

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 40.1-113 of the Code of Virginia, relating to child labor offenses; civil*  
3 *penalties.*

4  
5 Approved

[H 100]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 40.1-113 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 40.1-113. Child labor offenses; civil penalties.**

9 A. Whoever employs, procures, or, having under his control, permits a child to be employed in  
10 violation of any of the provisions of this chapter other than §§ 40.1-100.2, 40.1-103 and 40.1-112, shall  
11 be subject to a civil penalty that (i) shall not exceed ~~\$10,000~~ \$25,000 for each violation that results in  
12 the employment of a child who is seriously injured or who dies in the course of that employment and  
13 (ii) shall not *be less than \$500 or* exceed ~~\$1,000~~ \$2,500 for each other violation. In determining the  
14 amount of such penalty, the appropriateness of such penalty to the size of the business of the person  
15 charged and the gravity of the violation shall be considered.

16 B. The Commissioner shall notify any employer who he alleges has violated any provision of this  
17 section by certified mail or overnight delivery service. Such notice shall contain a description of the  
18 alleged violation. Within 21 days of receipt of notice of the alleged violation, the employer may request  
19 an informal conference regarding such violation with the Commissioner. If the employer fails to contest  
20 the violation by requesting such an informal conference within 21 days following receipt of the notice of  
21 the alleged violation, the violation and proposed penalty will become a final order of the Commissioner  
22 and not subject to review by any court or agency except upon a showing of good cause. Such informal  
23 conference shall result in a decision by the Commissioner that will be appealable to the appropriate  
24 circuit court. The Department shall send a copy of the Commissioner's decision to the employer by  
25 certified mail or overnight delivery service. The employer may file a notice of an appeal only within 30  
26 days from the receipt of the decision. The appeal shall be on the agency record. With respect to matters  
27 of law, the burden shall be on the party seeking review to designate and demonstrate an error of law  
28 subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to  
29 ascertaining whether there was substantial evidence in the record to reasonably support the  
30 Commissioner's findings of fact.

31 C. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the  
32 general fund of the treasury of the Commonwealth. The Commissioner shall prescribe procedures for the  
33 payment of proposed penalties which are not contested by employers.

34 **2. That the Department of Labor and Industry shall convene a stakeholder work group consisting**  
35 **of parents or legal guardians of child employees, labor representatives, and youth-serving**  
36 **stakeholders to develop education and outreach plans, inclusive of language access, to inform**  
37 **young workers, their parents or guardians, and employers about child labor laws.**

ENROLLED

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