

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

H.B. 400  
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40163-LR-66B

Short Title: Omnibus Labor Law Changes. (Public)

Sponsors: Representative McElraft.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT MAKING VARIOUS CHANGES TO THE LABOR LAWS OF NORTH  
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.1. Article 7 of Chapter 95 of the General Statutes is amended by adding  
6 a new section to read:

7 "**§ 95-69.18.1. Investigation reports and records.**

8 (a) The Commissioner may compile, analyze, and publish, in summary or detailed form,  
9 the reports or information obtained under this Article.

10 (b) Files and other records relating to investigations and enforcement proceedings  
11 pursuant to this Article are not subject to inspection and examination under G.S. 132-6 while the  
12 investigations and proceedings are pending, except that a person cited under the provisions of  
13 this Article is entitled to receive a copy of the official inspection report, which is the basis for  
14 citations received by the person following the issuance of citations."

15 SECTION 1.2. G.S. 95-110.9 reads as rewritten:

16 "**§ 95-110.9. Reports-~~Investigations~~; reports required.**

17 (a) The owner of any device or equipment regulated under the provisions of this Article,  
18 or ~~his~~ the owner's authorized agent, shall within 24 hours notify the Commissioner of each and  
19 every occurrence involving such device or equipment when:

- 20 (1) The occurrence results in death or injury requiring medical treatment, other  
21 than first aid, by a physician. First aid means the one time treatment or  
22 observation of scratches, cuts not requiring stitches, burns, splinters and  
23 contusions or a diagnostic procedure, including examination and x-rays,  
24 which does not ordinarily require medical treatment even though provided by  
25 a physician or other licensed personnel; or  
26 (2) The occurrence results in damage to the device indicating a substantial defect  
27 in design, mechanics, structure or equipment, affecting the future safe  
28 operation of the device. No reporting is required in the case of normal wear  
29 and tear.

30 (b) The Commissioner, without delay, after notification and determination that an  
31 occurrence involving injury or damage as specified in subsection (a) has occurred, shall make a  
32 complete and thorough investigation of the occurrence. The report of the investigation shall be  
33 placed on file in the office of the division and shall give in detail all facts and information  
34 available. The owner may submit for inclusion in the file results of investigations independent of  
35 the department's investigation.



1       **(b1)** Files and other records relating to investigations and enforcement proceedings  
2 pursuant to this Article are not subject to inspection and examination under G.S. 132-6 while the  
3 investigations and proceedings are pending, except that a person cited under the provisions of  
4 this Article is entitled to receive a copy of the official inspection report, which is the basis for  
5 citations received by the person following the issuance of citations.

6       (c) No person, following an occurrence as specified in subsection (a), shall operate,  
7 attempt to operate, use or move or attempt to move such device or equipment, or part thereof,  
8 without the approval of the Commissioner, unless so as to prevent injury to any person or persons.

9       (d) No person, following an occurrence as specified in subsection (a), shall remove or  
10 attempt to remove from the premises any damaged or undamaged part of such device or  
11 equipment or repair or attempt to repair any damaged part necessary to a complete and thorough  
12 investigation. The department must initiate its investigation within 24 hours of being notified."

13       **SECTION 1.3.** G.S. 95-111.10 reads as rewritten:

14       "**§ 95-111.10. Reports-Investigations; reports required.**

15       (a) The owner of any device regulated under the provisions of this Article, or ~~his~~the  
16 owner's authorized agent, shall within 24 hours, notify the Commissioner of each and every  
17 occurrence involving such device when:

18           (1) The occurrence results in death or injury requiring medical treatment, other  
19 than first aid, by a physician. First aid means the one time treatment or  
20 observation of scratches, cuts not requiring stitches, burns, splinters and  
21 contusions or a diagnostic procedure, including examination and x-rays,  
22 which does not ordinarily require medical treatment even though provided by  
23 a physician or other licensed personnel; or

24           (2) The occurrence results in damage to the device indicating a substantial defect  
25 in design, mechanics, structure or equipment, affecting the future safe  
26 operation of the device. No reporting is required in the case of normal wear  
27 and tear.

28       (b) The Commissioner, without delay, after notification and determination that an  
29 occurrence involving injury or damage as specified in subsection (a) has occurred, shall make a  
30 complete and thorough investigation of the occurrence. The report of the investigation shall be  
31 placed on file in the office of the division and shall give in detail all facts and information  
32 available. The owner may submit for inclusion in the file results of investigations independent of  
33 the department's investigation.

34       **(b1)** Files and other records relating to investigations and enforcement proceedings  
35 pursuant to this Article are not subject to inspection and examination under G.S. 132-6 while the  
36 investigations and proceedings are pending, except that a person cited under the provisions of  
37 this Article is entitled to receive a copy of the official inspection report, which is the basis for  
38 citations received by the person following the issuance of citations.

39       (c) No person, following an occurrence as specified in subsection (a), shall operate,  
40 attempt to operate, use or move or attempt to move such device or part thereof, without the  
41 approval of the Commissioner, unless so as to prevent injury to any person or persons.

42       (d) No person, following an occurrence as specified in subsection (a), shall remove or  
43 attempt to remove from the premises any damaged or undamaged part of such device or repair  
44 or attempt to repair any damaged part necessary to a complete and thorough investigation. The  
45 department must initiate its investigation within 24 hours of being notified."

