

**TENNESSEE OCCUPATIONAL SAFETY AND HEALTH PLAN - PART IIA**  
**TENNESSEE OCCUPATIONAL SAFETY AND HEALTH ACT**

**TENNESSEE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972**  
**As Amended**

**TENNESSEE CODE ANNOTATED, TITLE 50, CHAPTER 3**  
**OCCUPATIONAL SAFETY AND HEALTH**

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**PART 1 - GENERAL PROVISIONS**

**50-3-101. Title.** This chapter shall be known as the "Occupational Safety and Health Act of 1972." [Acts 1972, ch. 561, § 1; T.C.A., § 50-501.]

**50-3-102. Purpose.** (a) The general assembly finds that:

- (1) The burden on employers and employees of this state resulting from personal injuries and

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illnesses arising out of work situations is substantial;

(2) The prevention of these injuries and illnesses is an important objective of the government of this state;

(3) The greatest hope of attaining this objective lies in programs of research and education, and in the earnest cooperation of government, employers and employees; and

(4) A program of regulation and enforcement is a necessary supplement to these more basic programs.

(b) The general assembly declares it to be its purpose and policy through the exercise of its powers to assure so far as possible every working man and woman in the state of Tennessee safe and healthful working conditions and to preserve our human resources by:

(1) Encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new, and to perfect existing, programs for providing safe and healthful working conditions;

(2) Providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;

(3) Authorizing the commissioner of labor and workforce development to develop occupational safety and health standards applicable to business, giving consideration to the needs of employees and employers and to standards promulgated from time to time by the secretary of labor under the Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651 - 678), and by creating an occupational safety and health review commission for carrying out adjudicatory functions under this chapter;

(4) Building upon advances already made by federal laws and regulations and state laws and regulations for providing safe and healthful working conditions;

(5) Providing criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity or life expectancy as a result of the employee's work experience;

(6) Providing for education and training of personnel for the fair and efficient administration of occupational safety and health standards; and by providing for education and training of employers and employees;

(7) Providing an effective enforcement program which shall include a prohibition against giving advance notice of an inspection and sanctions for any individual violating this prohibition;

(8) Providing for appropriate reporting procedures with respect to occupational safety and health, which procedures will help achieve the objectives of this chapter and accurately describe the nature of the occupational safety and health problem; and

(9) Encouraging joint labor-management efforts to reduce injuries and diseases arising out of employment. [Acts 1972, ch. 561, § 1; 1977, ch. 111, § 1; T.C.A., § 50-502; 1999, ch. 520, § 41.]

**50-3-103. Definitions.** As used in this chapter, unless the context otherwise requires:

(1) "Administrator" means the chief administrative officer of the division of occupational safety and health of the department of labor and workforce development. For the purposes of all sections of this chapter other than §§ 50-3-902 and 50-3-903, "administrator" includes any person appointed, designated or deputized to perform any duties under this chapter or to exercise the powers assigned to the administrator of the division of occupational safety and health under this chapter;

(2) "Commission" means the occupational safety and health review commission established pursuant to § 50-3-801;

(3) "Commissioner" or "commissioner of labor and workforce development" means the chief executive officer of the department of labor and workforce development. For the purposes of all sections of this chapter other than §§ 50-3-902 and 50-3-903, it includes any person appointed, designated or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor and workforce development under this chapter, but does not include the person appointed as administrator;

(4) "Committee" means the occupational safety and health advisory committee established pursuant to § 50-3-204;

(5) "Department" means the department of labor and workforce development;

(6) "Division" or "division of occupational safety and health" means the division of occupational safety and health of the department;

(7) "Employee":

(A) Means an individual who performs services for an employer for wages under a contract of hire

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if the services performed by the individual qualify as an employer-employee relationship with the employer based upon consideration of the following twenty (20) factors as described in the twenty-factor test of Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296:

(i) Instructions. A worker who is required to comply with other persons' instructions about when, where, and how the worker is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions;

(ii) Training. Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner;

(iii) Integration. Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business;

(iv) Services rendered personally. If the services must be rendered personally, then presumably the persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results;

(v) Hiring, supervising, and paying assistants. If the person or persons for whom the services are performed hire, supervise, and pay assistants, then that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, then this factor indicates an independent contractor status;

(vi) Continuing relationship. A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals;

(vii) Set hours of work. The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control;

(viii) Full time required. If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, then the person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor is free to work when and for whom the independent contractor chooses;

(ix) Doing work on employer's premises. If the work is performed on the premises of the person or persons for whom the services are performed, then that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform those services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass territory within a certain time, or to work at specific places as required;

(x) Order or sequence set. If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, then that factor shows that the worker is not free to follow the worker's own pattern of work but instead must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if the person or persons retain the right to do so;

(xi) Oral or written reports. A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control;

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(xii) Payment by hour, week, month. Payment by the hour, week, or month generally points to an employer-employee relationship; provided, that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on straight commission generally indicates the worker is an independent contractor;

(xiii) Payment of business or traveling expenses. If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses, then the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities;

(xiv) Furnishing of tools and materials. The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship;

(xv) Significant investment. If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, such as the maintenance of an office rented at fair value from an unrelated party, then that factor tends to indicate that the worker is an independent contractor. However, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for the facilities and the existence of an employer-employee relationship;

(xvi) Realization of profit or loss. A worker who can realize a profit or suffer a loss as a result of the worker's services, in addition to the profit or loss ordinarily realized by employees, is generally an independent contractor but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, then that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for the worker's services is common to both independent contractors and employees and does not constitute sufficient economic risk to support treatment as an independent contractor;

(xvii) Working for more than one firm at a time. If a worker performs more than de minimis services for multiple unrelated persons or firms at the same time, then that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement;

(xviii) Making service available to general public. The fact that a worker makes the worker's services available to the general public on a regular and consistent basis indicates an independent contractor relationship;

(xix) Right to discharge. The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor cannot be fired so long as the independent contractor produces a result that meets the contract specifications; and

(xx) Right to terminate. If the worker has the right to end the worker's relationship with the person for whom the services are performed at any time the worker wishes without incurring liability, then that factor indicates an employer-employee relationship; and

(B) Includes minors, whether lawfully or unlawfully employed; persons in executive positions; and county, metropolitan, and municipal government employees;

(8) "Employer" means a person engaged in a business who has one (1) or more employees and includes county, metropolitan and municipal governments;

(9) "Federal standard" means a standard adopted by a rule promulgated under § 6 of the federal Occupational Safety and Health Act of 1970, codified as 29 U.S.C. § 655;

(10) "Issue" means a category of like industrial, occupational or hazard groupings that affects the safety and health of employment or place of employment and is suggested by the groupings in the Code of Federal Regulations, title 29, chapter XVII, part 1910;

(11) "Person" means one (1) or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons; and

(12) "Standard" means an occupational safety and health standard promulgated by the commissioner that requires conditions or the adoption or the use of one (1) or more practices, means, methods, operations or processes reasonably necessary or appropriate to provide safe and healthful employment

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and places of employment. [Acts 1972, ch. 561, § 2; 1974, ch. 585, §§ 1, 2; 1977, ch. 111, § 2; impl. am. Acts 1977, ch. 111, § 44; T.C.A., § 50-503; Acts 1999, ch. 520, § 41; 2019, ch. 337, § 2.]

**50-3-104. Scope of Chapter.** The provisions of this chapter or any standard or regulation promulgated pursuant to this chapter shall apply to all employers and employees except:

- (1) The federal government, including its departments, agencies and instrumentalities;
- (2) Employees whose safety and health are subject to protection under the Atomic Energy Act of 1954, as amended (42 U.S.C., §§ 2011-2296);
- (3) Employees whose safety and health are subject to protection under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C., § 801 et seq.), the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C., § 725) [repealed], or title 59 of this Code;
- (4) Railroad employees whose health and safety are subject to protection under the Federal Safety Appliances Act (45 U.S.C., § 1 et seq.) or the Federal Railroad Safety Act of 1970 (45 U.S.C., §§ 431-441);
- (5) Domestic workers; and
- (6) [Deleted by 2015 amendment, effective July 1, 2015.]
- (7) Any employee engaged in agriculture who is employed on a farm, each of the employees of which is related to the employer as spouse, child, parent, grandparent or grandchild. [Acts 1972, ch. 561, § 3; 1974, ch. 585, § 3; T.C.A., § 50-504; 2015, ch. 23, § 1.]

**50-3-105. Employers' rights and duties.** Rights and duties of employers include, but are not limited to, the following provisions:

- (1) Each employer shall furnish to each of its employees conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to its employees;
- (2) Each employer shall comply with occupational safety and health standards or regulations promulgated pursuant to this chapter;
- (3) Each employer shall refrain from any unreasonable restraint on the right of the commissioner to inspect the employer's place of business. Each employer shall assist the commissioner in the performance of the commissioner's inspection duties by supplying or by making available information, personnel or inspection aids reasonably necessary to the effective conduct of the inspection;
- (4) Any employer, or association of employers, is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue, under § 50-3-201;
- (5) Any employer is entitled, under § 50-3-307, to a review of any citation issued because of such employer's alleged violation of any standard promulgated under this chapter;
- (6) Any employer is entitled, under §§50-3-402 - 50-3-408, to a review of any penalty in the form of civil damages assessed against such employer because of such employer's alleged violation of this chapter;
- (7) Any employer is entitled, under part 6 of this chapter, to seek an order granting a variance from an occupational safety or health standard; and
- (8) Any employer is entitled, under § 50-3-914, to protection of such employer's trade secrets and other legally privileged communications. [Acts 1972, ch. 561, § 4; 1974, ch. 585, §§ 4-7; 1977, ch. 111, § 3; impl. am. Acts 1977, ch. 111, § 44; T.C.A., § 50-505; 1999, ch. 520, § 41.]

**50-3-106. Employees' rights and duties.** Rights and duties of employees include, but are not limited to, the following provisions:

- (1) Each employee shall comply with occupational safety and health standards and all rules, regulations and orders issued pursuant to this chapter which are applicable to such employee's own actions and conduct;
- (2) Each employee shall be notified by such employee's employer of any application for a temporary order granting the employer a variance from any provision of this chapter or standard or regulation promulgated pursuant to this chapter;
- (3) Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employee's employer for a variance from a standard promulgated under this chapter;

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(4) Any employee who may be adversely affected by a standard or variance issued pursuant to this chapter may file a petition with the commissioner;

(5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by such employee's employer with the opportunities provided in § 50-3-203;

(6) Subject to regulations issued pursuant to this chapter, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the commissioner at the time of the physical inspection of any workplace as provided in part 3 of this chapter;

(7) No employee shall be discharged or discriminated against because the employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or related to this chapter, or has testified or is about to testify in any such proceeding or because of the exercise by the employee on behalf of such employee or others of any right afforded by this chapter;

(8) Any employee who believes that such employee has been discriminated against or discharged in violation of subsection (7) may, within thirty (30) days after the violation occurs, file a complaint with the commissioner alleging such discrimination. The commissioner shall act promptly on the complaint to determine whether to seek imposition of the sanction provided in § 50-3-409.

(9) Any employee or representative of employees who believes that any period of time fixed in the citation given to such employees employer by the commissioner for correction of a violation is unreasonable has the right to contest the time for correction by filing a notice with the commissioner within twenty (20) days of the date the citation was issued;

(10) Nothing in this section or any other provision of this chapter shall be deemed to authorize or require medical examination, immunization or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others; and

(11) Any affected employee shall be notified by the employee's employer and shall be given the opportunity to participate in negotiations on alleged violations of occupational safety and health standards. [Acts 1972, ch. 561, § 5; 1974, ch. 585, § 8; 1977, ch. 111, § 4; T.C.A., § 50-506; Acts 1986, ch. 844, § 3; 1999, ch. 520, § 41.]

**50-3-107. Unpaid fines and penalties - Interest - Additional penalties for late payment.** (a) The commissioner shall refer any fine or penalty assessed under this chapter, which remains unpaid for more than six (6) months from the date the order against the violator becomes final, to the attorney general and reporter for enforcement. The attorney general and reporter is authorized to contract with one (1) or more private entities or individuals for the collection of these fines and penalties.

(b) When any person or entity is assessed a fine or penalty under this chapter, and such fines or penalties are not paid on or before the date they are due, as established in the final order or otherwise, interest shall be added to the amount due, in addition to any further penalty provided by law, at the rate established pursuant to § 67-1-801(a)(1).

(c) In addition to the interest assessed pursuant to subsection (b), there shall be imposed a penalty in the amount of ten percent (10%) of the unpaid fine or penalty amount for each thirty (30) days or fraction thereof that the fine or penalty remains unpaid after becoming due, up to a maximum of thirty (30%) of the unpaid amount.

(d) Any interest or penalty imposed due to failure to pay a fine or penalty assessed under this chapter shall be considered a part of such delinquent fine or penalty and shall be collectible in the same manner as the fine or penalty.

(e) Any interest or penalty imposed and collected pursuant to this section shall be used to offset the cost of collection of the fines and penalties assessed under this chapter.

(f) The commissioner shall include within the department's annual report to the general assembly and the governor a listing of employers whose penalties remain unpaid more than one (1) year after a final order has been entered. The listing shall include the amount of any unpaid penalty for each employer. [Acts 1996, ch. 944, § 45; 1999, ch.520, § 41.]

**50-3-108. Full payment required except in case of compromise and settlement.** The commissioner shall require the full amount of any penalty assessed by a final order of the department to be paid unless the commissioner receives approval to compromise and settle the amount to be paid pursuant to § 20-13-103. [Acts 1996, ch. 944, § 46; 1999, ch. 520, § 41.]

**PART 2 - STANDARDS**

**50-3-201. Regulations authorized.** (a) It is the responsibility of the commissioner of labor and workforce development to develop and promulgate regulations which adopt occupational safety and health standards.

(b) The commissioner may adopt as an occupational safety or health standard the federal standard relating to the same issue.

(c) The commissioner may, by regulation, promulgate, modify or revoke any occupational safety and health standard in the manner provided in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The decision of an individual, corporation, business entity or local, state or federal government entity, or agent thereof, not to post property pursuant to § 39-17-1359, thereby allowing persons with handgun permits to carry a handgun on such property, does not constitute an occupational safety and health hazard within the jurisdiction of this chapter. [Acts 1972, ch. 561, § 6; 1977, ch. 111, § 5; T.C.A., § 50-507; 1999, ch. 520, § 41; 2011, ch. 33, § 1.]

**50-3-202. Criteria for standards.** (a) Regulations issued under § 50-3-201 shall provide insofar as possible, the highest degree of health and safety protection for the employee; other considerations shall be the latest available scientific data in the field, the feasibility of the standard and experience gained under this and other health and safety laws.

(b) Whenever practical, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(c) In promulgating standards dealing with toxic materials or harmful physical agents, the commissioner shall set a standard which most adequately assures, to the extent possible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of such employee's working life. [Acts 1972, ch. 561, § 6; 1977, ch. 111, § 6; T.C.A., § 50-517.]

**50-3-203. Protective measures.** (a) Where appropriate, any standard promulgated under § 50-3-201 may prescribe the use of labels or other appropriate forms of warning to the extent necessary to insure that employees are informed of any significant hazards to which they are exposed, relevant symptoms and proper conditions for safe use or exposure.

(b) Where appropriate, such standards may also prescribe suitable protective equipment, but not as a substitute for appropriate control techniques, as well as control or technological procedures to be used in connection with such hazards.

(c)(1) Where appropriate, the administrator shall require the monitoring or measuring of employee exposure at such locations and intervals, and in such manner, as may be necessary for the protection of the employees.

(2) Any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard shall be promptly notified by such employee's employer, and informed of corrective action being taken.

(d) In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at such employer's cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure.

(e)(1) Where appropriate, such standards shall reduce the transmission of bloodborne pathogens through needles. The commissioners of labor and workforce development and health shall jointly review sharps injury prevention technology to include needleless systems and needles with engineered sharps injury protection.

(2) The commissioners shall jointly determine those environments where standards require sharps injury prevention technology be employed. Sharps injury prevention technology shall not be required wherever the employer or other appropriate party demonstrates that such technology is medically contraindicated or is not more effective than alternative measures used by an employer to prevent

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exposure incidents.

(3) Any such standard shall require written exposure control plans be adopted by employers. Written exposure control plans shall be revised to reflect improvements in sharps prevention technology. Written exposure control plans shall include the type and brand of device used in an incident of exposure.

(4) The departments of labor and workforce development and health shall jointly compile and maintain a list of existing needleless systems and sharps with engineered sharps injury protection, which shall be available to assist employers in complying with the requirements of the bloodborne pathogen standards promulgated pursuant to this section. The list may be developed from existing sources of information, including, but not limited to, the federal food and drug administration, the federal centers for disease control, the national institute for occupational safety and health, and the United States department of veterans affairs.

[Acts 1972, ch. 561, § 6, 1977, ch. 111, § 7; T.C.A., § 50-518; 1999, ch. 37, § 1; 1999, ch. 520, § 41.]

**50-3-204. Advisory committee.** (a) The commissioner may appoint an advisory committee to assist the commissioner in the development and review of regulations prescribing standards under § 50-3-201.

(b)(1) The committee shall consist of an uneven number of persons, not to exceed seven (7), appointed by the commissioner, engaged in the development of the regulation.

(2) Membership on the committee shall include representatives qualified by experience and affiliation to present the diverse view point of persons and groups most likely to be affected by the standards, and may include representatives of employers, employees, the insurance industry, the health professions and the safety professions.

(3) In the selection of members, the commissioner shall consider such criteria as special expertise in the health and safety fields, geographical distribution of members within the three (3) grand divisions of the state, the interests of state and local government and the interests of the public.

(c) Members of such advisory committee shall be reimbursed for their expenses and shall be paid on a per diem basis for days actually and necessarily employed in the discharge of official duties of the committee at a rate to be determined by the commissioner and approved by the department of finance and administration.

(d)(1) Administrative and technical assistance reasonably required by an advisory committee shall be provided by the commissioner.

(2) The committee may seek advice and information from interested and knowledgeable parties and governmental agencies to assist it in the determination of its recommended standards. [Acts 1972, ch. 561, § 7; 1977, ch. 111, § 8; impl. am. Acts 1977, ch. 111, § 44; T.C.A., § 50-519.]

**PART 3 - INSPECTIONS**

**50-3-301. Inspections authorized.** In order to carry out the purposes of this chapter, the commissioner of labor and workforce development, upon presenting appropriate credentials to the owner, operator or agent in charge, is authorized to:

(1) Enter without delay and at any reasonable time any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and

(2) Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment and materials therein, and to question privately any such employer, owner, operator, agent or employee. [Acts 1972, ch. 561, § 8; 1977, ch. 111, § 9; T.C.A., § 50-520; 1999, ch. 520, § 41.]

**50-3-302. Witnesses.** (a) In making inspections and investigations under this chapter, the commissioner may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath.

(b) Witnesses shall be reimbursed for all travel and other necessary expenses which shall be claimed, and paid in accordance with the prevailing travel regulations of the state.

(c) In case of a failure or refusal of any person to obey a subpoena issued under §§ 50-3-301 - 50-3-

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306, the chancery court of the county in which the inspection or investigation is conducted shall have jurisdiction, upon application of the commissioner, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished by such court as contempt thereof.

(d) The name, job title and other information that may be used to identify a witness who is interviewed during the course of an investigation shall be considered confidential and shall not be a public record pursuant to Title 10, Chapter 7. [Acts 1972, ch. 561, § 8; 1977, ch. 111, § 10; T.C.A., § 50-521; 2004, ch. 558, §§ 1 & 2.]

**50-3-303. Representation of employers and employees during inspection.** (a) Subject to regulations issued by the commissioner of labor and workforce development, a representative of the employer and a representative authorized by the employer's employees shall be given an opportunity to accompany the commissioner or the commissioner's authorized representative during the physical inspection of any workplace under § 50-3-301 for the purpose of aiding such inspection.

(b) Where there is no authorized employee representative, the commissioner or the commissioner's authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace. [Acts 1972, ch. 561, § 8; 1974, ch. 585, § 10; 1977, ch. 111, § 11; T.C.A., § 50-522; 1999, ch. 520, § 41.]

**50-3-304. Notice by employees of dangerous conditions or violations.** (a)(1) Any employees or representatives of employees who believes that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice of such violation or danger to the commissioner.

(2) Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by employees or representatives of employees, and a copy shall be provided the employer or the employer's agent no later than the time of inspection.

(3) Upon the request of the person giving such notice, such persons name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to § 50-3-305.

(4) If upon receipt of such notification the commissioner determines there are reasonable grounds to believe that such violation or danger exists, the commissioner shall make a special investigation in accordance with the provisions of §§ 50-3-301 - 50-3-306 as soon as practicable, to determine if such violation or danger exists.

(5) If the commissioner determines there are not reasonable grounds to believe that a violation or danger exists, the commissioner shall notify the employees or representative of employees in writing of such determination.

