



SENATE BILL 208: Labor Law Changes.

2021-2022 General Assembly

Committee:		Date:	January 31, 2022
Introduced by:		Prepared by:	Bill Patterson Staff Attorney
Analysis of:	S.L. 2021-82		

OVERVIEW: *S.L. 2021-82 does the following:*

- *Eliminates an advisory council created under the Mine Safety and Health Act.*
- *Clarifies that trains previously or currently in use on the national rail transit system are not subject to regulation as amusement devices by the Department of Labor.*
- *Authorizes the Director of the Occupational Safety and Health Safety Division of the Department of Labor to obtain medical records in certain circumstances.*
- *Repeals the Article addressing regulation of job listing services.*
- *Makes clarifying changes to statutes addressing youth employment certificates and payment to separated employees.*
- *Requires employers to notify employees, in writing, at least one pay period prior to changes in wages.*
- *Provides that the maximum penalty for employers who violate record keeping requirements must not exceed \$2,000 per violation.*

This act became effective July 8, 2021.

CURRENT LAW: Under the Mine Safety and Health Act, the Commissioner of Labor appoints members to an advisory council charged with assisting the Commissioner in developing health and safety standards for mines and advising the Commissioner on matters relating to health and safety in mines.

The Amusement Device Safety Act authorizes the Commissioner of Labor to regulate "amusement devices," which include 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 for the purpose of giving such persons amusement, pleasure, thrills, or excitement. Certain devices are expressly excluded from the meaning of "amusement device."

The Director of the Occupational Safety and Health Division in the Department of Labor is charged with enforcing State and federal workplace safety requirements and with conducting investigations under the Occupational Safety and Health Act of North Carolina.

Article 5B of Chapter 95 of the General Statutes addresses regulation of job listing services. Subject to some exceptions, a job listing service includes: "any business operated in the State of North Carolina by any person for profit which publishes, either orally or in writing, lists of specific positions of employment available with any employer other than itself or which holds itself out to applicants as able to provide information about specific positions of employment available with any employer other than itself, which

Jeffrey Hudson
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 208

Page 2

charges a fee to any applicant for its services or purported services and which performs none of the activities of a private personnel service other than the publishing of job listings."

Other provisions in Article 5B include: a license requirement, civil and criminal penalties for violations, enforcement provisions (e.g. license revocations or suspensions), etc. This Article is enforced under the supervision of the Commissioner of Labor.

BILL ANALYSIS:

Section 1 eliminates the advisory council created to advise the Commissioner of Labor on matters related to health and safety in mines.

Section 2 expressly exempts any train or device previously or currently approved for use on the public rail transit system from regulation and inspection as an "amusement device" under the Amusement Device Safety Act.

Section 3 authorizes the Director of the Occupational Safety and Health Safety Division of the Department of Labor to obtain medical records in certain circumstances, and permits the Commissioner of Labor, the Director of the Occupational Safety and Health Division, or their designees to obtain medical records of injured or deceased employees to conduct investigations and enforcement proceedings under the Occupational Safety and Health Act of North Carolina. The records are restricted to the evaluation, diagnosis, or treatment of an employee. The records consist only of those compiled and maintained by: DHHS, hospitals participating in the statewide trauma system, or emergency medical service providers in connection with the dispatch, treatment, or transport of patients. The medical records must be kept separate from any investigative file, must be confidential, are not public records, and are not to be released to an employer under investigation except as necessary to support the issuance of a citation.

Section 4 repeals Article 5B of Chapter 95 which deals with the regulation of job listing services.

Section 5 clarifies that the Commissioner of Labor issues youth employment certificates and deletes language stating that the certificates will be issued by the Commissioner "both directly and electronically."

Section 6 provides that employees whose employment is discontinued must be paid all wages due on or before the next regular payday through the regular pay channels or by *trackable* mail if requested by the employee *in writing*.

Section 7 requires employers to notify employees, in writing, at least one pay period (was 24 hours) prior to any changes in wages. This section deletes language allowing employers to provide this notification through a posted notice.

Section 8 amends the penalty for employers who violate record keeping requirements. Under current law, employers are subject to a civil penalty of up to \$250 per employee with a maximum not to exceed \$2,000 per investigation. This section provides that the maximum penalty must not exceed \$2,000 per *violation*.

EFFECTIVE DATE: This act became effective July 8, 2021.

*Brad Krehely, Staff Attorney for the Legislative Analysis Division, contributed substantially to the drafting of this summary.