

1 HB144  
2 104174-4  
3 By Representative McDaniel  
4 RFD: Commerce  
5 First Read: 03-FEB-09  
6 PFD: 01/20/2009

1  
2 ENROLLED, An Act,

3           Relating to child labor laws; to add a definition  
4 section; to provide for the Child Labor Administrative Trust  
5 Fund; to amend Sections 25-8-32, 25-8-35, 25-8-37, 25-8-38,  
6 25-8-39, 25-8-40, 25-8-45, 25-8-46, 25-8-51, 25-8-59, 25-8-60,  
7 and 25-8-61, Code of Alabama 1975; to prohibit a person under  
8 16 from selling fireworks unless supervised by a person at  
9 least 18 years of age; to require an employer to obtain a  
10 child labor certificate from the Alabama Department of Labor  
11 in order to employ a minor that is between the ages of 14 and  
12 17 years; to provide for certificate fees and fines for  
13 noncompliance; and to require minors between the ages of 14  
14 and 15 years to obtain an eligibility to work form; to repeal  
15 Sections 25-8-41, 25-8-47, 25-8-48, 25-8-49, 25-8-50, and  
16 25-8-58, Code of Alabama 1975; and in connection therewith  
17 would have as its purpose or effect the requirement of a new  
18 or increased expenditure of local funds within the meaning of  
19 Amendment 621 of the Constitution of Alabama of 1901, now  
20 appearing as Section 111.05 of the Official Recompilation of  
21 the Constitution of Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23           Section 1. The following new Section 25-8-32.1 is  
24 added to Title 25 of the Code of Alabama 1975, to read as  
25 follows:

1 §25-8-32.1.

2 For purposes of this chapter, the following words  
3 and phrases shall have the following meanings:

4 (1) COMMISSIONER. The Commissioner of the Department  
5 of Labor.

6 (2) DEPARTMENT. The Department of Labor.

7 (3) ELIGIBILITY TO WORK FORM. A form issued by the  
8 head administrator, counselor, or, if home schooled an  
9 instructor, of the school which a 14- or 15-year-old minor  
10 attends certifying satisfactory grades and attendance of the  
11 minor in order for a 14- or 15-year-old minor to be employed.

12 (4) EMPLOY. To employ or suffer to work with or  
13 without compensation.

14 (5) EMPLOYEE. Any individual employed or permitted  
15 to work by a person, entity, franchise, corporation, or  
16 division of a corporation, but shall not include an individual  
17 engaged in the activities of an educational, charitable,  
18 religious, scientific, historical, literary, or nonprofit  
19 organization where the employer-employee relationship does  
20 not, in fact, exist or where the services rendered are on a  
21 voluntary basis.

22 (6) EMPLOYER. Any owner or any person, entity,  
23 franchise, corporation, or division of a corporation,  
24 government agency, or association of persons acting directly  
25 as, or in behalf of, or in the interest of any employer in

1 relation to employees, including the state and any political  
 2 subdivision thereof.

3 (7) VIOLATION. A failure by an employer, officer,  
 4 agent, or any other person to comply with any applicable  
 5 provision of the Child Labor Law.

6 Section 2. The following new Section 25-8-32.2 is  
 7 added to Title 25 of the Code of Alabama 1975, to read as  
 8 follows:

9 §25-8-32.2.

10 (a) The Child Labor Administrative Trust Fund is  
 11 established in the State Treasury into which shall be  
 12 deposited certain assessments under this chapter collected by  
 13 the Department of Labor. The fund shall constitute a separate  
 14 fund to be disbursed by the state Comptroller on order of the  
 15 Commissioner of the Department of Labor. For two years  
 16 following the effective date of this act, the child labor  
 17 division of the department shall be funded from the State  
 18 General Fund after which expenses incurred by the child labor  
 19 division of the department under the Child Labor Law,  
 20 including the salaries of all employees, travel cost, and  
 21 costs of administration and enforcement as may become  
 22 necessary, either within or without the state, shall be paid  
 23 from the trust fund in the State Treasury upon warrants of the  
 24 state Comptroller drawn upon the State Treasury from time to  
 25 time when vouchers therefor are approved by the commissioner.