(b) Prior to or during any inspection in workplace, any employees or representative of employees employed in such workplace may notify the commissioner, in writing, of any violation of this chapter which they have reason to believe exists in such workplace. The commissioner shall, by regulation, establish procedures for informal review of any refusal by a representative of the commissioner to issue a citation with respect to any such alleged violation and shall furnish the employees or representative of employees requesting such review a written statement of the reasons for the commissioner's final disposition of the case. [Acts 1972, ch. 561, § 8; 1977, ch. 111, § 12; T.C.A., § 50-523.]

**50-3-305. Reports of inspections and investigations.** The commissioner of labor and workforce development is authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under §§ 50-3-301 - 50-3-306, subject to the restriction of § 50-3-915. [Acts 1972, ch. 561, § 8; 1974, ch. 585, § 11; 1977, ch. 111, § 13; T.C.A., § 50-524; 1999, ch. 520, § 41.]

**50-3-306. Advance notice of inspections prohibited - Exceptions.** (a) Inspections conducted under §§ 50-3-301 - 50-3-306 shall be accomplished without advance notice, subject to the exceptions in subsection (b).

(b) The commissioner of may authorize the giving of any employer or employee advance notice of an inspection only when the giving of such notice is essential to the effectiveness of such inspection, and in keeping with regulations issued by the commissioner. [Acts 1972, ch. 561, § 8; 1977, ch. 111, § 14;

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T.C.A., § 50-525; 1999, ch. 520, § 41.]

**50-3-307. Citation of violations.**

(a) (1) If, upon an inspection or investigation, the commissioner believes that an employer is not in compliance with any standard or regulation promulgated by the commissioner pursuant to this chapter, the commissioner shall, with reasonable promptness and in no event later than six (6) months following the inspection, issue to the employer by certified mail, by delivery service with delivery receipt, or via hand delivery, a written citation that states the nature and location of the violation, including a reference to the chapter, standard or regulation alleged to have been violated.

(2) In addition, the citation shall fix a reasonable time for abatement of the violation.

(3) If the commissioner has reason to believe that the violation, or the failure to abate the violation, should result in the assessment of a penalty under §§ 50-3-402 -- 50-3-408, the citation may so state.

(4) A copy of each citation shall immediately be posted by the employer at or near each location referred to in the citation.

(5) Whenever the abatement or correction requirements of this chapter conflict with any local zoning ordinance, this chapter shall govern.

(6) A citation issued pursuant to this chapter shall become a final order of the department twenty (20) days after its receipt by the employer.

(b) (1) At any time within twenty (20) days after receipt of the citation, an employer or affected employee, or group of employees or their representative, may advise the commissioner of objections to the terms and conditions of the citation.

(2) Upon receipt of the objections, the commissioner shall notify the occupational safety and health review commission of the receipt of the objections, and the commission shall afford an opportunity for a hearing.

(3) The commission shall thereafter issue an order affirming, modifying or vacating the citation.

(4) The order shall become final thirty (30) days after its issuance, unless within that period judicial review of the order has been sought pursuant to § 50-3-806. [Acts 1972, ch. 561, § 9; 1974, ch. 585, §§ 12, 13; 1977, ch. 111, §§ 15, 16; T.C.A., §§ 50-526, 50-527; 1999, ch. 520, § 41; 2001, ch. 62, § 1; 2007, ch. 102, § 1.

**PART 4 - CIVIL REMEDIES**

**50-3-401. Injunctive relief.** (a)(1) Where the commissioner of labor and workforce development has reason to believe that any condition or practice in any place of employment could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this chapter, the commissioner may institute proceedings to prevent, correct or remove such conditions or practice in any court having statutory power to enjoin or restrain in the county in which such condition or practice exists.

(2) Injunctive relief granted under this subsection may require the removal of all individuals from the place of employment except those individuals required to prevent, correct or remove imminent danger.

(3) In the event that cessation of employment operations is necessary, the injunctive relief may require such cessation to be accomplished in a safe and orderly manner.

(b) For the purpose of Rule 65.03 of the Tennessee Rules of Civil Procedure, the commissioner, when seeking relief under subsection (a) shall be considered to represent the interest of any employee affected by the condition or practice referred to by subsection (a).

(c) Institution of a proceeding for injunctive relief under this section shall not in any way bar the institution or continuation of proceedings for the imposition of monetary penalties under §§ 50-3-402 - 50-3-408.

(d) Any employee or group of employees affected by a condition or practice referred to in subsection (a) may be permitted to intervene in an action brought by the commissioner pursuant to this section; provided, that such intervention is subject to the discretion of the court in which such action is brought. [Acts 1972, ch. 561, § 10; 1974, ch. 585, §§ 14, 15; 1977, ch. 111, §§ 17, 18; T.C.A., §§ 50-528 - 50-530; 1999, ch. 520, § 41.]

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**50-3-402. Authority of commissioner.** (a) The commissioner of labor and workforce development has the authority to assess monetary penalties as provided in §§ 50-3-402 - 50-3-408 for any violation of this chapter or of any standard, rule or order adopted by regulation promulgated by the commissioner pursuant to this chapter.

(b) In making such assessment, the commissioner shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the employer charged, the gravity of the violation, the good faith of the employer and the employer's history of previous violations. [Acts 1972, ch. 561, § 11; 1974, ch. 585, § 16; 1977, ch. 111, § 19; T.C.A., § 50-531; 1999, ch. 520, § 41.]

