

SB119 INTRODUCED



1 SB119
2 QGH7151-1
3 By Senators Stewart, Coleman-Madison, Beasley, Hatcher,
4 Smitherman, Singleton, Orr
5 RFD: Judiciary
6 First Read: 20-Feb-24



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SYNOPSIS:

Under existing law, an employer who violates child labor laws is subject to civil and criminal penalties.

This bill would increase civil and criminal penalties for an employer who violates child labor laws.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the section. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.



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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~~ shall impose a civil penalty of ~~three hundred dollars (\$300)~~ one thousand dollars (\$1000) upon ~~the following~~ a determination: ~~An~~ that an employer has



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57 violated a statutory provision of Section 25-8-35(17),
58 25-8-36, 25-8-37, 25-8-38, 25-8-39, 25-8-40, 25-8-41,
59 25-8-44(a), 25-8-44(b), 25-8-45, 25-8-54, 25-8-57, 25-8-60, or
60 25-8-61.

61 (c) The department ~~may~~ shall impose a civil penalty of
62 ~~one thousand dollars (\$1,000) to~~ five thousand dollars
63 (\$5,000) to ten thousand dollars (\$10,000) upon ~~the following~~
64 a ~~determination: An~~ that an employer has violated a statutory
65 provision of Section 25-8-33, 25-8-35(1) ~~-(16), inclusive~~
66 through 25-8-35(16), 25-8-43(a), or 25-8-44(d).

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

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

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

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

80 (1) The total civil penalty assessed.

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

84 (3) An advisement that no hearing shall be granted



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85 unless a written request for a hearing is received by the
86 department within 30 days from the date of issue of the
87 notice.

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

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

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

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

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

111 (j) A request for postponement of a scheduled hearing
112 ~~so scheduled~~ shall only be granted where the rights of an



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113 employer would be substantially prejudiced by the denial of
114 the request or in a medical emergency. Only the secretary or
115 his or her designee has discretion to grant such requests.

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

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

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

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

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

136 (p) In addition to the civil penalties provided for in
137 subsection (b), an employer who violates ~~Act 2009-565~~ this
138 chapter may be deemed guilty of a Class B or Class C
139 misdemeanor. A first conviction shall be deemed a Class C
140 misdemeanor. A second or subsequent conviction shall be deemed



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141 a Class B misdemeanor.

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

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

155 Section 3. This act shall become effective on October
156 1, 2024.