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TITLE 19

Labor

General Provisions

CHAPTER 1. Department of Labor

§ 101. Definitions; exclusions.
(a) As used in this chapter:

(1) “Board” means the Industrial Accident Board.

(2) “Department” means the Department of Labor.

(3) “Employer” includes any person, excepting those provided for in subsection (b) of this section, acting directly or indirectly in the interest of any employer in relation to any employee but shall not include the United States or the State or any political subdivision thereof.

(4) “Person” means an individual, partnership, association, corporation, statutory trust, business trust, legal representative or any organized group of persons.

(5) “Secretary” or “Secretary of Labor” shall mean the Secretary of Labor or the Secretary’s authorized designee, provided, that any such delegation of authority is consistent with Chapter 85 of Title 29.

(b) Persons in the following occupations, and employers of persons engaged in these occupations to the extent thereof, shall not be within the scope of this chapter and are specifically excepted from all the provisions of this chapter: Baby-sitting, domestic help, agriculture, fishing and hunting.

19 Del. C. 1953, § 101; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 57 Del. Laws, c. 669, § 1A (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=57&chapter=669); 70 Del. Laws, c. 186, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=70&chapter=186); 73 Del. Laws, c. 329, § 64 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=73&chapter=329);

§ 102. Office; hearings.
The Department shall keep such suitable office as shall best meet the convenience of the Department and the public. The Department or its authorized representative may hold hearings at any place within the State that the convenience of the Department and of the parties in interest may require.

19 Del. C. 1953, § 103; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 57 Del. Laws, c. 669, § 1B (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=57&chapter=669);

§ 103. Regulation of child labor.
The Secretary of Labor may visit and inspect at any time any establishment in this State to ascertain whether any children are employed therein contrary to Chapter 5 of this title, and the Secretary shall make complaint against and shall prosecute any person violating such chapter.

19 Del. C. 1953, § 109; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 57 Del. Laws, c. 604, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=57&chapter=604); 57 Del. Laws, c. 669, § 1C (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=57&chapter=669);

§ 104. Preparation of certificates, papers and abstracts.
The Department shall formulate and have printed certificates and papers required in the issuing of employment certificates and the abstracts of the law relating to the hours of child labor and conditions and hours of females in this State.

19 Del. C. 1953, § 111; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 70 Del. Laws, c. 186, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=70&chapter=186);

§ 105. Duties and powers of the Department; fees; Department of Labor Research Fund.
(a) In addition to such other duties and powers which may be conferred upon it by law, the Department may:

(1) Administer all labor laws in this State;

(2) Direct to the attention of the Attorney General of this State, with a request for the necessary enforcement action, all violations under the terms of this chapter;

(3) Collect, compile and analyze statistical information with respect to, and report upon the conditions of, labor generally, and upon all matters relating to the enforcement and effect of this chapter;

(4) Collect fees for research activities it conducts pursuant to this section, the amounts of said fees to approximate and reasonably reflect the costs of such activities;

(5) Propose to the Industrial Accident Board such rules or changes in rules as may be deemed advisable, either procedural or substantive;

(6) Do all in its power to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employees; provided, however, that neither the Department nor any of its representatives shall have the authority, under either this section or §§ 110 and 111 of this title, to make any public recommendation for the settlement of any specific labor dispute, or to make any public statement as to the merits of such dispute, prior to the final settlement thereof;

(7) Promote voluntary apprenticeship through cooperation with the United States Department of Labor;

(8) Make, amend and repeal regulations necessary for the internal administration of the Department, and for the proper conduct of any necessary hearings before the Department or its authorized agents. The members of the Department shall not be bound by technical rules of evidence in the conduct of such hearings.

(b) Any fees collected by the Department of Labor for its research service shall be paid into the State Treasury and the State Treasurer shall deposit the same to the credit of a special fund, entitled “Department of Labor Research Fund,” from which necessary expenses of the Department of Labor shall be paid for analyses of labor force, employment, unemployment and occupational and industrial change upon proper vouchers signed by the Secretary of the Department of Labor. The Department of Labor Research Fund shall be a revolving fund and no funds deposited therein shall revert to the General Fund of the State Treasury, except for funds appropriated by the 135th General Assembly to begin said Fund, which funds shall be paid back to the State Treasurer out of the Department of Labor’s Research Fund on or before June 30, 1992. The Department of Labor shall annually, on or before January 31, make a report to the Governor of all income and expenditures made from said Fund. A copy of said reports shall be given biennially, on or before January 31, to the members of the General Assembly.

19 Del. C. 1953, § 112; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 67 Del. Laws, c. 448, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=67&chapter=448);

§ 106. Rules relating to accidents and industrial diseases.
(a) The Department may make, modify and repeal rules for the prevention of accidents or of industrial or occupational diseases in every employment or place of employment or such rules for the construction, repair and maintenance of places of employment as shall render them safe. Such rules when made shall have the force and effect of law and shall be enforced in the same manner as this chapter.

(b) Before any rule is adopted, amended or repealed, there shall be a public hearing thereon, notice of which shall be published at least once, not less than 10 days prior thereto, in such newspaper or newspapers as the Department may prescribe. All rules and all amendments and repeals thereof shall, unless otherwise prescribed by the Department, take effect 30 days after the first publication thereof and shall be filed in the office of the Secretary of State.

(c) Every rule adopted and every amendment or repeal thereof shall be published in such manner as the Department may determine and a copy shall be delivered to every person making application therefor. The text of each rule, or amendment thereto, shall be included in an appendix to the annual report of the Department next following the adoption or amendment of such rule.

(d) If there should be practical difficulties or unnecessary hardship in carrying out a rule of the Department made pursuant to this section, the Department may, after public hearing, make variation from such requirement if the spirit of the rule and law shall be observed. Any person affected by such rule, or that person’s agent, may petition the Department for such variation stating the grounds therefor. The Department shall fix a day for a hearing on such petition and give reasonable notice thereof to the petitioner. A properly indexed record of all variations made shall be kept in the office of the Department and shall be open to public inspection.

(e) Any person aggrieved by a rule made pursuant to this section may petition the Department for a review of the reasonableness or validity of such rule. The Department may join in 1 proceeding all petitions alleging invalidity or unreasonableness of the same rule. The Department may order a hearing if necessary to determine the issues raised. Notice of the time and place of hearing shall be given to the petitioner and to such other persons as the Department may determine. The decision of the Department shall be final unless, within 30 days after the decision is filed with the Department, one of the parties commences an action as provided in § 109 of this title.

(f) In the formulation of rules and regulations under this section the Department shall seek the advice of the Industrial Accident Board.

19 Del. C. 1953, § 113; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 70 Del. Laws, c. 186, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=70&chapter=186);

§ 107. Inspection of records; duty to furnish information.
(a) The members of the Department and its authorized representatives may enter at reasonable times, so as not to unduly hinder the conduct of the business, any place of employment for the purpose of inspecting records and collecting facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all labor laws of the State. No employer or owner shall refuse to admit the members of the Department, or its authorized representatives, to the employer’s or owner’s place of employment, provided the admission requested is not at an unreasonable time.

(b) Any person who hinders or delays the members of the Department, or its authorized representatives in the performance of their duties, in the enforcement of this chapter or any law which it is the power or duty of the Department to enforce; or who refuses to admit, at reasonable times, the members of the Department, or its authorized representatives to any place of employment; or who fails to give information lawfully required for the proper enforcement of any law, upon demand of the members of the Department, or its authorized representatives; and any employer who fails or refuses to make records relating to the employment of workers accessible, or who falsifies such records or who refuses to furnish a sworn statement thereof, upon demand of the Department or its authorized representatives, shall be deemed to have violated this section.

19 Del. C. 1953, § 114; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 70 Del. Laws, c. 186, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=70&chapter=186);

§ 108. Power as to witnesses; seal; evidence; procedure.
The Department, and any officer of the Department designated by the Department, in the performance of any duty or the execution of any power prescribed by law, may administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records and testimony. In case of failure of any person to comply with any subpoena lawfully issued, or on the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the Department may request the Attorney General of this State to prosecute such person before the Superior Court of this State. If such person shall be found guilty that person shall be deemed to have been in contempt of that Court and shall be punished by that Court in the same fashion as that Court punishes any contempt thereof.

19 Del. C. 1953, § 115; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 57 Del. Laws, c. 669, § 1B (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=57&chapter=669); 70 Del. Laws, c. 186, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=70&chapter=186);

§ 109. Review of rules by Superior Court.
Any person whose interest is affected thereby may commence an action in the Superior Court of this State, in any of the 3 counties against the Department as defendant to determine the reasonableness and validity of any rule made pursuant to § 106 of this title, provided that no such action may be brought except as an appeal from the determination of the Department and within the time for such appeal, both as provided in § 106(e) of this title. Such action and pleadings thereon shall be governed by the laws and rules of practice applicable to other civil actions.

19 Del. C. 1953, § 116; 53 Del. Laws, c. 259. (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259.);

§ 110. Declaration of policy as to labor disputes.
It is declared as the public policy of this State that the best interests of the people of the State are served by the prevention or prompt settlement of labor disputes; that strikes and lockouts and other forms of industrial strife, regardless where the merits of the controversy lie, are forces productive ultimately of economic waste; that the interests and rights of the consumers and the people of the State, while not direct parties thereto, should always be considered, respected and protected; and that the voluntary mediation of such disputes under the guidance and supervision of a governmental agency will tend to promote permanent industrial peace and the health, welfare, comfort and safety of the people of the State. To carry out such policy, the necessity for the enactment of this chapter is declared as a matter of legislative determination.