**50-3-403. Knowledge of conditions endangering health or safety - Penalty.** If an employer knows or has reason to know that an employment condition or practice in such employer's business seriously endangers the health or safety of such employer's employees, and if such condition or practice is not in compliance with any standard promulgated pursuant to this chapter, a penalty of up to seven thousand dollars (\$7,000) shall be assessed for each such violation. [Acts 1972, ch. 561, § 11; 1977, ch. 111, § 20; T.C.A., § 50-532; Acts 1991, ch. 170, § 1.]

**50-3-404. Failure to correct violation of standard or regulation - Penalty.** (a) Any employer who has received a citation for a violation of this chapter or standard or regulation promulgated pursuant to this chapter and has failed to correct such violation within the period of correction of the citation, shall be assessed a penalty of up to seven thousand dollars (\$7,000) for each day the violation exists.

(b) The period of correction may be suspended or lengthened by the commissioner upon a showing by the employer of a good faith effort to comply with the correction requirements and that failure to comply with the correction requirements is due to factors beyond the employer's reasonable control. [Acts 1972, ch. 561, § 11; 1977, ch. 111, § 21; T.C.A., § 50-533; Acts 1991, ch. 170, § 2.]

**50-3-405. Violation of standard or regulation - Nonserious violation - Willful or repeat violations - Penalties.** (a) Any employer who has received a citation for a violation of this chapter or standard or regulation promulgated pursuant to this chapter, and such violation is specifically determined not to be of a serious nature, may be assessed a penalty of up to seven thousand dollars (\$7,000) for each such violation.

(b) Any employer who willfully or repeatedly violates the requirements of this chapter or standard or regulation promulgated pursuant to this chapter may be assessed a penalty of up to seventy thousand dollars (\$70,000) for each violation. [Acts 1974, ch. 585, § 34, T.C.A., 50-534 - 50-535; Acts 1991, ch. 170, §§ 3, 4.]

**50-3-406. Violation of posting requirements.** Any employer who violates any of the posting requirements, as prescribed in the provisions of this chapter, shall be assessed a penalty of up to seven thousand dollars (\$7,000) for each violation. [Acts 1974, ch. 585, § 34; T.C.A., § 50-536; Acts 1991, ch. 170, § 5.]

**50-3-407. Manner of imposing penalties.** (a) Penalties provided for by §§ 50-3-402 - 50-3-408 shall be imposed in the following manner: whenever the commissioner has determined that such a penalty should be assessed against an employer, the commissioner shall issue a written notification to the employer by certified mail, stating the amount of the penalty to be assessed, the reason therefor (which may be done by reference to citations issued prior to or simultaneously with such notification), and informing the employer of the employer's right to appeal to the occupational safety and health review commission.

(b) If, within twenty (20) days from the receipt of notification, the employer fails to notify the commissioner that the employer intends to contest the imposition of such penalty, the assessment of penalty as stated in the notification shall be deemed a final order of the commission, and shall not be subject to further review.

(c)(1) If an employer notifies the commissioner within twenty (20) days of receipt of notification of a penalty that the employer intends to contest the penalty, the commissioner shall advise the commission of such notification, and the commissioner shall afford opportunity for a hearing.

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(2) The commission shall thereafter issue an order, based on findings of fact, affirming, modifying or vacating the commissioner's citation or assessment of penalty.

(3) Such order shall become final thirty (30) days after its issuance, unless within such period judicial review of such order has been sought pursuant to § 50-3-806. [Acts 1972, ch. 561, § 11; 1974, ch. 585, §§ 17, 34; 1977, ch. 111, § 22; T.C.A., § 50-537; 1999, ch. 520, § 41.]

**50-3-408. Payment of penalties - Action to recover.** All penalties owed under this chapter shall be paid to the commissioner for deposit into the state treasury, in the general fund and shall be earmarked for expenditure solely for use in the division of occupational safety and health equally between enforcement activities and the safety consulting service conducted under this chapter, and may be recovered in a civil action in the name of the state of Tennessee, in the county where the violation is alleged to have occurred or where the employer has its principal office.[Acts 1972, ch. 561, § 11; 1974, ch. 585, § 34; 1977, ch. 111, § 23; T.C.A., § 50-538; Acts 1996, ch. 944, § 44; 1999, ch. 520, § 41.]

**50-3-409. Discrimination against employee.** (a) No person shall discharge or in any manner discriminate against any employee because the employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding, or because of the exercise by the employee on behalf of such employee or others of any rights afforded by this chapter.

(b)(1) Any employee who believes that such employee has been discharged or otherwise discriminated against by any person in violation of this section may, within thirty (30) days after such violation occurs, file a complaint with the commissioner of labor and workforce development alleging such discrimination.

(2) Upon receipt of such complaint, the commissioner shall cause such investigation to be made as the commissioner deems appropriate.

(3)(A) If, upon such investigation, the commissioner determines that the provisions of this section have been violated, the commissioner shall bring an action in any appropriate chancery court against such person.

(B) In any such action, the chancery courts shall have jurisdiction, for cause shown, to restrain violations of subsection (a) and order all appropriate relief, including rehiring or reinstatement of the employee to the employee's former position with back pay.

