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# Bureau of Labor Standards [Various Sections of Law.]

Labor/Labor Standards

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LIBRARY USE ONLY BUREAU OF LABOR STANDARDS

Sec. 2. Reports of deaths, accidents and injuries

The person in charge of any workplace as defined in section 1 provided by the State, state agency, county, municipal corporation, school district, or other public corporation or political subdivision shall, within 48 hours, exclusive of weekends and holidays, after the occurrence, report in writing or by telephone to the Director of the Bureau of Labor Standards all deaths or serious physical injuries requiring immediate hospitalization sustained by any person therein or on the premises, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by said director, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happening.

1975, c. 519, § 3.

Sec. 44. Right of access

The director as state factory inspector, and any authorized agent of the bureau, may enter any workplace as defined in section 1, provided by the State, state agency, county, municipal corporation, school district or other public corporation or political subdivision when the same are open or in operation, for the purpose of gathering facts and statistics such as are contemplated by sections 42 to 44, and may examine into the methods of protection from danger to employees and the sanitary conditions in and around such buildings and places, and may make a record of such inspection. Upon petition of the director, a Superior Court in the county in which any refusal was alleged to have occurred may order appropriate injunctive relief against any person in charge of said workplace who refuses entry to the director or authorized agent of the bureau.

Each employer subject to this section shall make, keep and preserve, and make available to the director or his authorized agent such records regarding his activities relating to occupational safety and health as the director may prescribe by regulation as necessary or appropriate for the enforcement of section 45 or any standard, rule or order promulgated pursuant to section 565 or for developing information regarding the causes and prevention of occupational accidents, diseases and illnesses. Any information obtained by the director shall be obtained with a minimum burden upon employers, especially those employing a small work force.

The director shall also issue regulations requiring that employers through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under this chapter and chapter 6, including the provisions of applicable standards.

1975, c. 519, § 4.

Sec. 44-A. Walkaround inspections

A representative of the employer and an authorized employee representative shall be given an opportunity to accompany the director or his authorized agent during the physical inspection of the workplace of any employer, subject to this section, for the purpose of aiding such inspection. Where there is no authorized employee representative, the director or his authorized agent shall consult with a reasonable number of employees concerning matters of safety in the workplace. The employee representative shall not lose any privilege or compensation during or because of his attendance in any such inspection.

1975. c. 519, § 5.

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#### Sec. 45. Notice of improper conditions

If, upon inspection, the director or any authorized agent of the bureau finds that an employer has violated any rule or order promulgated pursuant to section 565, he shall immediately issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the standard, rules, regulations or order alleged to have been violated. In addition, the citation shall fix a specific time for the abatement of the violation.

Each citation issued under this section, or a copy or copies thereof, shall be prominently posted at or near each place where a violation referred to in the citation occurred or existed.

1965, c. 200, § 1. 1967, c. 494, § 21. 1969, c. 122. 1971, c. 446, § 1. 1975, c. 519, § 6. 1979, c. 95, § 1.

#### Sec. 46. Failure to cooperate or comply

Whoever, being duly summoned under section 43, willfully neglects or refuses to attend, or refuses to answer any question propounded to him concerning the subject of such examination as provided in said section 43, or whoever, being furnished by the director with a written or printed list of interrogations, neglects or refuses to answer and return the same under oath, shall be punished by a fine or not less than \$25 nor more than \$100, or by imprisonment for not more than 30 days or by both. No witness shall be compelled to go outside the country in which he resides to testify.

Any employer who willfully or repeatedly violates any requirements of section 45 or any standard, rule or order promulgated pursuant to section 565 may be assessed a civil penalty of not more than \$1,000 for each day during which such violation continues.

Any employer who has received a citation for a serious violation of the requirements of section 45 or of any standard, rule or order issued pursuant to section 565, shall be assessed a civil penalty of up to \$1,000 for each such violation.

Any employer who has received a citation for a violation of the requirements of section 45 or of any standard, rule or order issued pursuant to section 565, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to \$1,000 for each such violation.

Any employer who fails to correct a violation for which a citation has been issued under section 45 within the period permitted for its correction, which period shall not begin to run until the date of the final order of the board in the case of any review proceeding initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than \$1,000 for each day during which such failure or violation continues.

Any employer who willfully or repeatedly violates any standard, rule or order promulgated pursuant to section 565, and that violation is specifically determined to be a serious violation, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than 6 months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000, or by imprisonment for not more than one year, or by both.

1983, c. 296.

grounds for the notice, shall be signed by the employee or his representative and a copy shall be provided the employer or his agent no later than the time of the inspection, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or upon any record published, released or made available in any other respect. If upon the receipt of such notification, the director or his authorized agent determines that there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection as soon as practicable to determine if such violation or danger exists. If the director or his authorized agent determines that there are no reasonable grounds to believe that a violation or danger exists, he shall notify the employee or representative of the employee in writing of such determination.