1 For the two years referred to in the previous sentence, the  
 2 amount contributed from the State General Fund in each of  
 3 those years for expenses incurred by the child labor division  
 4 shall not exceed the fiscal year 2009 amount of General Fund  
 5 money funding this division. The State Treasurer shall pay  
 6 moneys from the separate fund upon the order of the  
 7 commissioner. The total expense for every purpose incurred  
 8 shall not exceed the total assessment collected and paid into  
 9 the fund. No funds shall be withdrawn or expended except those  
 10 budgeted and allocated in accordance with Article 4,  
 11 commencing with Section 41-4-80, of Chapter 4 of Title 41. All  
 12 moneys remaining unexpended in the separate fund at the end of  
 13 the fiscal year shall remain in the State Treasury to be  
 14 expended as herein provided.

15 (b) The State Treasurer shall determine if the money  
 16 in the trust fund shall be kept in cash or invested. The  
 17 moneys in the fund may be invested by the State Treasurer and  
 18 all moneys and interest remaining unexpended in the separate  
 19 fund provided at the end of the fiscal year shall remain in  
 20 the State Treasury to be expended as herein provided.

21 (c) The commissioner is designated as trustee of the  
 22 fund and the State Treasurer is designated as custodian of the  
 23 fund, and both shall furnish bonds in amounts deemed  
 24 appropriate. The cost of bonds for the trustee, custodian, and

1 other employees or officials required to post bond in  
 2 connection with the program shall be paid out of the fund.

3 (d) The department shall provide by rule for the  
 4 collection of the amounts assessed against each person,  
 5 entity, franchise, corporation, or division of a corporation.  
 6 The amounts shall be paid at the time of application for the  
 7 Class I and Class II Child Labor Certificates.

8 (e) All money collected pursuant to this section,  
 9 with the exception of civil penalties, shall be deposited in  
 10 the Child Labor Administrative Trust Fund. Civil penalties  
 11 collected pursuant to Section 25-8-59 shall be distributed as  
 12 provided in Section 25-8-59.

13 Section 3. Sections 25-8-32, 25-8-35, 25-8-37,  
 14 25-8-38, 25-8-39, 25-8-40, 25-8-45, 25-8-46, 25-8-51, 25-8-59,  
 15 25-8-60, and 25-8-61, Code of Alabama 1975, are amended to  
 16 read as follows:

17 "§25-8-32.

18 "The Legislature has found that Alabama law has not  
 19 kept pace with federal standards regulating the employment of  
 20 minors to the extent that it has become increasingly difficult  
 21 for employers to comply with conflicting state and federal  
 22 child labor requirements.

23 "Accordingly, numerous changes are necessary to make  
 24 the child labor laws of Alabama compatible with the United  
 25 States Department of Labor regulations governing the

1 employment of minors in nonagricultural occupations.

2 Similarly, there is also a need to remove anachronistic  
3 language and make clarifications to existing standards.

4 "In view of the foregoing findings, the Legislature  
5 through this chapter intends to do all of the following:

6 "(1) Conform with 17 federal hazardous orders.

7 "(2) Remove exemptions for domestic service and the  
8 grading or handling, or both, of agricultural products.

9 "(3) Add a restriction for occupations which involve  
10 working at heights exceeding six feet, as well as working in  
11 junk yards, scrap metal yards, or lumber yards.

12 "(4) Set hour restrictions which coincide with  
13 federal law for 14- and 15-year-olds.

14 "(5) Clarify waiver of school attendance which  
15 allows 14- and 15-year-olds to work until 9:00 p.m.

16 "(6) Require employers to post hour restrictions and  
17 work schedules for employees under 18 years of age, and add a  
18 meal break requirement for 14- and 15-year-olds.

19 "(7) Increase age requirements from 12 to 14 years  
20 of age to sell items on streets, and from 10 to 12 years of  
21 age to deliver newspapers.

22 "(8) More clearly define prohibited occupations and  
23 places of employment for minors under 18 years of age.

1           "(9) Prohibit persons under 18 years of age from  
2 performing nude or partially nude in any business  
3 establishment.

4           "(10) Exempt federally funded summer youth program  
5 personnel from obtaining work permits.

6           "~~(11) Add a driver's license which has a picture of~~  
7 ~~the person to whom it was issued as evidence of age for a work~~  
8 ~~permit.~~

9           "~~(12)~~ (11) Add a "whistleblower" provision protecting  
10 employees and other individuals from being discriminated  
11 against as a result of disclosing information, making a  
12 charge, or refusing to obey an illegal order.

