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SENATE BILL NO. 1142

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws

on January 29, 1997)

(Patron Prior to Substitute—Senator Houck)

A BILL to amend and reenact § 40.1-6 of the Code of Virginia, relating to the powers and duties of the Commissioner of Labor and Industry.

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-6 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-6. Powers and duties of Commissioner.

The Commissioner shall:

(1) Have general supervision and control of the Department.

(2) Enforce the provisions of this title and shall cause to be prosecuted all violations of law relating to employers or business establishments before any court of competent jurisdiction.

(3) Make such rules and regulations as may be necessary for the enforcement of this title and procedural rules as are required to comply with the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). All such rules and regulations shall be subject to Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9.

(4) In the discharge of his duties, have power to take and preserve testimony, examine witnesses and administer oaths and to file a written or printed list of relevant interrogatories and require full and complete answers to the same to be returned under oath within thirty days of the receipt of such list of questions.

(5) Have power to appoint such representatives as may be necessary to aid him in his work; their duties shall be prescribed by the Commissioner.

(6) [Repealed.]

(7) Have power to require that accident, injury and occupational illness records and reports be kept at any place of employment and that such records and reports be made available to the Commissioner or his duly authorized representatives upon request. Further, he may require employers to develop, maintain and make available such other records and information as are deemed necessary for the proper enforcement of this title.

(8) Have power, upon presenting appropriate credentials to the owner, operator, or agent in charge:

(a) To enter without delay and at reasonable times any business establishment, construction site, or other area, workplace or environment where work is performed by an employee of any employer in this Commonwealth; and

(b) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, without prior notice, unless such notice is authorized by the Commissioner or his representative, any such business establishment or place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, officer, owner, operator, agent, or employee. If such entry or inspection is refused, prohibited or otherwise interfered with, the Commissioner shall have power to seek from a court having equity jurisdiction an order compelling such entry or inspection.

(9) Make rules and regulations governing the granting of temporary or permanent variances from all standards promulgated by the Board under this title. Any interested or affected party may appeal to the Board, the Commissioner's determination to grant or deny such a variance. The Board may, as it sees fit, adopt, modify or reject the determination of the Commissioner.

(10) All information reported to or otherwise obtained by the Commissioner, the Board or the agents or employees of either which contains or might reveal a trade secret shall be confidential and shall be limited to those persons who need such information for purposes of enforcement of this title. The Commissioner shall have authority to issue orders to protect the confidentiality of such information. Violations of such orders shall be punishable as civil contempt upon application to the Circuit Court of the City of Richmond. It shall be the duty of each employer to notify the Commissioner, or his representatives, of the existence of trade secrets where he desires the protection provided herein.

(11) Serve as executive officer of the Virginia Safety and Health Codes Board and of the Apprenticeship Council and shall see that the rules, regulations and policies that they promulgate are carried out.

(12) Establish an Interagency Migrant Worker Policy Committee, comprised of representatives from state agencies whose services and jurisdictions involve migrant and seasonal farmworkers and their employees. The Committee shall coordinate its activities with the Migrant and Seasonal Farmworkers Board established in § 9-149.

60 2. That the membership of the Interagency Migrant Worker Policy Committee, created pursuant
61 to executive order, as it exists on the effective date of this act, shall be transferred to the
62 Interagency Migrant Worker Policy Committee created by this act.