

Chapter 95.
Department of Labor and Labor Regulations.
Article 1.
Department of Labor.

§ 95-1. Department of Labor established.

A Department of Labor is hereby created and established. The duties of said Department shall be exercised and discharged under the supervision and direction of a commissioner, to be known as the Commissioner of Labor. (Rev., s. 3909; 1919, c. 314, s. 4; C.S., s. 7309; 1931, c. 312, s. 1.)

§ 95-2. Election of Commissioner; term; salary; vacancy.

The Commissioner of Labor shall be elected by the people in the same manner as is provided for the election of the Secretary of State. The term of office of the Commissioner of Labor shall be four years, and the salary of the Commissioner of Labor shall be set by the General Assembly in the Current Operations Appropriations Act. Any vacancy in the office shall be filled by the Governor, until the next general election. The office of the Department of Labor shall be kept in the City of Raleigh and shall be provided for as are other public offices of the State. In addition to the salary set by the General Assembly in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is provided to employees of the State who are subject to the State Personnel Act. (Rev., ss. 3909, 3910; 1919, c. 314, s. 4; C.S., s. 7310; 1931, c. 312, s. 2; 1933, c. 282, s. 5; 1935, c. 293; 1937, c. 415; 1939, c. 349; 1943, c. 499, s. 2; 1947, c. 1041; 1949, c. 1278; 1953, c. 1, s. 2; 1957, c. 1; 1963, c. 1178, s. 5; 1967, c. 1130; c. 1237, s. 5; 1969, c. 1214, s. 5; 1971, c. 912, s. 5; 1973, c. 778, s. 5; 1975, 2nd Sess., c. 983, s. 20; 1977, c. 802, s. 42.11; 1983, c. 761, s. 207; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b).)

§ 95-3. Divisions of Department; Commissioner; administrative officers.

The Department of Labor shall consist of the following officers, divisions and sections:

A Commissioner of Labor.

A Division of Standards and Inspections.

A Division of Statistics.

Each division shall be in the charge of a chief administrative officer and shall be organized under such rules and regulations as the Commissioner of Labor and the head of the division concerned, with the approval of the Governor, shall prescribe and promulgate. The Commissioner of Labor, with the approval of the Governor, may make provision for one person to act as chief administrative officer of two or more divisions, when such is deemed advisable. The chief administrative officers of the several divisions shall be appointed by the Commissioner of Labor with the approval of the Governor. The Commissioner of Labor, with the approval of the Governor may combine or consolidate the activities of two or more of the divisions of the Department, or provide for the setting up of other divisions when such action shall be deemed advisable for the more efficient and economical administration of the work and duties of the Department. (1931, c. 277; c. 312, s. 4; 1933, c. 46; 1963, c. 313, s. 2.)

§ 95-4. Authority, powers and duties of Commissioner.

The Commissioner of Labor shall be the executive and administrative head of the Department of Labor. In addition to the other powers and duties conferred upon the Commissioner of Labor by this Article, the said Commissioner shall have authority and be charged with the duty:

- (1) To appoint and assign to duty such clerks, stenographers, and other employees in the various divisions of the Department, with approval of said director of division, as may be necessary to perform the work of the

1 Department, and fix their compensation, subject to the approval of the
2 Department of Administration. The Commissioner of Labor may assign or
3 transfer stenographers, or clerks, from one division to another, or inspectors
4 from one division to another, or combine the clerical force of two or more
5 divisions, or require from one division assistance in the work of another
6 division, as he may consider necessary and advisable: Provided, however,
7 the provisions of this subdivision shall not apply to the Industrial
8 Commission, or the Division of Workers' Compensation.

9 (2) To make such rules and regulations with reference to the work of the
10 Department and of the several divisions thereof as shall be necessary to
11 properly carry out the duties imposed upon the said Commissioner and the
12 work of the Department; such rules and regulations to be made subject to the
13 approval of the Governor.

14 (3) To take and preserve testimony, examine witnesses, administer oaths, and
15 under proper restriction enter any public institution of the State, any factory,
16 store, workshop, laundry, public eating house or mine, and interrogate any
17 person employed therein or connected therewith, or the proper officer of a
18 corporation, or file a written or printed list of interrogatories and require full
19 and complete answers to the same, to be returned under oath within 30 days
20 of the receipt of said list of questions.

21 (4) To secure the enforcement of all laws relating to the inspection of factories,
22 mercantile establishments, mills, workshops, public eating places, and
23 commercial institutions in the State. To aid him in the work, he shall have
24 power to appoint factory inspectors and other assistants. The duties of such
25 inspectors and other assistants shall be prescribed by the Commissioner of
26 Labor.

27 (5) To visit and inspect, personally or through his assistants and factory
28 inspectors, at reasonable hours, as often as practicable, the factories,
29 mercantile establishments, mills, workshops, public eating places, and
30 commercial institutions in the State, where goods, wares, or merchandise are
31 manufactured, purchased, or sold, at wholesale or retail.