13           "~~(13)~~ (12) Increase the penalty for street trades  
14 violations from ten dollars (\$10) to fifty dollars (\$50) to  
15 one hundred dollars (\$100) to five hundred dollars (\$500) per  
16 violation.

17           "~~(14)~~ (13) Require reporting of names of child models  
18 under 18 years of age, ~~ensure that school performance will not~~  
19 ~~suffer due to a child working, and place responsibility for~~  
20 ~~care and schooling of a child on employers and parents.~~  
21 placing responsibility on employers and parents for the care  
22 and schooling of the child and for ensuring that school  
23 performance will not suffer due to a child working.

24           "§25-8-35.

1            "No person under 16 years of age shall be employed,  
2 permitted, or suffered to work at any of the following  
3 occupations, positions, or places:

4            "(1) Operating or assisting in operating any  
5 sandpaper or wood polishing machinery, any washing, grinding,  
6 or mixing machinery, or commercial laundry equipment.

7            "(2) Operating or assisting in operating any  
8 machines used in picking wool, cotton, hair, or any other  
9 material.

10            "(3) In any work in or about a rolling mill, machine  
11 shop, or manufacturing establishment which is hazardous or  
12 dangerous to health, limb, or life.

13            "(4) In proximity to any hazardous or unguarded  
14 gearing.

15            "(5) Upon any vessel or boat engaged in navigation  
16 or commerce within the jurisdiction of this state.

17            "(6) In the manufacture or packing of paints,  
18 colors, or white or red lead.

19            "(7) In occupations causing dust in injurious  
20 quantities.

21            "(8) In soldering, brazing, heat treating, or  
22 welding.

23            "(9) In the building trades, except that persons 14  
24 or 15 years of age who are members of the immediate family of

1 the contractor may be employed in trades involving  
2 nonhazardous duties or occupations.

3 "(10) Repairing, painting, or cleaning buildings or  
4 structures while working at the top of ladders, lifts, or  
5 scaffolds exceeding a height of six feet.

6 "(11) In connection with a junk or scrap metal yard.

7 "(12) Assorting, manufacturing, or packing tobacco.

8 "(13) Operating any automobile, truck, or motor  
9 vehicle, or flagging or directing traffic.

10 "(14) In airport hangars or landing strips or taxi  
11 and maintenance aprons.

12 "(15) In connection with any lumberyard.

13 "(16) In any place or occupation which the  
14 department declares dangerous to life or limb or injurious to  
15 the health or morals of persons under 16 years of age.

16 "(17) Selling of fireworks, unless under the direct  
17 supervision of an individual at least 18 years of age.

18 "§25-8-37.

19 "(a) No person under 16 years of age shall be  
20 employed, permitted, or suffered to work in any ~~gainful~~  
21 occupation during the hours in which the public schools of the  
22 district in which the person resides are in session, unless  
23 the minor has completed the course of study required for  
24 secondary schools. Persons 14 or 15 years of age, when school  
25 attendance has been waived, may, upon recommendation of the

1 local superintendent of education ~~in the area~~ and approval by  
2 a child labor inspector, be ~~issued a work permit for~~ permitted  
3 to work in a nonhazardous occupations occupation.

4 "(b) Employment authorized by this section shall not  
5 be for more than eight hours in any one day, or for more than  
6 40 hours in any one week, or for more than six days in any one  
7 week, and not before 7:00 a.m. or after 9:00 p.m.

8 "§25-8-38.

9 "(a) Every employer shall keep posted in a  
10 conspicuous place where any person under ~~18~~ 19 years of age is  
11 employed, permitted, or suffered to work, a printed notice  
12 stating the maximum number of hours persons under ~~18~~ 19 may be  
13 permitted to work on each day of the week as set out in  
14 Section 25-8-36. The printed form of the notice shall be  
15 furnished by the department. The employment of any person for  
16 a longer time period in any day so stated, or at any time  
17 other than as stated in the printed form of notice, shall be  
18 deemed a violation of this chapter.

19 "(b) Each employer shall keep on or about the  
20 premises at which any person under ~~18~~ 19 years of age is  
21 employed a separate file for each employee under 19 years of  
22 age. The file shall contain the employee's name, home address,  
23 date of birth, date of hire, proof of age, school of  
24 attendance, and time records which shall state the number of  
25 hours worked each day, starting and ending times, break times

1 as listed in Section 25-8-38(c), and any other information the  
 2 department may require. The employer shall verify each minor's  
 3 age using documents recognized by the Federal Employees  
 4 Identification Laws. The employer shall keep these records on  
 5 file for not less than ~~one year~~ three years.

