of boilers and pressure vessels (Article 7A), elevators (Article 14A), amusement devices (Article 14B), and ski lift devices and passenger tramways (Article 15).

Section 1 of House Bill 400 would provide that records of pending DOL investigations and enforcement proceedings conducted under this authority are not subject to inspection and examination under the Public Records Act.

Currently an "amusement device" subject to regulation under Article 14B is defined as "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." Several devices are specifically exempt from this definition, including all-terrain vehicles, motorcycles, bicycles, mopeds, and devices operated on a natural body of water.

Section 2 would provide that locomotives, trains, a series of railroad cars, or other mechanical devices operating on standard railroad gauge are not "amusement devices" subject to regulation under Article 14B.

Currently the Director of DOL's Occupational Safety and Health Division (OSHD) is broadly authorized to enforce State laws governing occupational safety and health.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 400

Page 2

Section 3 of the bill would expressly authorize the OSHD Director to obtain medical records maintained by the Department of Health and Human Services, by hospitals in the statewide trauma system, or by emergency management services providers providing services to patients relating to OSHD investigations and enforcement proceedings.

Currently there is no express statutory limitation on compelling appearances by DOL employees responsible for enforcing occupational safety and health laws in litigation or administrative proceedings unrelated to carrying out their enforcement activities.

Section 4 of the bill would provide that DOL employees who are charged with enforcing occupational safety and health laws shall not be compelled to appear at any deposition, hearing, trial, or other proceeding unless required in connection with a hearing held pursuant to the enforcement of State occupational safety and health laws.

Currently information and reports developed pursuant to an ongoing occupational safety and health inspection or investigation are not subject to disclosure under the Public Records Act, except that an employer cited in an ongoing investigation can receive a copy of the inspection report that is the basis for any citation. Any inspection report released to the employer earlier than 10 days before a scheduled enforcement hearing must be redacted so that the identity of any witnesses or complainants is not disclosed. The Commissioner of Labor is authorized to permit the use of names and statements of witnesses and complainants and information obtained during occupational safety and health inspections or investigations by public officials in the performance of their public duties.

Section 5 of the bill would provide that information and reports developed pursuant to an occupational safety and health inspection or investigation are inadmissible in any court or administrative body other than pursuant to the enforcement of State occupational safety and health laws, except where public officials have been authorized to use such information in the performance of their public duties.

EFFECTIVE DATE: This act is effective when it becomes law.