32 (6) To enforce the provisions of this section and to prosecute all violations of
33 laws relating to the inspection of factories, mercantile establishments, mills,
34 workshops, public eating houses, and commercial institutions in this State
35 before any court of competent jurisdiction. It shall be the duty of the district
36 attorney of the proper district upon the request of the Commissioner of
37 Labor, or any of his assistants or deputies, to prosecute any violation of a
38 law, which it is made the duty of the said Commissioner of Labor to enforce.
39 (1925, c. 288; 1931, c. 277; c. 312, ss. 5, 6; 1933, cc. 46, 244; 1945, c. 723,
40 s. 2; 1957, c. 269, s. 1; 1973, c. 47, s. 2; c. 108, s. 41; 1991, c. 636, s. 3.)
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42 **§ 95-5. Annual report to Governor; recommendation as to legislation needed.**

43 The Commissioner of Labor shall annually, on or before the first day of January, file with
44 the Governor a report covering the activities of the Department, and the report so made on or
45 before January 1 of the years in which the General Assembly shall be in session shall be
46 accompanied by recommendations of the Commissioner with reference to such changes in the
47 law applying to or affecting industrial and labor conditions as the Commissioner may deem
48 advisable. The report of the Commissioner of Labor shall be printed and distributed in such
49 manner and form as the Director of the Budget shall authorize. (1931, c. 312, s. 7.)
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51 **§ 95-6. Statistical report to Governor; publication of information given by employers.**

1 It shall be the duty of the Commissioner of Labor to collect in the manner herein provided
2 for, and to assort, systematize, and present to the Governor as a part of the report provided for
3 in G.S. 95-5, statistical details relating to all divisions of labor in the State, and particularly
4 concerning the following: the extent of unemployment, the hours of labor, the number of
5 employees and sex thereof, and the daily wages earned; the conditions with respect to labor in
6 all manufacturing establishments, hotels, stores, and workshops; and the industrial, social,
7 educational, moral, and sanitary conditions of the labor classes, in the productive industries of
8 the State. Such statistical details shall include the names of firms, companies, or corporations,
9 where the same are located, the kind of goods produced or manufactured, the period of
10 operation of each year, the number of employees, male or female, the number engaged in
11 clerical work and the number engaged in manual labor, with the classification of the number of
12 each sex engaged in such occupation and the average daily wage paid each: Provided, that the
13 Commissioner shall not, nor shall anyone connected with his office, publish or give or permit
14 to be published or given to any person the individual statistics obtained from any employer, and
15 all such statistics, when published, shall be published in connection with other similar statistics
16 and be set forth in aggregates and averages. (1931, c. 312, s. 8.)
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18 **§ 95-7. Power of Commissioner to compel the giving of such information; refusal as**
19 **contempt.**

20 The Commissioner of Labor, or his authorized representative, for the purpose of securing
21 the statistical details referred to in G.S. 95-6, shall have power to examine witnesses on oath, to
22 compel the attendance of witnesses and the giving of such testimony and production of such
23 papers as shall be necessary to enable him to gain the necessary information. Upon the refusal
24 of any witness to comply with the requirements of the Commissioner of Labor or his
25 representative in this respect, it shall be the duty of any judge of the superior court, upon the
26 application of the Commissioner of Labor, or his representative, to order the witness to show
27 cause why he should not comply with the requirements of the said Commissioner, or his
28 representative, if in the discretion of the judge such requirement is reasonable and proper.
29 Refusal to comply with the order of the judge of the superior court shall be dealt with as for
30 contempt of court. (1931, c. 312, s. 9.)
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32 **§ 95-8. Employers required to make statistical report to Commissioner; refusal as**
33 **contempt.**

34 It shall be the duty of every owner, operator, or manager of every factory, workshop, mill,
35 mine, or other establishment, where labor is employed, to make to the Department, upon blanks
36 furnished by said Department, such reports and returns as the said Department may require, for
37 the purpose of compiling such labor statistics as are authorized by this Article, and the owner or
38 business manager shall make such reports and returns within the time prescribed therefor by
39 said Commissioner, and shall certify to the correctness of the same. Upon the refusal of any
40 person, firm, or corporation to comply with the provisions of this section, it shall be the duty of
41 any judge of the superior court, upon application by the Commissioner or by any representative
42 of the Department authorized by him, to order the person, firm, or corporation to show cause
43 why he or it should not comply with the provisions of this section. Refusal to comply with the
44 order of the judge of the superior court shall be dealt with as for contempt of court. (1931, c.
45 312, s. 10.)
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47 **§ 95-9. Employers to post notice of laws.**

48 It shall be the duty of every employer to keep posted in a conspicuous place in every room
49 where five or more persons are employed a printed notice stating the provisions of the law
50 relative to the employment of adult persons and children and the regulation of hours and

1 working conditions. The Commissioner of Labor shall furnish the printed form of such notice
2 upon request. (1933, c. 244, s. 6.)

