



General Assembly

January Session, 2009

**Raised Bill No. 6186**

LCO No. 2442

\*02442\_\_\_\_\_LAB\*

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

**AN ACT PROTECTING THE INTEGRITY OF CONN-OSHA INVESTIGATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-374 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) In order to carry out the purposes of this chapter the  
4 commissioner, upon presenting appropriate credentials to the  
5 employer, is authorized (1) to enter without advance notice, except as  
6 provided in [subsection (d) of section 31-371] regulations adopted in  
7 accordance with subsection (j) of this section, and at reasonable times  
8 any factory, plant, establishment, construction site, or other area, work  
9 place or environment where work is performed by an employee of an  
10 employer, and (2) to inspect and investigate, during regular working  
11 hours and at other reasonable times and within reasonable limits and  
12 in a reasonable manner, any such place of employment and all  
13 pertinent conditions, structures, machines, apparatus, devices,  
14 equipment and the materials therein and to question, privately, any  
15 such employer or employee. Whenever the commissioner, proceeding  
16 pursuant to this section, is denied admission to any such place of

17 employment, he shall obtain a warrant to make an inspection or  
18 investigation of such place of employment from any judge of the  
19 Superior Court. Any judge of the Superior Court within the state is  
20 authorized to issue a warrant pursuant to this section and shall issue  
21 such warrant whenever he is satisfied that the following conditions are  
22 met: That the individual seeking the warrant is a duly authorized  
23 agent of the department; and that such individual has established  
24 under oath or affirmation that the place of employment to be  
25 investigated in accordance with this section is to be inspected to  
26 determine compliance or noncompliance with a standard, regulation  
27 or order, or that there is probable cause to believe that there is a  
28 condition in or about such place of employment constituting a hazard  
29 to safety or health.

30 (b) In making his inspections and investigations under this chapter,  
31 the commissioner may require the attendance and testimony of  
32 witnesses and the production of evidence under oath. Witnesses shall  
33 be paid the same fees and mileage that are paid witnesses in the courts  
34 of this state. In case of contumacy or failure or refusal of any person to  
35 obey such an order, the superior court for the judicial district wherein  
36 such person resides, is found or transacts business shall have  
37 jurisdiction to issue to such person an order requiring such person to  
38 appear to produce evidence if asked, and when so ordered, and to give  
39 testimony relating to the matter under investigation or in question.  
40 Any failure to obey such order of the court may be punished by [said]  
41 the court as a contempt thereof.

42 (c) (1) Each employer shall make, keep and preserve and make  
43 available to the commissioner and the United States Secretary of Labor  
44 such records regarding his activities relating to this chapter as the  
45 commissioner may prescribe [by regulation] in regulations adopted in  
46 accordance with subsection (j) of this section as necessary or  
47 appropriate for the enforcement of this chapter or for developing  
48 information regarding the causes and prevention of occupational  
49 accidents and illnesses. In order to carry out the provisions of this

50 subdivision such regulations may include provisions requiring  
51 employers to conduct periodic inspections. The commissioner shall  
52 also [issue] adopt regulations in accordance with subsection (j) of this  
53 section requiring that employers through posting of notices or other  
54 appropriate means keep their employees informed of their protections  
55 and obligations under this chapter, including the provisions of  
56 applicable standards.

57 (2) The commissioner shall [prescribe] adopt regulations in  
58 accordance with subsection (j) of this section requiring employers to  
59 maintain accurate records of and to make periodic reports on work-  
60 related deaths, injuries and illnesses other than minor injuries  
61 requiring only first aid treatment and which do not involve medical  
62 treatment, loss of consciousness, restriction of work or motion, or  
63 transfer to another job.

64 (3) The commissioner shall [issue] adopt regulations in accordance  
65 with subsection (j) of this section requiring employers to maintain  
66 accurate records of employee exposures to potentially toxic materials  
67 or harmful physical agents which are required to be monitored or  
68 measured under any occupational safety and health standard adopted  
69 under this chapter. Such regulations shall provide employees or their  
70 representatives an opportunity to observe such monitoring or  
71 measuring and to have access to the records thereof. Such regulations  
72 shall also make appropriate provision for each employee or former  
73 employee to have access to such records as will indicate his own  
74 exposure to toxic materials or harmful physical agents. Each employer  
75 shall promptly notify any employee who has been or is being exposed  
76 to toxic materials or harmful physical agents in concentrations or at  
77 levels which exceed those prescribed by an applicable occupational  
78 safety and health standard promulgated [under section 31-371] in  
79 regulations adopted in accordance with subsection (j) of this section  
80 and shall inform any employee who is being thus exposed of the  
81 corrective action being taken.

82 (d) Any information obtained by the commissioner under this  
83 chapter shall be obtained with a minimum burden upon employers.  
84 Unnecessary duplication of efforts in obtaining information shall be  
85 reduced to the maximum extent feasible.

86 (e) Subject to regulations [issued] adopted by the commissioner in  
87 accordance with subsection (j) of this section, a representative of the  
88 employer and a representative authorized by the employees of the  
89 employer shall be given an opportunity to accompany the  
90 commissioner or his authorized representative during the physical  
91 inspection of any work place for the purpose of aiding such inspection.  
92 Where there is no authorized employee representative, the  
93 commissioner or his authorized representative shall consult with a  
94 reasonable number of employees concerning matters of health and  
95 safety in the work place.

