

1 SB219  
2 164048-1  
3 By Senator Livingston  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 12-MAR-15

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8 SYNOPSIS: Under existing law, the Department of Labor  
9 may impose civil penalties against an employer for  
10 a violation of the child labor law.

11 This bill would allow the Department of  
12 Labor to file an action for the collection of civil  
13 penalties imposed pursuant to this section against  
14 an employer in the circuit court of the county  
15 where the violation occurred.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
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21 To amend Section 25-8-59, Code of Alabama 1975,  
22 relating to the Alabama Child Labor Law; to allow the  
23 Department of Labor to file an action for the collection of  
24 civil penalties imposed pursuant to this section against an  
25 employer in the circuit court of the county where the  
26 violation occurred.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Section 25-8-59, Code of Alabama 1975, is  
2 amended to read as follows:

3           "§25-8-59.

4           "(a) Any employer who violates this chapter, or who  
5 fails or refuses to obey within a reasonable time any lawful  
6 order or direction given by the state officials charged with  
7 the enforcement of this chapter, and any parent, guardian, or  
8 custodian who suffers or permits a person under his or her  
9 care or control who is under 19 years of age to work in  
10 violation of this chapter, shall be subject to civil penalties  
11 in addition to other penalties provided in this chapter.

12           "(b) The department may impose a civil penalty of  
13 three hundred dollars (\$300) upon the following determination:  
14 An employer has violated a statutory provision of Section  
15 25-8-35(17), 25-8-36, 25-8-37, 25-8-38, 25-8-39, 25-8-40,  
16 25-8-41, 25-8-44(a), 25-8-44(b), 25-8-45, 25-8-54, 25-8-57,  
17 25-8-60, or 25-8-61.

18           "(c) The department may impose a civil penalty of  
19 one thousand dollars (\$1,000) to five thousand dollars  
20 (\$5,000) upon the following determination: An employer has  
21 violated a statutory provision of Section 25-8-33,  
22 25-8-35(1)-(16), inclusive, 25-8-43(a), or 25-8-44(d).

23           "(d) In determining the number of violations  
24 committed by an employer, the department may assess a separate  
25 civil penalty for each individual employee affected by the  
26 employer's violation.

1           "(e) In addition, the department may assess more  
2 than one civil penalty against an employer with respect to the  
3 same adversely affected employee if the employer has violated  
4 more than one statutory provision in Act 2009-565.

5           "(f) The employer shall be notified of a civil  
6 penalty assessment by the Notice of Violation and Opportunity  
7 to Show Cause which shall be sent to the employer.

8           "(g) The Notice of Violation and Opportunity to Show  
9 Cause shall provide all of the following:

10           "(1) The total civil penalty assessed.

11           "(2) The right of the employer to request in writing  
12 a hearing to show cause why the civil penalty should not be  
13 assessed.

14           "(3) An advisement that no hearing shall be granted  
15 unless a written request for a hearing is received by the  
16 department within 30 days from the date of issue of the  
17 notice.

18           "(4) The right of the employer to waive the right to  
19 request a hearing and to respond in writing to the notice  
20 within 30 days of the issue date of the notice.

21           "(h) Any employer who seeks to contest a civil  
22 penalty assessment shall file, within 30 days from the date  
23 the Notice of Violation and Opportunity to Show Cause was  
24 issued, a written request for an opportunity to be heard which  
25 shall clearly state the reasons for such request, including  
26 facts to demonstrate that no violation has occurred.

1           "(i) If the commissioner or his or her designee  
2 determines that the employer has stated adequate facts or  
3 legal grounds to warrant a hearing, the commissioner or his or  
4 her designee shall provide written notice of the hearing to  
5 show cause why a civil penalty should not be assessed and  
6 shall mail written notice to the employer of the date, time,  
7 and place of the hearing. Such determination shall be within  
8 the discretion of the commissioner or his or her designee. The  
9 notice shall inform the employer of its rights in the hearing  
10 including the following:

11                 "(1) The right to be represented by any person,  
12 including an attorney.

13                 "(2) The right to present documentary evidence and a  
14 written argument in support of the employer's position.

15                 "(j) A request for postponement of a hearing so  
16 scheduled shall only be granted where the rights of an  
17 employer would be substantially prejudiced by the denial of  
18 the request or in a medical emergency. Only the commissioner  
19 or his or her designee has discretion to grant such requests.

20                 "(k) Following a hearing or after the employer has  
21 waived the right to request a hearing, the commissioner or his  
22 or her designee may uphold or modify the civil penalty  
23 assessment. Such determination shall be within the sole  
24 discretion of the commissioner or his or her designee.

25                 "(l) If the employer requests a hearing but the  
26 commissioner or his or her designee denies the request for a

1 hearing, the total civil penalty assessed in the notice shall  
2 be the final civil penalty.

3 "(m) If the employer does not request a hearing or  
4 respond in writing to the notice, the total civil penalty  
5 assessed in the notice shall be the final civil penalty unless  
6 otherwise modified by the commissioner or his or her designee.

7 "(n) The department may file an action for the  
8 collection of civil penalties imposed pursuant to this section  
9 against an employer in the county where the violation  
10 occurred.

11 "~~(n)~~ (o) All moneys received from the assessment of  
12 any penalty pursuant to this section shall accrue to the State  
13 General Fund.

14 "~~(o)~~ (p) In addition to the civil penalties provided  
15 for in subsection (b), an employer who violates Act 2009-565  
16 may be deemed guilty of a Class B or Class C misdemeanor. A  
17 first conviction shall be deemed a Class C misdemeanor. A  
18 second or subsequent conviction shall be deemed a Class B  
19 misdemeanor.

20 "~~(p)~~ (q) In addition to civil penalties provided for  
21 in subsection (c), an employer who is found in violation of  
22 subsection (c) involving serious physical injury to or death  
23 of a minor may be deemed guilty of a Class A misdemeanor or  
24 Class C felony. A first conviction shall be deemed a Class A  
25 misdemeanor. A second or subsequent conviction shall be deemed  
26 a Class C felony."

1                   Section 2. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.