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4 **§ 95-10. Repealed by Session Laws 1963, c. 313, s. 1.**

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6 **§ 95-11. Division of Standards and Inspection.**

7 (a) The chief administrative officer of the Division of Standards and Inspection shall be
8 known as the Director of the Division. It shall be his duty, under the direction and supervision
9 of the Commissioner of Labor, and under rules and regulations to be adopted by the
10 Department as herein provided, to make or cause to be made all necessary inspections to see
11 that all laws, rules and regulations concerning the safety and well-being of labor are promptly
12 and effectively carried out.

13 (b) The Division shall make studies and investigations of special problems connected
14 with the labor of women and children, and create the necessary organization, and appoint an
15 adequate number of investigators, with the consent of the Commissioner of Labor and the
16 approval of the Governor; and the Director of said Division, under the supervision and
17 direction of the Commissioner of Labor and under such rules and regulations as shall be
18 prescribed by said Commissioner, with the approval of the Governor, shall perform all duties
19 devolving upon the Department of Labor, or the Commissioner of Labor with relation to the
20 enforcement of laws, rules, and regulations governing the employment of women and children.

21 (c) The Director shall report annually to the Commissioner of Labor the activities of the
22 Division, with such recommendations as may be considered advisable for the improvement of
23 the working conditions for women and children.

24 (d) The Division shall collect and collate information and statistics concerning the
25 location, estimated and actual horsepower and condition of valuable water powers, developed
26 and undeveloped, in this State; also concerning farmlands and farming, the kinds, character,
27 and quantity of the annual farm products in this State; also of timber lands and timbers, truck
28 gardening, dairying, and such other information and statistics concerning the agricultural and
29 industrial welfare of the citizens of this State as may be deemed to be of interest and benefit to
30 the public. The Director shall also perform the duties of mine inspector as prescribed in the
31 Chapter on Mines and Quarries.

32 (e) The Division shall conduct such research and carry out such studies as will
33 contribute to the health, safety, and general well-being of the working classes of the State. The
34 finding of such investigations, with the approval of the Commissioner of Labor and the
35 Governor and the cooperation of the chief administrative officer of the Division or Divisions
36 directly concerned, shall be promulgated as rules and regulations governing work places and
37 working conditions. All recommendations and suggestions pertaining to health, safety, and
38 well-being of employees shall be transmitted to the Commissioner of Labor in an annual report
39 which shall cover the work of the Division of Standards and Inspection.

40 (f) The Division shall make, promulgate and enforce rules and regulations for the
41 protection of employees from accident and from occupational disease; and shall upon request,
42 and after such investigation as it deems proper, issue certificates of compliance to such
43 employers as are found by it to be in compliance with the rules and regulations made and
44 promulgated in accordance with the provisions of this paragraph. (1931, c. 312, s. 12; c. 426;
45 1935, c. 131.)

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47 **§ 95-12. Division of Statistics.**

48 The Division of Statistics shall be in charge of a Chief Statistician. It shall be his duty,
49 under the direction and supervision of the Commissioner of Labor, to collect, assort,
50 systematize, and print all statistical details relating to all divisions of labor in this State as is
51 provided in G.S. 95-6. (1931, c. 312, s. 13.)

1
2 **§ 95-13. Enforcement of rules and regulations.**

3 In the event any person, firm or corporation shall, after notice by the Commissioner of
4 Labor, violate any of the rules or regulations promulgated under the authority of this Article or
5 any laws amendatory hereof relating to safety devices, or measures, the Attorney General of the
6 State, upon the request of the Commissioner of Labor, may take appropriate action in the civil
7 courts of the State to enforce such rules and regulations. Upon request of the Attorney General,
8 any district attorney of the State of North Carolina in whose district such rule or regulation is
9 violated may perform the duties hereinabove required of the Attorney General. (1939, c. 398;
10 1973, c. 47, s. 2.)

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12 **§ 95-14. Agreements with certain federal agencies for enforcement of Fair Labor**
13 **Standards Act.**

14 The North Carolina State Department of Labor may and it is hereby authorized to enter into
15 agreements with the Wage and Hour Division, and the Children's Bureau, United States
16 Department of Labor, for assistance and cooperation in the enforcement within this State of the
17 act of Congress known as the Fair Labor Standards Act of 1938, approved June 25, 1938, and is
18 further authorized to accept payment and/or reimbursement for its services as provided by said
19 act of Congress. Any such agreement may be subject to the regulations of the administrator of
20 the Wage and Hour Division, or the chief of the Children's Bureau of the United States
21 Department of Labor, as the case may be, and shall be subject to the approval of the Director of
22 the State Budget. Nothing in this section shall be construed as authorizing the State Department
23 of Labor to spend in excess of its appropriation from State funds, except to the extent that such
24 excess may be paid and/or reimbursed to it by the United States Department of Labor. All
25 payments received by the State Department of Labor under this section shall be deposited in the
26 State treasury and are hereby appropriated to the State Department of Labor to enable it to carry
27 out the agreements entered into under this section. (1939, c. 245.)

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29 **§ 95-14.1:** Repealed by Session Laws 2011-145, s. 12.1, effective July 1, 2011.