6 "(c) No person 14 or 15 years of age shall be  
 7 employed for more than five hours continuously without ~~an~~ a  
 8 documented interval of at least 30 minutes for a meal or rest  
 9 period. Any meal or rest period of less than 30 minutes shall  
 10 not be considered to interrupt a continuous period of work.

11 "§25-8-39.

12 "(a) No person under 14 years of age shall  
 13 distribute, sell, expose, or offer for sale newspapers,  
 14 magazines, periodicals, candy, or other articles, be employed  
 15 or permitted or suffered to work in any other trade or  
 16 occupation performed in any street or public place.  
 17 ~~Notwithstanding the foregoing, persons 12 years of age or~~  
 18 ~~older may engage in the delivery of newspapers on fixed~~  
 19 ~~routes.~~

20 "(b) The following organizations are exempt from the  
 21 requirements of subsection (a): Educational, charitable,  
 22 religious, scientific, historical, literary, or nonprofit  
 23 organizations where the employer-employee relationship does  
 24 not, in fact, exist or where the services rendered to such

1 organization are on a voluntary basis or any other activity as  
2 designated by the commissioner.

3 "§25-8-40.

4 "(a) No person under 16 years of age shall engage in  
5 any of the occupations mentioned in Section 25-8-39 after 7:00  
6 p.m. or before 5:00 a.m. of any day.

7 "(b) No person, ~~firm, or corporation~~ entity,  
8 franchise, corporation, or division of a corporation shall  
9 employ, permit, or suffer a minor under 16 years of age to  
10 work at any of the occupations mentioned in Section 25-8-39  
11 after 7:00 p.m. or before 5:00 a.m. of any day.

12 ~~"(c) No person under 18 years of age shall engage in~~  
13 ~~any of the occupations mentioned in Section 25-8-39 unless he~~  
14 ~~or she has secured and has with him or her a work permit as~~  
15 ~~required by this section and he or she is a regular attendant~~  
16 ~~at school.~~

17 "§25-8-45.

18 "(a) No person under ~~18~~ 16 years of age shall engage  
19 in any occupation mentioned in Section 25-8-39 unless he or  
20 she has secured and has with him or her ~~a work permit~~ an  
21 Eligibility to Work form as provided in this chapter.

22 "(b) No person, ~~firm, or corporation~~ entity,  
23 franchise, corporation, or division of a corporation shall  
24 employ, permit, or suffer to work any person 14 or 15 years of  
25 age ~~to work~~ in any ~~gainful~~ occupation, except in agricultural

1 service, unless the person, ~~firm, or corporation~~ entity,  
2 franchise, corporation, or division of a corporation procures  
3 and keeps on file for the inspection by the officials charged  
4 with the enforcement of this chapter, ~~a work permit~~ an  
5 Eligibility to Work form for every person 14 or 15 years of  
6 age and a complete list of those persons 14 or 15 years of age  
7 employed therein.

8 ~~"(c) No person, firm, or corporation shall employ,~~  
9 ~~permit, or suffer any person 18 years of age to work in any~~  
10 ~~capacity in, about or in connection with any mine, coke~~  
11 ~~breaker, coke oven, or quarry, or any person 16 or 17 years of~~  
12 ~~age to work in any other gainful occupation, except in~~  
13 ~~agricultural service, unless the person, firm, or corporation~~  
14 ~~procures and keeps on file work permits for those minors.~~

15 ~~"(d) A work permit, when issued in accordance with~~  
16 ~~this chapter, shall be conclusive evidence of the age of the~~  
17 ~~person for whom issued in any proceeding involving the~~  
18 ~~employment of the person under this chapter.~~

19 ~~"(e) No work permit shall be required from June 1~~  
20 ~~through August 31 for those persons employed in a federally~~  
21 ~~funded summer youth program; however, the hour and prohibited~~  
22 ~~occupation restrictions shall not be waived.~~

23 "(c) Any person, entity, franchise, corporation, or  
24 division of a corporation that wishes to employ, permit, or  
25 suffer to work any minor 14 or 15 years of age in any

1 occupation, except in agricultural service, shall obtain a  
 2 Class I Child Labor Certificate from the department for each  
 3 location where a person, entity, franchise, corporation, or  
 4 division of a corporation wishes to employ a minor 14 or 15  
 5 years of age. Such employment shall be in accordance with all  
 6 other sections of this chapter.

