SB119

QGH7151-2

By Senators Stewart, Coleman-Madison, Beasley, Hatcher, Smitherman, Singleton, Orr

RFD: Judiciary

First Read: 20-Feb-24

A BILL

TO BE ENTITLED

AN ACT

Relating to child labor; to amend Section 25-8-59, Code of Alabama 1975, to increase civil and criminal penalties for an employer who violates child labor laws; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§25-8-59

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

(b) The department may impose a civil penalty of not less than three hundred dollars ($300) upon ~~the following~~ a determination~~: An~~ that an employer has violated a statutory provision of Section 25-8-35(17), 25-8-36, 25-8-37, 25-8-38, 25-8-39, 25-8-40, 25-8-41, 25-8-44(a), 25-8-44(b), 25-8-45, 25-8-54, 25-8-57, 25-8-60, or 25-8-61.

(c) The department ~~may~~ shall impose a civil penalty of ~~one thousand dollars ($1,000) to~~ five thousand dollars ($5,000) to ten thousand dollars ($10,000) upon ~~the following~~ a determination~~: An~~ that an employer has violated a statutory provision of Section 25-8-33, 25-8-35(1) ~~(16), inclusive~~ through 25-8-35(16), 25-8-43(a), or 25-8-44(d).

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

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

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

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

(1) The total civil penalty assessed.

(2) The right of the employer to request in writing a hearing to show cause why the civil penalty should not be

assessed.

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

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

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

(i) If the secretary or his or her designee determines that the employer has stated adequate facts or legal grounds to warrant a hearing, the secretary or his or her designee shall provide written notice of the hearing to show cause why a civil penalty should not be assessed and shall mail written notice to the employer of the date, time, and place of the hearing. Such determination shall be within the discretion of the secretary or his or her designee. The notice shall inform the employer of ~~its~~ the employer's rights in the hearing including the following:

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

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

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

(k) Following a hearing or after the employer has waived the right to request a hearing, the secretary or his or her designee may uphold or modify the civil penalty assessment. ~~Such~~ This determination shall be within the sole discretion of the secretary or his or her designee.

(l) If the employer requests a hearing but the secretary or his or her designee denies the request for a hearing, the total civil penalty assessed in the notice shall be the final civil penalty.

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

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

(o) All ~~moneys~~ monies received from the assessment of any penalty pursuant to this section shall accrue to the State General Fund.

(p) In addition to the civil penalties provided for in subsection (b), an employer who violates ~~Act 2009-565~~ this chapter may be deemed guilty of a Class B or Class C

misdemeanor. A first conviction shall be deemed a Class C misdemeanor. A second or subsequent conviction shall be deemed a Class B misdemeanor.

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

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective on October 1, 2024.

Senate

Read for the first time and referred 20-Feb-24
to the Senate committee on Judiciary

Read for the second time and placed 06-Mar-24
on the calendar:
1 amendment

Read for the third time and passed 19-Mar-24
as amended
Yeas 33
Nays 0
Abstains 0

Patrick Harris,
Secretary.