46       **SECTION 1.4.** G.S. 95-125.2 reads as rewritten:

47       "**§ 95-125.2. Reports-Investigations; reports required.**

48       (a) The owner of any device regulated under the provisions of this Article, or the owner's  
49 authorized agent, shall, within 24 hours, notify the Commissioner of each and every occurrence  
50 involving the device when either of the following occurs:

1 (1) Death or injury requiring medical treatment, other than first aid, by a  
2 physician. For the purposes of this section, "first aid" means (i) the one-time  
3 treatment or observation of scratches, cuts not requiring stitches, burns,  
4 splinters, or contusions or (ii) performing a diagnostic procedure, including  
5 examination and X rays, which does not ordinarily require medical treatment  
6 even though provided by a physician or other licensed personnel.

7 (2) Damage to the device indicating a substantial defect in design, mechanics,  
8 structure, or equipment that affects the future safe operation of the device. No  
9 reporting is required in the case of normal wear and tear.

10 (b) The Commissioner, without delay, after notification and determination that an  
11 occurrence involving injury or damage as specified in subsection (a) of this section has occurred,  
12 shall make a complete and thorough investigation of the occurrence. The report of the  
13 investigation shall be placed on file in the office of the division and shall give in detail all facts  
14 and information available. The owner may submit for inclusion in the file results of investigations  
15 independent of the department's investigation.

16 (b1) Files and other records relating to investigations and enforcement proceedings  
17 pursuant to this Article are not subject to inspection and examination under G.S. 132-6 while the  
18 investigations and proceedings are pending, except that a person cited under the provisions of  
19 this Article is entitled to receive a copy of the official inspection report, which is the basis for  
20 citations received by the person following the issuance of citations.

21 (c) No person, after an occurrence specified in subsection (a) of this section, shall do  
22 either of the following:

23 (1) Operate, attempt to operate, use, or move or attempt to move such device or  
24 part thereof without the approval of the Commissioner, unless so as to prevent  
25 injury to any person or persons.

26 (2) Remove or attempt to remove from the premises any damaged or undamaged  
27 part of such device or repair or attempt to repair any damaged part necessary  
28 to a complete and thorough investigation. The Department must initiate its  
29 investigation within 24 hours of being notified."

30 **SECTION 2.1.** G.S. 95-111.3(a) reads as rewritten:

31 "(a) The term "amusement device" shall mean any mechanical or structural device or  
32 attraction that carries or conveys or permits persons to walk along, around or over a fixed or  
33 restricted route or course or within a defined area including the entrances and exits thereto, for  
34 the purpose of giving such persons amusement, pleasure, thrills or excitement. This term shall  
35 not include any of the following:

36 (1) Devices operated on a river, lake, or any other natural body of water.

37 (2) Wavepools.

38 (3) Roller skating rinks.

39 (4) Ice skating rinks.

40 (5) Skateboard ramps or courses.

41 (6) Mechanical bulls.

42 (7) Buildings or concourses used in laser games.

43 (8) All-terrain vehicles.

44 (9) Motorcycles.

45 (10) Bicycles.

46 (11) Mopeds.

47 (12) Rock walls that are in a fixed, permanent location.

48 (13) Zip-lines.

49 (14) Funhouses, haunted houses, and similar walk-through devices that are erected  
50 temporarily on a seasonal basis and do not have mechanical components.

1 (15) Playground equipment, including but not limited to soft contained play  
2 equipment, swings, seesaws, slides, stationary spring-mounted animal  
3 features, jungle gyms, rider-propelled merry-go-rounds, and trampolines.

4 (16) A locomotive, train, series of railroad cars, or other mechanical devices that  
5 operate on any United States standard railroad gauge of four feet, eight and  
6 one-half inches."

7 **SECTION 3.1.** G.S. 95-133(b) is amended by adding a new subdivision to read:

8 "(b) Subject to the general supervision of the Commissioner and Deputy Commissioner,  
9 the Director shall be responsible for the administration and enforcement of all laws, rules and  
10 regulations which it is the duty of the Division to administer and enforce. The Director shall have  
11 the power, jurisdiction and authority to:

12 ...

13 (13) Obtain medical records compiled and maintained by the Department of Health  
14 and Human Services, by hospitals participating in the statewide trauma  
15 system, or by emergency management services providers in connection with  
16 the dispatch, response, treatment, or transport of individual patients relating  
17 to investigations and enforcement proceedings under this Article. The medical  
18 records obtained by the Department shall be strictly confidential, are not  
19 public records within the meaning of G.S. 132-1, and shall not be released or  
20 made public."

21 **SECTION 4.1.** Article 16 of Chapter 95 of the General Statutes is amended by  
22 adding a new section to read:

23 "**§ 95-153. Third-party litigation.**

24 Employees of the Department who are charged with compliance duties, including the Deputy  
25 Commissioner, shall not be compelled to appear at any deposition, hearing, trial, or other legal  
26 or administrative proceeding concerning a division inspection or investigation performed by the  
27 Department unless the appearance is required for a hearing held pursuant to the enforcement of  
28 this Article."

29 **SECTION 5.1.** G.S. 95-136 is amended by adding a new subsection to read:

30 "(e2) Except as provided in subsection (e1) of this section, information and reports  
31 developed pursuant to any inspection or investigation performed pursuant to this Article by the  
32 Department shall not be admissible in any court or before any administrative body except  
33 pursuant to the enforcement of this Article."

34 **SECTION 6.1.** This act is effective when it becomes law.