19 Del. C. 1953, § 117; 53 Del. Laws, c. 259. (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259.);

§ 111. Labor disputes; powers and duties of Secretary.
(a) Upon the Secretary's own motion, in an existing, imminent or threatened labor dispute, the Secretary may, and, upon the request of the parties or either party to the dispute, the Secretary must take such steps as the Secretary may deem expedient to effect a voluntary, amicable and expeditious adjustment and settlement of the differences and issues between employer and employees which have precipitated or culminated in or threaten to precipitate or culminate in such labor dispute. To this end, it shall be the duty of the Secretary to:

(1) Arrange for, hold, adjourn or reconvene a conference or conferences between the disputants or 1 or more of their representatives or any of them;

(2) Invite the disputants or their representatives or any of them to attend such conference and submit, either orally or in writing, the grievances of and differences between the disputants;

(3) Discuss such grievances and differences with the disputants and their representatives; and

(4) Assist in negotiating and drafting agreements for the adjustment in settlement of such grievances and differences and for the termination or avoidance, as the case may be, of the existing or threatened labor dispute.

In carrying out any of its work under this chapter, the Secretary may designate 1 of the members of the Department or an employee of the Department to act in the Secretary's own behalf and may delegate to such designee 1 or more of the Secretary's duties under this section and, for such purpose, such designee shall have all of the powers conferred by this section upon the Secretary in connection with the discharge of the duty or duties so delegated.

(b) The Secretary may also appoint and designate other persons or groups of persons to act for and on the Secretary's behalf and may delegate to such persons or groups of persons any and all of the power conferred upon the Secretary by this chapter so far as it is reasonably necessary to effectuate the purposes of this chapter. Such persons shall serve without compensation but shall be reimbursed for any necessary expenses.

19 Del. C. 1953, § 120; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 57 Del. Laws, c. 669, § 1D (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=57&chapter=669); 70 Del. Laws, c. 186, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=70&chapter=186);

§ 112. Strike rights not to be impeded.
Nothing in this chapter shall be construed to interfere with, impede or diminish in any way the right of employees to strike or engage in other lawful concerted activities.

19 Del. C. 1953, § 122; 53 Del. Laws, c. 259. (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259.);

§ 113. Rules for mediation of labor disputes.
The Secretary may adopt, alter, amend or repeal such rules in connection with the voluntary mediation of labor disputes as may be necessary for the proper administration and enforcement of this chapter.

19 Del. C. 1953, § 123; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 57 Del. Laws, c. 669, § 1D (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=57&chapter=669);

§ 114. Chapter does not diminish constitutional rights.
Nothing contained in this chapter shall be construed as interfering with, impeding or diminishing in any way any right guaranteed by law or by the Constitution of the State or of the United States.

19 Del. C. 1953, § 124; 53 Del. Laws, c. 259. (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259.);

§ 115. Enforcement by Attorney General.
It shall be the duty of the Attorney General of this State upon request of the Department of Labor, or any of its authorized representatives, to prosecute any violation of the law or of any rule which it is made the duty of the Department to enforce; provided the Department may, upon its own initiative, bring all necessary suits and institute such prosecutions as may be necessary properly to enforce this chapter, and shall not be required to give bond for costs or otherwise, in the event of appeal.

19 Del. C. 1953, § 125; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 57 Del. Laws, c. 669, § 1E (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=57&chapter=669);

§ 116. Penalties.

Any person who violates or fails or refuses to comply with §§ 101-115, inclusive, of this title, or any lawful order of the Department or any judgment or decree made by any court in connection with this chapter for which no penalty has been otherwise provided, shall be assessed a civil penalty of not less than $1,000 nor more than $5,000 for each such violation; and each day such violation, omission, failure or refusal continues after notification or entry of the decree of a court shall be deemed a separate violation. A civil penalty claim may be filed in any court of competent jurisdiction.

19 Del. C. 1953, § 126; 53 Del. Laws, c. 259 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259); 67 Del. Laws, c. 260, § 1 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=67&chapter=260); 69 Del. Laws, c. 294, §§ 1, 2 (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=69&chapter=294);

§ 117. State and federal cooperation.
The Department may assist and cooperate with the Wage-Hour and Public Contracts Divisions and the United States Department of Labor, in the enforcement within this State of the Fair Labor Standards Act of 1938 [29 U.S.C. § 201 et seq.], approved June 25, 1938, and, subject to the regulations of the Administrator of such Divisions, as the case may be, and the laws of the State applicable to the receipt and expenditures of moneys, may be paid or reimbursed by said Divisions for the reasonable cost of such assistance and cooperation.

19 Del. C. 1953, § 128; 53 Del. Laws, c. 259. (https://web.archive.org/web/20210221174057/https://legis.delaware.gov/SessionLaws?volume=53&chapter=259.);

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