CHAPTER 13

Child Labor

**SECTION 41‑13‑5.** “Employer” defined.

 As used in this article “employer” includes every person, firm, partnership, association, corporation, receiver or other officer of a court of this State, the State or any political subdivision thereof and any agent or officer of the above‑mentioned classes employing any person in this State.

HISTORY: 1981 Act No. 180 Section 6.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Labor Relations Section 19, Powers.

Treatises and Practice Aids

Guide to Employment Law and Regulation 2d Section 61:9, Child Labor Law.

**SECTION 41‑13‑20.** Oppressive child labor practices prohibited; Director of the Department of Labor, Licensing, and Regulation or his designee to promulgate regulations.

 No employer in this State shall engage in any oppressive child labor practices. The Director of the Department of Labor, Licensing, and Regulation or his designee shall promulgate regulations pursuant to Sections 1‑23‑10 et seq. which will prohibit and prevent such oppressive child labor practices provided that such regulations shall not be more restrictive or burdensome than applicable federal laws or regulations.

HISTORY: 1962 Code Section 40‑162; 1952 Code Section 40‑162; 1942 Code Section 7031‑1; 1932 Code Section 1471; Cr. C. ‘22 Section 415; Cr. C. ‘12 Section 424; 1911 (27) 30; 1937 (40) 531; 1981 Act No. 180 Section 7; 1993 Act No. 181, Section 977, eff February 1, 1994.

Editor’s Note

Pursuant to Section 41‑3‑610, effective February 1, 1994, wherever the term Commissioner of Labor appears or is used, it shall be deemed to mean the Director of the Department of Labor, Licensing, and Regulation or his designee.

Effect of Amendment

The 1993 amendment substituted “Director of the Department of Labor, Licensing, and Regulation or his designee” for “Commissioner of Labor”.

CROSS REFERENCES

Penalty for employing child contrary to provisions of this section or regulations promulgated thereunder, see Section 41‑13‑25.

Regulations promulgated under authority of this section, see S.C. Code of Regulations R. 71‑3100 et seq.

RESEARCH REFERENCES

Treatises and Practice Aids

Employment Coordinator Compensation Section 25:84, Prohibitions.

Guide to Employment Law and Regulation 2d Section 61:9, Child Labor Law.

**SECTION 41‑13‑25.** Penalties for violating child labor regulations.

 (A) As determined by the Director of the Department of Labor, Licensing and Regulation or the director’s designee, an employer who violates a child labor regulation promulgated pursuant to this chapter must be given a written warning of the violation for a first offense or may be fined not more than one thousand dollars. For second or subsequent offenses, an employer may be fined not more than five thousand dollars for each offense. The director shall determine the amount of the penalty pursuant to procedures promulgated by the department in regulation for assessing penalties under this chapter. These regulations shall include the method for determining penalties based on the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations of the employer.

 (B) The findings of the director, including the amount of the fine, are final unless within thirty days after receipt of their notice by certified mail the employer requests in writing to the director a review of the findings or the amount of the fine. If a request for review is made to the director, a final determination must be made after an opportunity for a hearing pursuant to the Administrative Procedures Act.

 (C) The amount of the fine as finally determined may be recovered in a civil action brought in a court of competent jurisdiction and deposited in the state general fund.

HISTORY: 1981 Act No. 180 Section 8; 1989 Act No. 135, Section 1, eff June 8, 1989; 1993 Act No. 181, Section 977, eff February 1, 1994; 1998 Act No. 395, Section 1, eff June 9, 1998.

Editor’s Note

Pursuant to Section 41‑3‑610, effective February 1, 1994, wherever the term Commissioner of Labor appears or is used, it shall be deemed to mean the Director of the Department of Labor, Licensing, and Regulation or his designee.

Effect of Amendment

The 1989 amendment rewrote this section, deleting provisions for criminal penalties.

The 1993 amendment substituted “Director of the Department of Labor, Licensing, and Regulation or his designee” for “Commissioner of Labor”.

The 1998 amendment rewrote subsection (A) and substituted “director” for “commissioner” throughout subsection (B).

CROSS REFERENCES

Procedures for hearing Child Labor Act administrative appeals, see S.C. Code of Regulations R. 71‑3110.

