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CHAPTER 3.

 DEPARTMENT AND DIRECTOR OF LABOR, LICENSING, AND REGULATION

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 41‑3‑10.** Division of Labor created under supervision of Department of Labor, Licensing, and Regulation; director; rules and regulations.

A Division of Labor is hereby created, established, and administered under the supervision and direction of the Department of Labor, Licensing, and Regulation. A director of the Department of Labor, Licensing, and Regulation must be appointed by the Governor pursuant to the provisions of Section 40‑73‑15. The director means the chief administrative officer of the Department of Labor, Licensing, and Regulation. The Division of Labor is authorized to promulgate regulations for the division, and it is the duty of the division to administer and enforce the regulations and direct all inspections and investigations except as otherwise provided.

**SECTION 41‑3‑20.** Repealed by 1993 Act No. 181, Section 1617(B), eff February 1, 1994.

**SECTION 41‑3‑30.** Employees.

The Director of Labor, Licensing, and Regulation, or his designee, pursuant to Section 40‑73‑15, may employ such personnel and prescribe their duties, powers, and functions as he considers necessary and as may be authorized by the statute and for which funds have been authorized in the annual general appropriations act. The director or his designee may assign or transfer employees from one subdivision to another or may combine the clerical and inspection forces of two or more subdivisions, as he may consider necessary and advisable.

**SECTION 41‑3‑40.** Regulation of work of Subdivision of the Division of Labor.

The Director of Labor, Licensing, & Regulation, or his designee shall make regulations with reference to the work of the Subdivision of the Division of Labor and of the several subdivisions thereof as shall be necessarily properly to carry out the duties imposed upon the division.

**SECTION 41‑3‑50.** Inspections of work places, sites or areas.

The director of the department or his designee shall visit and inspect at reasonable hours, as often as practicable, all places, sites or areas where employment comes under the jurisdiction of the division to enforce the provisions of Chapters 1 through 25 of this Title.

**SECTION 41‑3‑55.** Determination of liability for violations at sites involving multiple employers or contractors.

At any construction site involving multiple employers or contractors, the department inspector when citing any such employer or contractor for a violation of any regulation or standard provided by law shall first determine which employer or contractor is in violation and such employer or contractor only shall be cited and held responsible for such violation.

**SECTION 41‑3‑60.** Enforcement of labor and employment laws; appointment and duties of inspectors and assistants.

The Director of the Department of Labor, Licensing, and Regulation or his designee shall enforce all laws of Chapters 1 through 25 of this Title in places, sites or areas, which come under his jurisdiction, and appoint such assistants and inspectors as necessary to carry out his duties. The duties of such assistants and inspectors shall be prescribed by the director which come under his jurisdiction.

**SECTION 41‑3‑70.** Representatives of employer and employees may accompany inspectors.

A representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Director of the Department of Labor, Licensing, and Regulation or his designee, his assistant or inspector during the physical inspection of any workplace for the purpose of aiding such inspection. No employee shall suffer any loss of wages or other benefits which would normally accrue to him because of his participation in the walk‑around inspection under this section. Where there is no authorized representative, the director or his designee, his assistant or inspector shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

**SECTION 41‑3‑80.** Enforcement of Fair Labor Standards Act of 1938.

The Division of Labor may assist and cooperate with the wage and hour division and the children’s bureau, United States Department of Labor, in the enforcement within this State of the Fair Labor Standards Act of 1938, adopted by the Congress of the United States, approved June 25, 1938, or as it may be hereafter amended and, subject to the regulations of the administration of the wage and hour division or the chief of the children’s bureau, as the case may be, and the laws of this State applicable to the receipt and expenditure of moneys, may be reimbursed by such division or such bureau for the reasonable cost of such assistance and cooperation.

**SECTION 41‑3‑100.** Furnishing of blanks and forms.

All blanks and forms required by the Director of the Department of Labor, Licensing, and Regulation or his designee under provisions of Chapters 1 through 25 of this Title shall be furnished by the director or his designee.

**SECTION 41‑3‑110.** Powers of Director generally.

The Director of the Department of Labor, Licensing, and Regulation or his designee may subpoena witnesses, documents, take and preserve testimony, examine witnesses, administer oaths and, under proper restrictions, enter any public institution of the State or any factory, store, workshop, laundry, public eating house or mine and interrogate any person employed therein or connected therewith or the proper officers of a corporation or he may file a written or printed list of interrogatories and require full and complete answers to them to be returned, under oath, within fifteen days of the receipt of such list.

