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HOUSE BILL NO. 100

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Labor and Commerce
on January 23, 2024)

(Patron Prior to Substitute—Delegate Seibold)

A BILL to amend and reenact § 40.1-113 of the Code of Virginia, relating to child labor offenses; civil penalties.

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

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