7 "(d) The certificate shall allow the employment of  
 8 minors 14 or 15 years of age to work only outside of school  
 9 hours or during vacation periods and only in occupations not  
 10 prohibited by this chapter for persons of these ages.

11 "(e) The employment of a minor 14 or 15 years of age  
 12 shall be revoked or suspended by the department if the minor's  
 13 regular school attendance and performance record is not  
 14 satisfactory to the head administrator or, if home schooled an  
 15 instructor, of the school which the minor attends. The  
 16 revocation or suspension shall be processed by the department  
 17 upon notification by the school.

18 "(f) Any person, entity, franchise, corporation, or  
 19 division of a corporation that wishes to employ, permit, or  
 20 suffer to work any minor 16 or 17 years of age in any  
 21 occupation, except in agricultural service, shall obtain a  
 22 Class II Child Labor Certificate from the department for each  
 23 location where a person, entity, franchise, corporation, or  
 24 division of a corporation wishes to employ a minor 16 or 17

1 years of age. Such employment shall be in accordance with all  
2 other sections of this chapter.

3 "(g) The department shall issue Class I and Class II  
4 Child Labor Certificates to any person, entity, franchise,  
5 corporation, or division of a corporation that applies to the  
6 department. The fee for a Class I or Class II Child Labor  
7 Certificate shall be fifteen dollars (\$15). The certificates  
8 shall be issued annually.

9 "(h) (1) The application for the child labor  
10 certificate shall contain all of the following information  
11 specific to the location of the minor's employment:

12 "a. The name, address, and telephone number of the  
13 person, entity, franchise, corporation, or division of a  
14 corporation that wishes to employ, permit, or suffer to work  
15 any minor.

16 "b. The type of business or entity, the federal  
17 employer identification number, the names of all  
18 incorporators, owners, members, or partners of the business or  
19 entity.

20 "c. Any other information as required by department  
21 regulation.

22 "(2) The Class I and Class II Child Labor  
23 Certificates shall contain all of the following information:

24 "a. The name of the employer.

25 "b. The type of business the employer maintains.

1           "c. Any other information as required by department  
2 regulation.

3           "(3) If a person, entity, franchise, corporation, or  
4 division of a corporation, employs a minor between 14 and 17  
5 years of age without a proper child labor certificate, the  
6 person, entity, franchise, corporation or division of a  
7 corporation shall pay a penalty of fifty dollars (\$50) and  
8 then shall obtain a certificate in the proper manner.

9           "§25-8-46.

10           ~~"(a) The county or city school superintendent, or~~  
11 ~~headmaster or principal of a private school head~~  
12 ~~administrator, counselor, or, if home schooled an instructor,~~  
13 ~~of the school which the minor attends, shall issue all work~~  
14 ~~permits Eligibility to Work forms. The superintendent,~~  
15 ~~headmaster, or principal may designate in a letter to the~~  
16 ~~department a school employee acting in his or her name to~~  
17 ~~issue the permits. Only school principals, teachers,~~  
18 ~~counselors, coordinators, or clerical personnel in a school or~~  
19 ~~in the superintendent's office may issue permits. No person~~  
20 ~~employed by any person, firm, or corporation entity,~~  
21 ~~franchise, corporation, or division of a corporation employing~~  
22 ~~minors may issue a permit an Eligibility to Work form.~~

23           ~~"(b) A work permit An Eligibility to Work form shall~~  
24 ~~allow the employment of a person 14 or 15 years of age who is~~  
25 ~~doing satisfactory school work to work only outside school~~

1 hours or during vacation periods, and only in occupations not  
 2 prohibited by this chapter for persons of these ages. ~~A work~~  
 3 ~~permit shall allow the employment of a person 16 or 17 years~~  
 4 ~~of age to work in occupations not prohibited for persons of~~  
 5 ~~these ages by this chapter.~~

6 ~~"(c) Work permits shall be issued in triplicate and~~  
 7 ~~a copy of each permit issued during the month preceding shall~~  
 8 ~~be transmitted to the department with the report as provided~~  
 9 ~~in this chapter.~~

10 "§25-8-51.

11 "Any official charged with the enforcement of this  
 12 chapter may cancel any ~~work permit~~ child labor certificate  
 13 found to be illegally or improperly ~~issued~~ obtained. When the  
 14 ~~permit~~ certificate is cancelled, the employer ~~of the person~~  
 15 ~~for whom the is issued~~ shall be notified, and thereafter it  
 16 shall be unlawful to employ ~~the person~~ minors under that  
 17 certificate. ~~The~~ A minor may be re-employed after a new ~~permit~~  
 18 child labor certificate is ~~regularly~~ properly issued in  
 19 accordance with this chapter.

20 "§25-8-59.

21 "(a) Any person, firm, or corporation person,  
 22 entity, franchise, corporation, or division of a corporation  
 23 who violates this chapter, or who fails or refuses to obey  
 24 within a reasonable time any lawful order or direction given  
 25 by the state officials charged with the enforcement of this

1 chapter, and any parent, guardian, or custodian who suffers or  
2 permits a person under his or her care or control who is under  
3 ~~18~~ 19 years of age to work in violation of this chapter, shall  
4 be ~~deemed guilty of a Class B or C misdemeanor unless another~~  
5 penalty is specifically subject to civil penalties in addition  
6 to other penalties provided in this chapter. ~~A first~~  
7 ~~conviction shall be deemed a Class C misdemeanor and~~  
8 ~~punishable by a fine of not less than one hundred dollars~~  
9 ~~(\$100) nor more than five hundred dollars (\$500). A second or~~  
10 ~~subsequent conviction shall be deemed a Class B misdemeanor~~  
11 ~~and punishable by a fine of not less than five hundred dollars~~  
12 ~~(\$500) nor more than one thousand dollars (\$1,000).~~

13 "(b) The department may impose a civil penalty of  
14 three hundred dollars (\$300) upon the following determination:  
15 An employer has violated a statutory provision of Section  
16 25-8-35(17), 25-8-36, 25-8-37, 25-8-38, 25-8-39, 25-8-40,  
17 25-8-41, 25-8-44, 25-8-45, 25-8-54, 25-8-57, 25-8-60, or  
18 25-8-61.

19 "(c) The department may impose a civil penalty of  
20 five thousand dollars (\$5,000) upon the following  
21 determination: An employer has violated a statutory provision  
22 of Section 25-8-35(1)-(16) inclusive or 25-8-43(a).

23 "(d) In determining the number of violations  
24 committed by an employer, the department shall assess a

1 separate civil penalty for each individual employee affected  
2 by the employer's violation.

3 "(e) In addition, the department may assess more  
4 than one civil penalty against an employer with respect to the  
5 same adversely affected employee if the employer has violated  
6 more than one statutory provision in this bill.

7 "(f) The employer shall be notified of a civil  
8 penalty assessment by the "Notice of Violation and Opportunity  
9 to Show Cause" which shall be sent to the employer.

10 "(g) The "Notice of Violation and Opportunity to  
11 Show Cause" shall provide all of the following:

12 "(1) The total civil penalty assessed.

13 "(2) The right of the employer to request in writing  
14 a hearing to show cause why the civil penalty should not be  
15 assessed.

16 "(3) An advisement that no hearing shall be granted  
17 unless a written request for a hearing is received by the  
18 department within 30 days from the date of issue of the  
19 notice.

20 "(4) The right of the employer to waive the right to  
21 request a hearing and to respond in writing to the notice  
22 within 30 days of the issue date of the notice.

23 "(h) Any employer who seeks to contest a civil  
24 penalty assessment shall file, within 30 days from the date  
25 the "Notice of Violation and Opportunity to Show Cause" was

1 issued, a written request for an opportunity to be heard which  
2 shall clearly state the reasons for such request, including  
3 facts to demonstrate that no violation has occurred.

4 "(i) If the commissioner or his or her designee  
5 determines that the employer has stated adequate facts or  
6 legal grounds to warrant a hearing, the commissioner or his or  
7 her designee shall provide written notice of the hearing to  
8 show cause why a civil penalty should not be assessed and  
9 shall mail written notice to the employer of the date, time,  
10 and place of the hearing. Such determination shall be within  
11 the discretion of the commissioner or his or her designee. The  
12 notice shall inform the employer of its rights in the hearing  
13 including the following:

14 "(1) The right to be represented by any person,  
15 including an attorney.

16 "(2) The right to present documentary evidence and a  
17 written argument in support of the employer's position.

18 "(j) A request for postponement of a hearing so  
19 scheduled shall only be granted where the rights of an  
20 employer would be substantially prejudiced by the denial of  
21 the request or in a medical emergency. Only the commissioner  
22 or his or her designee has discretion to grant such requests.

23 "(k) Following a hearing or after the employer has  
24 waived the right to request a hearing, the commissioner or his  
25 or her designee may uphold or modify the civil penalty

1 assessment such determination shall be within the sole  
2 discretion of the commissioner or his or her designee.

3 "(l) If the employer requests a hearing but the  
4 commissioner or his or her designee denies the request for a  
5 hearing, the total civil penalty assessed in the notice shall  
6 be the final civil penalty.

7 "(m) If the employer does not request a hearing or  
8 respond in writing to the notice, the total civil penalty  
9 assessed in the notice shall be the final civil penalty unless  
10 otherwise modified by the commissioner or his or her designee.

11 "(n) All moneys received from the assessment of any  
12 penalty pursuant to this section shall accrue to the State  
13 General Fund.

14 "(o) In addition to the civil penalties provided for  
15 in subsection (b), an employer who violates this act may be  
16 deemed guilty of a Class B or Class C misdemeanor. A first  
17 conviction shall be deemed a Class C misdemeanor. A second or  
18 subsequent conviction shall be deemed a Class B misdemeanor.

19 "(p) In addition to civil penalties provided for in  
20 subsection (c), an employer who is found in violation of  
21 subsection (c) of this act involving serious physical injury  
22 to or death of a minor may be deemed guilty of a Class A  
23 misdemeanor or Class C felony. A first conviction shall be  
24 deemed a Class A misdemeanor. A second or subsequent  
25 conviction shall be deemed a Class C felony.

1           "§25-8-60.

2           "Time and hour restrictions shall ~~not be imposed~~  
3 ~~upon, and no work permits shall be required~~ under the  
4 authority of the department for persons under 18 years of age  
5 who are employed as actors and performers. Persons may be  
6 employed and appear for the purpose of singing, acting, or  
7 performing in any studio or movie set of a motion picture  
8 approved and coordinated by the Alabama Film Office in  
9 conjunction with and under the jurisdiction and supervision of  
10 the department. A person under 18 years of age may be employed  
11 as provided in this section only under the following  
12 conditions and with the written consent of the Alabama Film  
13 Office, the department, and the parent, legal guardian, or  
14 responsible adult of the person:

15           "(1) The activities enumerated shall not be  
16 detrimental to the life, health, safety, welfare, or morals of  
17 the person.

18           "(2) The activities enumerated shall not interfere  
19 with the schooling of the person and provisions shall be made  
20 for education equivalent to full-time school attendance in the  
21 public schools for persons under 16 years of age.

22           "(3) A parent, guardian, or a responsible adult so  
23 designated by the parent or guardian, shall accompany each  
24 person under 16 years of age at all rehearsals, appearances,  
25 and performances.

1           "§25-8-61.

2           "(a) Time and hour restrictions shall ~~not be imposed~~  
3 ~~upon, and no work permits shall be required~~ under the  
4 authority of the department for persons under 18 years of age  
5 who are employed as models. Notwithstanding the foregoing, no  
6 person under 16 years of age shall work any hours that  
7 interfere with his or her school performance.

8           "(b) Any person, firm, agency, or corporation that  
9 employs, permits, or suffers any person under 18 years of age  
10 to be used in any type of modeling shall have written consent  
11 from the parent or guardian of the person, and shall notify  
12 the Child Labor Division on a form authorized by the  
13 department, and shall comply with all of the following  
14 conditions:

15           "(1) The parent of the person shall not let the  
16 modeling interfere with that person's school performance.

17           "(2) The activities enumerated shall not be  
18 detrimental to the life, health, safety, welfare, or morals of  
19 the person.

20           "(3) A parent, guardian, or a responsible adult so  
21 designated by the parent or guardian shall accompany each  
22 person under 16 years of age to all sessions."

23           Section 4. All laws or parts of laws which conflict  
24 with this act are repealed, and Sections 25-8-41, 25-8-47,

1 25-8-48, 25-8-49, 25-8-50, and 25-8-58, Code of Alabama 1975,  
2 are specifically repealed.

3 Section 5. This act shall become effective  
4 immediately following its passage and approval by the  
5 Governor, or its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

---

Speaker of the House of Representatives

---

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 03-MAR-09, as amended.

Greg Pappas  
Clerk

Senate

---

14-MAY-09

---

Passed