RESEARCH REFERENCES

Treatises and Practice Aids

Employment Coordinator Compensation Section 28:65, South Carolina.

Employment Coordinator Compensation Section 28:109, South Carolina.

Employment Coordinator Compensation Section 28:145, South Carolina.

Guide to Employment Law and Regulation 2d Section 61:9, Child Labor Law.

**SECTION 41‑13‑30.** Misrepresentation of age of child.

 Any parent, guardian or other person having under his control any child who consents, suffers or permits the employment of his child or ward under the ages above provided or who knowingly or wilfully misrepresents the age of such child or ward to any person in order to obtain employment for such child or ward contrary to the provisions of Section 41‑13‑10 shall be guilty of a misdemeanor and for every offense shall, upon conviction thereof, be fined not less than ten dollars nor more than fifty dollars or be imprisoned not longer than thirty days, in the discretion of the court.

HISTORY: 1962 Code Section 40‑163; 1952 Code Section 40‑163; 1942 Code Section 7031‑2; 1932 Code Section 1472; Cr. C. ‘22 Section 416; Cr. C. ‘12 Section 425; 1911 (27) 30.

**SECTION 41‑13‑40.** Repealed by 1998 Act No. 395, Section 2, eff June 9, 1998.

Editor’s Note

Former Section 41‑13‑40 was entitled “Liability of employers of minors to parents or guardians” and was derived from 1962 Code Section 40‑164; 1952 Code Section 40‑164; 1942 Code Section 8668; 1932 Code Section 8668; Civ. C. ‘22 Section 5568; Civ. C. ‘12 Section 3788; Civ. C. ‘02 Section 2694; G. S. 2062; R. S. 2194; 1871 (15) 545; 1908 (25) 1029; 1976 Act No. 695 Section 1.

**SECTION 41‑13‑50.** Enforcement.

 The Director of the Department of Labor, Licensing, and Regulation or his designee and the inspectors and agents of the Division of Labor shall enforce the provisions of this chapter, make complaints against persons violating its provisions and institute prosecutions for violation thereof.

HISTORY: 1962 Code Section 40‑165; 1952 Code Section 40‑165; 1942 Code Section 7031‑3; 1932 Code Section 1475; Cr. C. ‘22 Section 419; Cr. C. ‘12 Section 427; 1909 (26) 18; 1937 (40) 531; 1993 Act No. 181, Section 977, eff February 1, 1994.

Editor’s Note

Pursuant to Section 41‑3‑610, effective February 1, 1994, wherever the term Commissioner of Labor appears or is used, it shall be deemed to mean the Director of the Department of Labor, Licensing, and Regulation or his designee and wherever the term Department of Labor appears or is used, it shall be deemed to mean the Division of Labor, that is, a division of the Department of Labor, Licensing, and Regulation.

Effect of Amendment

The 1993 amendment substituted “Director of the Department of Labor, Licensing, and Regulation or his designee” for “Commissioner of Labor” and “Division of Labor” for “Department of Labor”.

CROSS REFERENCES

Enforcement of labor laws, generally, see Sections 41‑3‑10 et seq.

Promulgation and enforcement of rules and regulations by commissioner, see Sections 41‑15‑210 et seq.

RESEARCH REFERENCES

Treatises and Practice Aids

Employment Coordinator Compensation Section 28:109, South Carolina.

**SECTION 41‑13‑60.** Inspection of factories and records for enforcement purposes.

 The Commissioner and the inspectors and agents of the Department may enter and inspect at any time any place or establishment where minors are employed and may have access to all such records as may aid in the enforcement of this chapter.

HISTORY: 1962 Code Section 40‑166; 1952 Code Section 40‑166; 1942 Code Section 7031‑3; 1932 Code Section 1475; Cr. C. ‘22 Section 419; Cr. C. ‘12 Section 427; 1909 (26) 18; 1937 (40) 531.

CROSS REFERENCES

Inspections, generally, see Sections 41‑3‑50, 41‑3‑70.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Blue Laws Section 7, Sunday Employment of Children.

S.C. Jur. Labor Relations Section 19, Powers.

Treatises and Practice Aids

Employment Coordinator Compensation Section 28:109, South Carolina.

Guide to Employment Law and Regulation 2d Section 61:9, Child Labor Law.