

## CHAPTER 167

AN ACT concerning child labor and amending P.L.1940, c.153.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 19 of P.L.1940, c.153 (C.34:2-21.19) is amended to read as follows:

C.34:2-21.19 Penalty, Child Labor Law Enforcement Trust Fund, Advisory Board; annual report.

19. a. Whoever employs or permits or suffers any minor to be employed or to work in violation of this act, or of any order or ruling issued under the provisions of this act, or obstructs the Department of Labor and Workforce Development, its officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act, shall be guilty of an offense. If a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree. Otherwise it shall be a disorderly persons offense and the defendant shall, upon conviction for a violation, be punished by a fine of not less than \$100 nor more than \$2,000 for an initial violation and not less than \$200 nor more than \$4,000 for each subsequent violation. Each day during which any violation of this act continues shall constitute a separate and distinct offense, and the employment of any minor in violation of the act shall with respect to each minor so employed, constitute a separate and distinct offense.

b. As an alternative to or in addition to any other sanctions provided by law for violations of P.L.1940, c.153 (C.34:2-21.1 et seq.), when the Commissioner of Labor and Workforce Development finds that an individual has violated that act, the commissioner is authorized to assess and collect administrative penalties of not more than \$500 for a first violation, not more than \$1,000 for a second violation, and not more than \$2,500 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer, and the size of the employer's business. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor and Workforce Development provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.). Any sum collected as a fine or penalty pursuant to this section shall be deposited in the Child Labor Law Enforcement Trust Fund established pursuant to subsection c. of this section.

c. There is established in the Department of Labor and Workforce Development the Child Labor Law Enforcement Trust Fund. All moneys in the fund shall be applied by the department toward the enforcement of the provisions of P.L.1940, c.153 (C.34:2-21.1 et seq.) and to disseminate information and publicity regarding those provisions to employers, employer organizations, employees, unions, and teachers, counselors, social workers and other professionals engaged in work involving the welfare of children.

d. There is established a Child Labor Law Enforcement Advisory Board to advise the Commissioner of Labor and Workforce Development, and issue an annual report, regarding the use of moneys from the Child Labor Law Enforcement Trust Fund and other issues the board deems appropriate concerning child labor, including the impact of excessive or hazardous work on the educational success, health and general well-being of children. The board shall consist of the commissioner or his designee, who shall serve as the chair, and seven members appointed by the commissioner as follows: two members representing organizations of employers in industries with significant numbers of employees who are minors, two members representing labor unions in industries with significant numbers of employees who are minors, one member representing an organization of school administrators, one member representing an organization

of school employees, and one member who is an individual with expertise on the impact of excessive or hazardous work on the educational success, health, and general well-being of children. Members appointed by the commissioner shall be appointed for two-year terms and may be appointed for any number of terms. Members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties. Action may be taken by the board by an affirmative vote of a majority of its members. The first annual report shall be issued not later than 12 months after the effective date of this act. Each annual report may include recommendations to enhance the enforcement and publicizing of the provisions of P.L.1940, c.153 (C.34:2-21.1 et seq.). The advisory board shall have access to reports, data and other information regarding child labor in the possession of the department and assistance from department personnel as required to perform its duties.

2. This act shall take effect on the 120th day after enactment.

Approved August 5, 2005.