(c) Within ninety (90) days of the receipt of a complaint filed under this section, the commissioner shall notify the complainant of the commissioner's determination under subsection (b). [Acts 1972, ch. 561, § 12; 1974, ch. 585, §§ 21, 35; T.C.A., § 50-542; 1999, ch. 520, § 41.]

**PART 5 - CRIMINAL OFFENSES AND PENALTIES**

**50-3-501. Unauthorized advance notice of inspection.** Any person who, without proper authorization, gives advance notice of any inspection to be conducted under this chapter commits a Class C misdemeanor. [Acts 1972, ch. 561, § 12; 1974, ch. 585, §§ 18, 34; T.C.A., § 50-539; Acts 1989, ch. 591, § 113.]

**50-3-502. False statements or representations in applications, records, reports or documents.** Any person who knowingly makes any false statement, representation or certification in any application, record, report or other document filed or required to be filed or maintained pursuant to the provisions of this chapter commits a Class C misdemeanor. [Acts 1972, ch. 561, § 12; 1974, ch. 585, §§ 19, 34; T.C.A., § 50-540; Acts 1989, ch. 591, § 113.]

**50-3-503. Death of employee caused by willful violation of standard.** Any employer who willfully violates any standard adopted by regulation promulgated pursuant to § 50-3-201, which violation causes the death of any employee, commits a Class A misdemeanor. [Acts 1972, ch. 561, § 12; 1974, ch. 585, §§ 20, 35; impl. am. Acts. 1977, ch. 111, § 44; T.C.A., § 50-541; Acts 1989, ch. 591, § 111.]

**50-3-504. Disclosure of trade secrets or privileged information.** A representative of the commissioner of labor and workforce development publishes, divulges, discloses, or makes known in any

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manner or to any extent not authorized by law any information coming to such representative in the course of such representative's employment or official duties or by reason of any examination or investigation may by, or return, report, or record made to or filed with such representative, which information contains or might reveal a trade secret or is otherwise privileged, commits a Class A misdemeanor. [Acts 1974, ch. 585, § 36; 1977, ch. 111, § 24; T.C.A., § 50-543; Acts 1989, ch. 591, § 1; 1999, ch. 520, § 41.]

**50-3-505. Enforcement of criminal penalties.** The commissioner of labor and workforce development may seek enforcement of the provisions of this part, and may offer to any district attorney general such assistance as may be appropriate and feasible for the purpose of giving effect to this part, including the services of staff attorneys. [Acts 1972, ch. 561, § 12; 1974, ch. 585, §§ 22, 36; 1977, ch. 111, § 25; T.C.A., § 50-544; 1999, ch. 520, § 41.]

**50-3-506. Grand jury - Enforcement duties.** The grand jury of each county is given inquisitorial power for the purpose of the enforcement of this part, and shall inquire promptly into any alleged violation brought to the attention of such grand jury by the commissioner of labor and workforce development. [Acts 1972, ch. 561, § 12, 1974, ch. 585, §§ 22, 36; 1977, ch. 111, § 26; T.C.A., § 50-545; 1999, ch. 520, § 41.]

**PART 6 - VARIANCES**

**50-3-601. Temporary variances authorized.** (a) The commissioner of labor and workforce development may upon written application by an employer, issue an order granting to such employer a temporary variance from standards promulgated under this chapter.

(b) Any such order shall prescribe the practices, means, methods, operations and processes which the employer must adopt or use while the variance is in effect and state in detail a program for coming into compliance with the standard. [Acts 1972, ch. 561, § 13, 1974, ch. 585, § 36; 1977, ch. 111, § 27; T.C.A., § 50-546; 1999, ch. 520, § 41.]

**50-3-602. Temporary variances - Notice - Duration - Renewals.** (a) The temporary variance provided for in § 50-3-601 may be granted only after notice to employees and interested parties and opportunity for hearing.

(b) The variance may be for a period of no longer than required to achieve compliance or one (1) year, whichever is shorter.

(c) It may be renewed only once; provided, that in the case of employers undertaking experimental programs in safety and health, either programs in cooperation with state or federal agencies or private programs approved by the commissioner, longer variances may be granted.

(d) Application for a renewal of a variance must be filed in accordance with provisions in the initial grant of the variance. [Acts 1972, ch. 561, § 13, 1974, ch. 585, § 36; 1977, ch. 111, § 28; T.C.A., § 50-547.]

**50-3-603. Temporary Variances - Grounds.** An order granting a temporary variance shall be issued only if the employer establishes that:

(1)(A) The employer is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology;

(B) All available steps have been taken to safeguard the employer's employees against the hazards covered by the standard; and

(C) The employer has an effective program for coming into compliance with the standard as quickly as practicable; or

(2) The employer is engaged in an experimental program as described in § 50-3-602. [Acts 1972, ch. 561, § 13, 1974, ch. 585, § 36; T.C.A., § 50-548.]

**50-3-604. Temporary Variances - Applications.** An application for a temporary variance shall

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contain:

- (1) A specification of the standard or portion thereof from which the employer seeks a variance;
- (2) A detailed statement of the reasons why the employer is unable to comply with the standard, supported by representations by qualified personnel having first hand knowledge of the facts represented;
- (3) A statement of the steps the employer has taken and will take (with specific dates) to protect employees against the hazard covered by the standard;
- (4) A statement of when the employer expects to comply and what steps the employer has taken or will take (with dates specified) to come into compliance with the standard; and
- (5) A certification that the employer has informed such employer's employees of the application by giving a copy of it to their authorized representatives, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually employed to inform employees and that employees have been informed of their right to petition the commissioner for a hearing. [Acts 1972, ch. 561, § 13, 1974, ch. 585, § 36; T.C.A., § 50-549.]

