

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 225
HOUSE BILL 659

AN ACT TO AUTHORIZE THE COMMISSIONER OF LABOR TO FILE AS
JUDGMENTS FINAL ORDERS ASSESSING CIVIL MONEY PENALTIES
UNDER THE WAGE AND HOUR ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-25.23 reads as rewritten:

"§ 95-25.23. Violation of youth employment; civil penalty.

(a) Any employer who violates the provisions of G.S. 95-25.5 (Youth Employment) or any regulation issued thereunder, shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) for each 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. The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a judicial proceeding pursuant to Article 4 of Chapter 150B.

(b) The amount of such penalty when finally determined may be recovered in a ~~civil action brought by the Commissioner in the General Court of Justice.~~ the manner set forth in G.S. 95-25.23B.

(c) Sums collected under this section by the Commissioner shall be paid into the General Fund of the State treasury.

(d) Assessment of penalties under this section shall be subject to a two-year statute of limitations commencing at the time of the occurrence of the violation."

Sec. 2. G.S. 95-25.23A reads as rewritten:

"§ 95-25.23A. Violation of record-keeping requirement; civil penalty.

(a) Any employer who violates the provisions of G.S. 95-25.15(b) or any regulation issued pursuant to G.S. 95-25.15(b), shall be subject to a civil penalty of up to two hundred fifty dollars (\$250.00) per employee with the maximum not to exceed one thousand dollars (\$1,000) per investigation by the Commissioner or his authorized representative. In determining the amount of the penalty, the Commissioner shall consider:

- (1) The appropriateness of the penalty for the size of the business of the employer charged; and
- (2) The gravity of the violation.

The determination by the Commissioner shall be final, unless within 15 days after receipt of notice thereof by certified mail, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Article 3 of Chapter 150B and in a judicial proceeding pursuant to Article 4 of Chapter 150B.

(b) The amount of the penalty when finally determined may be recovered in a ~~civil action brought by the Commissioner in the General Court of Justice.~~ the manner set forth in G.S. 95-25.23B.

(c) Sums collected under this section by the Commissioner shall be paid into the General Fund.

(d) Assessment of penalties under this section shall be subject to a two-year statute of limitations commencing at the time of the occurrence of the violation."

Sec. 3. Chapter 95 of the General Statutes is amended by adding the following new section to read:

"§ 95-25.23B. Civil penalty collection.

The Commissioner may file in the office of the clerk of the superior court of any county a certified copy of an assessment, either unappealed from or affirmed in whole or in part upon appeal, of a civil money penalty under G.S. 95-25.23 or G.S. 95-25.23A. Upon such filing, the clerk shall enter judgment in accordance with the unappealed or affirmed portion of the assessment and shall notify the parties. Such judgment shall have the same effect, and all proceedings in relation to the judgment shall thereafter be the same, as though the judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of June, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives