

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 329
HOUSE BILL 381

AN ACT TO COMPLY WITH CONGRESSIONAL CHANGES IN OSHA.

Whereas, States are required by Section 18 of the Occupational Safety and Health Act to implement changes in their State OSHA programs corresponding to Congressional changes that will keep State programs as effective as the federal OSHA program; and

Whereas, Congress on November 5, 1990, passed the Omnibus Budget Reconciliation Act of 1990 which amended Section 17 of the Occupational Safety and Health Act to increase penalties for violations of the Act; and

Whereas, the United States Department of Labor has notified the North Carolina Department of Labor that North Carolina must match these statutory changes within six months; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 95-138(a) reads as rewritten:

"(a) Any employer who willfully or repeatedly violates the requirements of this Article, any standard, rule or order promulgated pursuant to this Article, or regulations prescribed pursuant to this Article, may upon the recommendation of the Director to the Commissioner be assessed by the Commissioner a civil penalty of not more than ~~fourteen thousand dollars (\$14,000)~~ seventy thousand dollars (\$70,000) and not less than five thousand (\$5,000) for each willful violation. Any employer who has received a citation for a serious violation of the requirements of this Article or any standard, rule, or order promulgated under this Article or of any regulation prescribed pursuant to this Article, shall be assessed by the Commissioner a civil penalty of up to ~~two thousand five hundred dollars (\$2,500)~~ seven thousand dollars (\$7,000) for each such violation. If the violation is adjudged not to be of a serious nature, then the employer may be assessed a civil penalty of up to ~~one thousand five hundred dollars (\$1,500)~~ seven thousand dollars (\$7,000) for each such violation. Any employer who fails to correct a violation for which a citation has been issued under this Article within the period allowed 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 appeal proceedings in this Article initiated by the employer in good faith and not solely for the delay or avoidance of penalties), may be assessed a civil penalty of not more than ~~one thousand dollars (\$1,000)~~ seven thousand dollars (\$7,000). Such assessment shall be made to apply to each day during which such failure or violation continues. Any employer who violates any of the posting requirements, as prescribed under the provision of this Article, shall be assessed a civil

penalty of not more than ~~one thousand dollars (\$1,000)~~ seven thousand dollars (\$7,000) for such violation. The Commissioner upon recommendation of the Director, or the Board in case of an appeal, shall have authority to assess all civil penalties provided by this Article, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer and the record of previous violations."

Sec. 2. This act becomes effective January 1, 1992 and applies to violations committed on or after that date.

In the General Assembly read three times and ratified this the 19th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives