



Substitute House Bill No. 6186

Public Act No. 09-106

AN ACT PROTECTING THE INTEGRITY OF CONN-OSHA INVESTIGATIONS.

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

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 Section 31-374 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) In order to carry out the purposes of this chapter the commissioner, upon presenting appropriate credentials to the employer, is authorized (1) to enter without advance notice, except as provided in [subsection (d) of section 31-371] regulations adopted in accordance with chapters 54 and 571, and at reasonable times any factory, plant, establishment, construction site, or other area, work place or environment where work is performed by an employee of an employer, and (2) to inspect and investigate, during regular working hours and at other reasonable times and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and the materials therein and to question, privately, any such employer or employee. Whenever the commissioner, proceeding pursuant to this section, is denied admission to any such place of employment, he shall obtain a warrant to make an inspection or investigation of such place of employment from any judge of the

Substitute House Bill No. 6186

Superior Court. Any judge of the Superior Court within the state is authorized to issue a warrant pursuant to this section and shall issue such warrant whenever he is satisfied that the following conditions are met: That the individual seeking the warrant is a duly authorized agent of the department; and that such individual has established under oath or affirmation that the place of employment to be investigated in accordance with this section is to be inspected to determine compliance or noncompliance with a standard, regulation or order, or that there is probable cause to believe that there is a condition in or about such place of employment constituting a hazard to safety or health.

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

(c) (1) Each employer shall make, keep and preserve and make available to the commissioner and the United States Secretary of Labor such records regarding his activities relating to this chapter as the commissioner may prescribe [by regulation] in regulations adopted in accordance with chapters 54 and 571 as necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this subdivision such

Substitute House Bill No. 6186

regulations may include provisions requiring employers to conduct periodic inspections. The commissioner shall also [issue] adopt regulations in accordance with chapters 54 and 571 requiring that employers through posting of notices or other appropriate means keep their employees informed of their protections and obligations under this chapter, including the provisions of applicable standards.

(2) The commissioner shall [prescribe] adopt regulations in accordance with chapters 54 and 571 requiring employers to maintain accurate records of and to make periodic reports on work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

(3) The commissioner shall [issue] adopt regulations in accordance with chapters 54 and 571 requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any occupational safety and health standard adopted under this chapter. Such regulations shall provide employees or their representatives an opportunity to observe such monitoring or measuring and to have access to the records thereof. Such regulations shall also make appropriate provision for each employee or former employee to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated [under section 31-371] in regulations adopted in accordance with chapters 54 and 571 and shall inform any employee who is being thus exposed of the corrective action being taken.

(d) Any information obtained by the commissioner under this

Substitute House Bill No. 6186

chapter shall be obtained with a minimum burden upon employers. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

(e) Subject to regulations [issued] adopted by the commissioner in accordance with chapters 54 and 571, a representative of the employer and a representative authorized by the employees of the employer shall be given an opportunity to accompany the commissioner or his authorized representative during the physical inspection of any work place for the purpose of aiding such inspection. Where there is no authorized employee representative, the commissioner or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the work place.

(f) (1) Any employee or representative of employees who believes that there is a violation of an occupational safety or health standard or that there is an imminent danger of physical harm may request an inspection by giving notice to the commissioner or his authorized representative of such violation or danger. Any such notice shall be reduced to writing and shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or the representative of employees. A copy of such notice shall be provided the employer or [his] the employer's agent no later than the time of the inspection, provided, upon the request of the person giving such notice, his or her name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released or made available pursuant to subsection (g) of this section. Upon the request of an individual employee whose name is not included in such notice, but who at any time provides information to the commissioner concerning the violation or danger alleged in such notice, the name of such individual employee shall not appear on any record published, released or made available pursuant to subsection (g) of this section. If upon receipt of such notification the

Substitute House Bill No. 6186

commissioner determines there are reasonable grounds to believe that such violation or danger exists, he shall make an inspection in accordance with the provisions of this section as soon as practicable to determine if such violation or danger exists. Such inspection may be limited to the alleged violation or danger. If the commissioner determines there are no reasonable grounds to believe that such violation or danger exists, he shall notify the employer, employee or representative of employees in writing of such determination. Such notification shall not preclude future enforcement action if conditions change.

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

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

(2) The commissioner shall [prescribe such rules and] adopt such regulations in accordance with chapters 54 and 571 as he may deem necessary to carry out his responsibilities under this chapter, including [rules and] regulations dealing with the inspection of an employer's or owner's establishment.

Substitute House Bill No. 6186

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

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

(3) The Labor Department shall [~~promulgate~~] adopt, in accordance with chapters 54 and 571, and enforce regulations for health facilities

Substitute House Bill No. 6186

licensed under the provisions of this subsection in order to provide for reasonable standards of health, safety and comfort for the employees utilizing such facilities. The regulations [issued] adopted by the Labor Department shall conform to the standards established by this chapter.

(4) The Labor Department, after reasonable notice and a hearing, may suspend, revoke or refuse to renew a license in any case in which it finds there has been a substantial failure to comply with the requirements established under this subsection. The requirements of reasonable notice and hearing, as provided for in this subsection, and appeals from the decisions of said department, shall comply with the requirements of chapter 54.

Approved June 5, 2009