96 (f) (1) Any employee or representative of employees who believes  
97 that there is a violation of an occupational safety or health standard or  
98 that there is an imminent danger of physical harm may request an  
99 inspection by giving notice to the commissioner or his authorized  
100 representative of such violation or danger. Any such notice shall be  
101 reduced to writing and shall set forth with reasonable particularity the  
102 grounds for the notice, and shall be signed by the employees or the  
103 representative of employees. A copy of such notice shall be provided  
104 the employer or his agent no later than the time of the inspection,  
105 provided, upon the request of the person giving such notice, his name  
106 and the names of individual employees referred to therein shall not  
107 appear in such copy or on any record published, released or made  
108 available pursuant to subsection (g) of this section. If upon receipt of  
109 such notification the commissioner determines there are reasonable  
110 grounds to believe that such violation or danger exists, he shall make  
111 an inspection in accordance with the provisions of this section as soon  
112 as practicable to determine if such violation or danger exists. Such  
113 inspection may be limited to the alleged violation or danger. If the  
114 commissioner determines there are no reasonable grounds to believe

115 that such violation or danger exists, he shall notify the employer,  
116 employee or representative of employees in writing of such  
117 determination. Such notification shall not preclude future enforcement  
118 action if conditions change.

119 (2) Prior to or during any inspection of a work place, any employees  
120 or representative of employees employed in such work place may  
121 notify the commissioner or any representative of the commissioner  
122 responsible for conducting the inspection in writing of any violation of  
123 this chapter which they have reason to believe exists in such work  
124 place. The commissioner shall by regulation establish procedures for  
125 informal review of any refusal by a representative of the commissioner  
126 to issue a citation with respect to any such alleged violation and shall  
127 furnish the employer and the employees or representative of  
128 employees requesting such review a written statement of the reasons  
129 for the commissioner's final disposition of the case. Such notification  
130 shall not preclude future enforcement action if conditions change.

131 (g) (1) The commissioner [~~is authorized to~~] may compile, analyze  
132 and publish in either summary or detail form all reports or  
133 information obtained under this section.

134 (2) The commissioner shall [~~prescribe such rules and~~] adopt such  
135 regulations in accordance with subsection (j) of this section as he may  
136 deem necessary to carry out his responsibilities under this chapter,  
137 including [~~rules and~~] regulations dealing with the inspection of an  
138 employer's or owner's establishment.

139 (h) (1) In accordance with the provisions of section 4-38d, the duty  
140 of the Department of Public Health to license and to establish  
141 standards for health facilities operated by a commercial or industrial  
142 establishment for the care of its employees shall be transferred to the  
143 Division of Occupational Safety and Health of the Labor Department.  
144 No commercial or industrial establishment within the state shall  
145 establish, conduct, operate or maintain a health facility for its  
146 employees without a license as required by this subsection.

147 (2) Application for such license shall be made to the Labor  
148 Department upon forms provided by it and shall contain such  
149 information as [said] the department requires, which may include  
150 affirmative evidence of ability to comply with reasonable standards  
151 and regulations [prescribed under] adopted pursuant to the provisions  
152 of this subsection. Upon receipt of an application for a license, the  
153 Labor Department shall issue such license if, upon inspection and  
154 investigation by the Division of Occupational Safety and Health, it  
155 finds that the applicant and facilities meet the requirements  
156 established by regulation. Such license shall be valid for one year or  
157 fraction thereof and shall terminate on March thirty-first, June  
158 thirtieth, September thirtieth or December thirty-first of each year. A  
159 license, unless sooner suspended or revoked, shall be renewable  
160 annually, without charge, upon the filing by the licensee, and approval  
161 by the Labor Department, of an annual report upon such date and  
162 containing such information in such form as [said] the department  
163 prescribes and satisfactory evidence of continuing compliance with  
164 requirements. Each license shall be issued only for the premises and  
165 persons named in the application and shall not be transferable or  
166 assignable. Licenses shall be posted in a conspicuous place on the  
167 licensed premises.

168 (3) The Labor Department shall [promulgate] adopt, in accordance  
169 with subsection (j) of this section, and enforce regulations for health  
170 facilities licensed under the provisions of this subsection in order to  
171 provide for reasonable standards of health, safety and comfort for the  
172 employees utilizing such facilities. The regulations [issued] adopted by  
173 the Labor Department shall conform to the standards established by  
174 this chapter.

175 (4) The Labor Department, after reasonable notice and a hearing,  
176 may suspend, revoke or refuse to renew a license in any case in which  
177 it finds there has been a substantial failure to comply with the  
178 requirements established under this subsection. The requirements of  
179 reasonable notice and hearing, as provided for in this subsection, and

180 appeals from the decisions of said department, shall comply with the  
181 requirements of chapter 54.

182 (i) Notwithstanding any provision of chapter 14, individuals  
183 involved in an occupational safety or health investigation or  
184 enforcement activity pursuant to this chapter shall be afforded the  
185 same protections pursuant to 5 USC 552(b)(7)(D), as afforded  
186 individuals involved in a federal Occupational Safety and Health  
187 Administration investigation or enforcement activity pursuant to 29  
188 USC 651 et seq.

189 (j) Regulations adopted by the Labor Commissioner to implement  
190 and enforce the provisions of this section shall be adopted in  
191 accordance with the provisions of chapter 54 and section 31-371.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	31-374

**Statement of Purpose:**

To protect the integrity of occupational safety and health investigations by allowing additional witnessing employees to make confidential statements to investigators without disclosing their identities to the employer.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*