

Code of Virginia

Title 40.1. Labor and Employment

Chapter 3. Protection of Employees

§ 40.1-22. Safety and Health Codes Commission continued as Safety and Health Codes Board.

(1) The Safety and Health Codes Commission is continued and shall hereafter be known as the Safety and Health Codes Board. The Board shall consist of fourteen members, twelve of whom shall be appointed by the Governor. One member shall, by reason of previous vocation, employment or affiliation, be chosen to represent labor in the manufacturing industry; one member shall, by reason of previous vocation, employment or affiliation, be chosen to represent labor in the construction industry; one member shall, by reason of previous vocation, employment or affiliation, be chosen to represent industrial employers; one member shall be chosen from and be a representative of the general public; one member shall be a representative of agricultural employers; one member shall, by reason of previous vocation, employment or affiliation, be chosen to represent agricultural employees; one member shall, by reason of previous vocation, employment or affiliation, be chosen to represent construction industry employers; one member shall be a representative of an insurance company; one member shall be a labor representative from the boiler pressure vessel industry; one member shall be a labor representative knowledgeable in chemicals and toxic substances; one member shall be an employer representative of the boiler pressure vessel industry; one member shall be an industrial representative knowledgeable in chemical and toxic substances, and the Director of the Department of Environmental Quality or his duly authorized representative shall be a member ex officio with full membership status. The Commissioner of Health or his duly authorized representative shall also be a member ex officio with full membership status.

(2) The first appointive members shall be appointed as follows: one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Of the members appointed to represent the construction industry, one shall be appointed for the term of two years and one shall be appointed for the term of four years. Succeeding appointments shall be for terms of four years each but other vacancies shall be filled by appointment for the unexpired term.

(3) The Board shall annually select a chairman from its members. The Board shall meet at least once every six months; other meetings may be held upon call of the chairman or any three members of the Board. Five members of the Board shall constitute a quorum.

(4) The Board shall study and investigate all phases of safety in business establishments, the application of this title thereto, and shall serve as advisor to the Commissioner.

(5) The Board, with the advice of the Commissioner, is hereby authorized to adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in place of employment over which it has jurisdiction and to effect compliance with the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596), and as may be necessary to carry out its functions established under this title. The Commissioner shall enforce such rules and regulations. All such rules and regulations shall be designed to protect and promote the safety and health of such employees. In making such rules and regulations to protect the occupational safety and health of employees, the Board shall adopt the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity. However, such standards shall be at least as stringent as the standards promulgated by the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired. Such standards when applicable to products which are distributed in interstate commerce shall be the same as federal standards unless deviations are required by compelling local conditions and do not unduly burden interstate commerce.

(6) Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 shall apply to the adoption of rules and regulations under this section and to proceedings before the Board.

(6a) The Board shall provide, without regard to the requirements of Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2, for an emergency temporary standard to take immediate effect upon publication in a newspaper of general circulation, published in the City of Richmond, Virginia, if it determines that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and that such emergency standard is necessary to protect employees from such danger. The publication mentioned herein shall constitute notice that the Board intends to adopt such standard within a period of six months. The Board by similar publication shall prior to the expiration of six months give notice of the time and date of, and conduct a hearing on, the adoption of a permanent standard. The emergency temporary standard shall expire within six months when superseded by a permanent standard, whichever occurs first, or when repealed by the Board.

(7) Any person who may be adversely affected by a standard issued under this title may challenge the validity of such standard in the Circuit Court of the City of Richmond by declaratory judgment. The determination of the Safety and Health Codes Board shall be conclusive if supported by substantial evidence in the record considered as a whole. Adoption of a federal occupational safety and health standard shall be deemed to be sufficient evidence to support promulgation of such standard. The filing of a petition for declaratory judgment shall not operate as a stay of the standard unless the court issues a preliminary injunction.

Code 1950, § 40-20; 1962, c. 66; 1968, c. 272; 1970, cc. 321, 649; 1972, c. 567; 1973, c. 425; 1974, c. 195; 1976, c. 607; 1979, c. 656; 1980, c. 728; 1984, c. 590; 1985, c. 448; 1987, c. 165; 1988, c. 467.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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