

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

1

HOUSE BILL 659

Short Title: Wage & Hr./Civil Penalties.

(Public)

Sponsors: Representative Sutton.

Referred to: Judiciary II.

March 29, 1993

1

A BILL TO BE ENTITLED

2 AN ACT TO AUTHORIZE THE COMMISSIONER OF LABOR TO FILE AS
3 JUDGMENTS FINAL ORDERS ASSESSING CIVIL MONEY PENALTIES
4 UNDER THE WAGE AND HOUR ACT.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 95-25.23 reads as rewritten:

7 "**§ 95-25.23. Violation of youth employment; civil penalty.**

8 (a) Any employer who violates the provisions of G.S. 95-25.5 (Youth
9 Employment) or any regulation issued thereunder, shall be subject to a civil penalty not
10 to exceed two hundred fifty dollars (\$250.00) for each violation. In determining the
11 amount of such penalty, the appropriateness of such penalty to the size of the business
12 of the person charged and the gravity of the violation shall be considered. The
13 determination by the Commissioner shall be final, unless within 15 days after receipt of
14 notice thereof by certified mail the person charged with the violation takes exception to
15 the determination, in which event final determination of the penalty shall be made in an
16 administrative proceeding pursuant to Article 3 of Chapter 150B and in a judicial
17 proceeding pursuant to Article 4 of Chapter 150B.

18 (b) The amount of such penalty when finally determined may be recovered in a
19 ~~civil action brought by the Commissioner in the General Court of Justice. the manner set forth~~
20 in G.S. 95-25.23B.

21 (c) Sums collected under this section by the Commissioner shall be paid into the
22 General Fund of the State treasury.

1 (d) Assessment of penalties under this section shall be subject to a two-year
2 statute of limitations commencing at the time of the occurrence of the violation."

3 Sec. 2. G.S. 95-25.23A reads as rewritten:

4 "**§ 95-25.23A. Violation of record-keeping requirement; civil penalty.**

5 (a) Any employer who violates the provisions of G.S. 95-25.15(b) or any
6 regulation issued pursuant to G.S. 95-25.15(b), shall be subject to a civil penalty of up
7 to two hundred fifty dollars (\$250.00) per employee with the maximum not to exceed
8 one thousand dollars (\$1,000) per investigation by the Commissioner or his authorized
9 representative. In determining the amount of the penalty, the Commissioner shall
10 consider:

11 (1) The appropriateness of the penalty for the size of the business of the
12 employer charged; and

13 (2) The gravity of the violation.

14 The determination by the Commissioner shall be final, unless within 15 days after
15 receipt of notice thereof by certified mail, the person charged with the violation takes
16 exception to the determination, in which event final determination of the penalty shall
17 be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a
18 judicial proceeding pursuant to Article 4 of Chapter 150B.

19 (b) The amount of the penalty when finally determined may be recovered in a
20 ~~civil action brought by the Commissioner in the General Court of Justice.~~ the manner set forth
21 in G.S. 95-25.23B.

22 (c) Sums collected under this section by the Commissioner shall be paid into the
23 General Fund.

24 (d) Assessment of penalties under this section shall be subject to a two-year
25 statute of limitations commencing at the time of the occurrence of the violation."

26 Sec. 3. Chapter 95 of the General Statutes is amended by adding the
27 following new section to read:

28 "**§ 95-25.23B. Civil penalty collection.**

29 The Commissioner may file in the office of the clerk of the superior court of any
30 county a certified copy of an assessment, either unappealed from or affirmed in whole
31 or in part upon appeal, of a civil money penalty under G.S. 95-25.23 or G.S. 95-25.23A.
32 Upon such filing, the clerk shall enter judgment in accordance with G.S. 95-25.23 or
33 G.S. 95-25.23A and shall notify the parties. Such judgment shall have the same effect,
34 and all proceedings in relation to the judgment shall thereafter be the same, as though
35 the judgment had been rendered in a suit duly heard and determined by the superior
36 court of the General Court of Justice."

37 Sec. 4. This act is effective upon ratification.