1975, c. 519, § 10. 1979, c. 95 § 2.

#### Sec. 561. Declaration of policy

It is declared the public policy of the State of Maine that workers employed in any occupation shall be protected from hazards to their health or safety and that working conditions shall be maintained that will be reasonably free of hazards to their health and safety.

1969, c. 454.

#### Sec. 564. Establishment of board; purpose

The Board of Occupational Safety and Health is established and shall consist of 10 members of which 9 shall be appointed by the Governor. Of the 9 appointed members of the board, 3 shall represent employers; 3 shall represent employees; one shall represent an insurance company licensed to insure worker's compensation within the State and 2 shall represent the public. The 10th member of the board shall be the Director of the Bureau of Labor Standards. Of the 3 employer members, one shall represent state agencies, one shall represent counties within the State and one shall represent municipalities within the State. Of the 3 employee members, one shall represent state employees, one shall represent county employees and one shall represent municipal employees.

The term of office for the appointed members shall be 4 years. In the first appointment, 3 shall be appointed for a term of 2 years, 3 shall be appointed for a term of 3 years and 3 shall be appointed for a term of 4 years. The chairman shall be elected biennially by the members of the board. Each member shall hold office until his successor is duly appointed and qualified.

In case of a vacancy in board membership, the Governor shall appoint a member of the proper classification to fill the unexpired term of the absent member.

The board shall meet at least twice yearly at the State Capitol or any other place designated by the chairman.

The 9 appointed members of the board shall serve without salary and shall receive their actual expenses while engaged in the performance of their duties as members of the board. The chairman of the board shall approve and countersign all vouchers for expenditures under this section.

1969, c. 454. 1975, c. 519, § 14. 1976, c. 771, §§ 277, 278.

#### Sec. 565. Powers and duties of board

The board shall formulate and adopt reasonable rules and regulations, pursuant to Title 5, section 8051 et seq., for safe and healthful working conditions,

tions, including rules requiring the use of personal protective equipment. The rules and regulations so formulated shall conform as far as practicable to nationally recognized standards of occupational safety and health. Such rules and regulations shall not become effective sooner than 90 days after the date of their adoption and promulgation.

1969, c. 454. 1975, c. 519, § 15. 1978, c. 694, § 461.

#### Sec. 566. Enforcement

The bureau shall inspect and enforce the rules and regulations.

1969, c. 454.

#### Sec. 567. Repealed by 1975, c. 519, § 16.

#### Sec. 568. Appeals

Any person aggrieved by an order or act of the director or of an inspector of the bureau or wishing to contest any citation or penalty issued under sections 45 and 46 may, within 15 working days after notice thereof, appeal from the order, act, citation or penalty to the board, which shall hold a hearing pursuant to Title 5, section 9051 et seq., and the board shall, after the hearing, issue an appropriate order either approving, disapproving or modifying the order, act, citation or penalty.

Any such order of the board or any rule or regulation formulated by the board shall be subject to review by the Superior Court, pursuant to Title 5, section 8058 or section 11001 et seq.

1969, c. 454. 1975, c 519, §17. 1978, c. 694, § 462.

#### Sec. 569. Rules and Regulations

The rules and regulations formulated under this chapter may supplement, but shall in no manner supersede, the rules and regulations duly promulgated by the Board of Boiler Rules and the Board of Elevator and Tramway Safety, whose rule-making authority is clearly set forth in sections 173 and 476, respectively and the rules and regulations duly promulgated by the Department of Human Services under the laws administered by that department. All rules and regulations shall be adopted pursuant to Title 5, section 8051 et seq.

1969, c. 454; c. 554, § 2. 1977, c. 78, § 163. 1978, c. 694, § 463. 1979, c. 127, § 158; c. 541, § A169.

#### Sec. 570. Discrimination

No person shall discharge or in any manner discriminate against an employee because that person has filed any complaint concerning alleged violations of occupational safety or health standards or has testified or is about to testify in any proceeding relating to employee safety and health or because of the exercise by the employee on behalf of himself or others of any right granted him by this chapter.

Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after the alleged violation occurs, file a complaint with the director, alleging discrimination. Upon receipt of the complaint, the director shall conduct an investigation as he deems appropriate. If upon investigation the director determines that the provisions of this chapter have been violated, he shall bring an action in the Superior Court in the county in which the alleged violation occurred.

In any action, the Superior Court shall have jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay.

With 90 days of the receipt of a complaint filed under this section, the director shall notify the complainant of his determination.

1979, c. 95, § 3.

Compliments of the Bureau of Labor Standards