**SECTION 41‑3‑120.** Enforcement.

The Director of the Department of Labor, Licensing, and Regulation or his designee shall enforce the provisions of Chapters 1 through 25 of this title and prosecute all violations of law relating to those chapters before any court of competent jurisdiction.

**SECTION 41‑3‑130.** Solicitors and prosecuting attorneys shall prosecute violations.

The solicitor of the circuit or the prosecuting attorney of the city court, upon the request of the Director of the Department of Labor Licensing, and Regulation or his designee, or any of his assistants or deputies, shall prosecute any violation of law which it is the duty of the director or his designee to enforce.

**SECTION 41‑3‑140.** Penalties for impeding Director in performance of his duties.

Any person who shall willfully impede or prevent the Director of the Department of Labor, Licensing, and Regulation or his designee, his agents or assistants, in the free and full performance of his duties shall, upon conviction, be fined not less than one hundred dollars or more than one thousand dollars or be imprisoned for not less than thirty days or more than six months, or both.

ARTICLE 5.

 MIGRANT LABOR SUBDIVISION

**SECTION 41‑3‑510.** Migrant Labor subdivision established.

There is established within the Subdivision of the Division of Labor, the Migrant Labor subdivision.

**SECTION 41‑3‑520.** Promulgation of rules and regulations.

The Division of Labor may with the approval of the majority of the Migrant Farm Workers Commission promulgate, revoke, or modify rules and regulations implementing the recommendations of the Migrant Farm Workers Commission in safeguarding the health, safety, education and welfare of migrant or seasonal farm workers.

**SECTION 41‑3‑530.** Public hearing concerning rules and regulations; notice.

Prior to the promulgation, modification or revocation of any regulation pursuant to Section 41‑3‑520 and the Administrative Procedures Act, the Subdivision of the Division of Labor shall conduct a public hearing at which all interested persons shall be provided an opportunity to appear and present their comments either orally, written or both. Notice of such hearing shall be published in at least three newspapers, one of which has circulation in the upper section of the State, one which has circulation in the middle section of the State and one with circulation in the lower section of the State, once a week for three weeks. The notice shall contain the date, time, and place of the hearing, a brief description of the proposed regulation or the amendment or revocation of an existing rule and regulation.

**SECTION 41‑3‑540.** Contracts to provide migrant labor services; annual report of Director of Labor, Licensing, and Regulation to General Assembly.

The Director of the Department of Labor, Licensing, and Regulation or his designee is authorized to enter into contracts with other state agencies and other political subdivisions of the State to provide migrant labor services, and the Division of Labor shall enforce the regulations. Additionally, the director or his designee is authorized to enter into contracts with existing private agencies organized for the purpose of providing services to the migrant or seasonal farm workers and any newly organized private agency organized to provide services to the migrant or seasonal farm workers which are approved by the Migrant Farm Workers Commission. The director or his designee shall report annually to the General Assembly the activity of the Migrant Farm Workers Commission and the Migrant Labor Subdivision for the preceding fiscal year.

ARTICLE 6.

 CERTAIN TERMS DEEMED TO HAVE CERTAIN MEANINGS

**SECTION 41‑3‑610.** Commissioner of Labor to mean Director of Department of Labor, Licensing, and Regulation; Department of Labor to mean Division of Labor; division to mean subdivision; contested matters appealable to administrative law judge.

Wherever in any other chapter of Title 41 the term Commissioner of Labor appears or is used, it is considered to mean the Director of the Department of Labor, Licensing, and Regulation or his designee. Wherever in any other chapter of Title 41 the term Department of Labor appears or is used, it is considered to mean the Division of Labor, that is, a division of the Department of Labor, Licensing, and Regulation. Wherever in any other chapter of Title 41 the term division appears or is used with reference to a division of the former Department of Labor, it is considered to mean a subdivision of the Division of Labor. Any contested case or matter heard or decided by the former Commissioner of Labor, his designee, or any other employee of the former Department of Labor may be appealed to an administrative law judge as provided under Article 5 of Chapter 23 of Title 1.