**50-3-605. Permanent variances.** (a)(1) Any affected employer may apply to the commissioner for a rule or order for a variance from a standard.

(2) Affected employees shall be given notice of each such application and an opportunity to participate in a hearing.

(b) The commissioner shall issue such rule or order if the commissioner determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment to such employer's employees which are as safe and healthful as those which would prevail if such employer complied with the standard.

(c) The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations and processes which the employer must adopt and utilize to the extent they differ from the standard in question.

(d) Such a rule or order may be modified or revoked upon application by an employer, employees, or by the commissioner on the commissioner's motion, in the manner prescribed for its issuance under this section at any time after six (6) months from its issuance. [Acts 1974, ch. 585, § 37, 1977, ch. 111, § 29; T.C.A. § 50-550; 1999, ch. 520, § 41.]

**50-3-606. Interim variances.** (a) Upon receipt of an application for an order granting a variance, the commissioner may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application.

(b) No such interim order may be effective for longer than one hundred and eighty (180) days. [Acts 1972, ch. 561, § 13, 1974, ch. 585, § 37; 1977, ch. 111, § 30; T.C.A., § 50-551.]

## **PART 7 - RECORDS AND REPORTS**

**50-3-701. Records and reports generally.** Each employer shall make available to the commissioner of labor and workforce development in such manner as the commissioner shall require copies of the same records and reports regarding such employer's activities relating to this chapter as are required to be made, kept or preserved by 29 U.S.C., § 657(c) and regulations made pursuant thereto. [Acts 1972, ch. 561, § 14, 1974, ch. 585, § 37; T.C.A., § 50-552; 1999, ch. 520, § 41.]

**50-3-702. Accident reports.** (a)(1) Each employer shall, in addition to making available to the commissioner the records and reports required by § 50-3-701, report each and every accident resulting in a work-related death or personal injury as defined in § 50-6-102.

(2) Reports of accidents that result in death or personal injury of a nature that the injured person does not return to the person's employment within seven (7) days after the occurrence of the accident shall be submitted to the bureau of workers' compensation as soon as possible, but not later than fourteen (14) days after the accident. Reports of all accidents causing seven (7) days of disability or fewer

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shall be submitted to the bureau of workers' compensation on or before the fifteenth day of the month following the month covered by the report.

(3) The information required in the reports provided for in subdivision (a)(1) shall be prescribed by the commissioner and forms for making the reports shall be available on request.

(4) Special or additional reports shall be furnished, on written request of the commissioner, to provide any other necessary information.

(5) No report required by § 50-3-701 and this section shall be used in any judicial proceeding.

(b) The employer's first report of work injury records that are maintained by the bureau are confidential. After completing a standard authorization form, which shall be provided by the bureau, an employee or an employee's attorney may obtain a copy of any report that concerns the employee's work injury. An employer may inquire in writing of the bureau to determine whether a job applicant has responded truthfully concerning any prior work injury. Nothing contained in this subsection (b) shall be construed or implemented to alter or amend existing law pertaining to Occupational Safety and Health Administration (OSHA) Form 300 reports. This section does not apply to a collective bargaining agent as certified by the national labor relations board (NLRB). [Acts 1972, ch. 561, § 14; 1974, ch. 585, §§ 23, 37; 1978, ch. 503, § 1; impl. am. Acts 1980, ch. 534, § 1; T.C.A., § 50-553; Acts 1990, ch. 839, § 1; 1999, ch. 520, § 41, 2002, ch. 540 § 1; 2015, ch. 341, § 16.]

**PART 8 - OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

**50-3-801. Creation - Members.** (a) There is hereby created the occupational safety and health review commission, consisting of three (3) members to be appointed by the governor, each member to serve for a period of three (3) years.

(b) The governor shall designate one (1) member to serve as chair.

(c) At the time of the initial appointment, one (1) member shall be designated to serve for one (1) year, one (1) for two (2) years, and one (1) for three (3) years.

(d) The members shall be chosen from persons qualified by education, training or experience to carry out the functions of the commission.

(e) Service on such commission for a term shall not render a person ineligible for reappointment.

(f) Each member shall be reimbursed for travel in accordance with the provisions of comprehensive travel regulations as approved by the attorney general and reporter and the commissioner of finance and administration.

(g) A per diem allowance of fifty dollars (\$50.00) shall only be paid to members for meetings at which a quorum is present.

(h) In the event a member is unable to complete its term, the member's replacement shall serve only the remainder of the term of the member the replacement replaces, unless reappointed. [Acts 1972, ch. 561, § 15, 1974, ch. 585, § 37; 1976, ch. 707, § 1; 1976, ch. 806, § 1(74); T.C.A., § 50-554.]

**50-3-802. Functions.** (a) The function of the review commission shall be to review citations issued under § 50-3-307 and monetary penalties assessed under §§ 50-3-402 - 50-3-408.

(b) The commission may affirm, modify or revoke a citation or a monetary penalty. [Acts 1972, ch. 561, § 15; 1974, ch. 585, §§ 24, 37; T.C.A., § 50-555.]

**50-3-803. Hearings.** (a) The commission or its appointed hearing examiners may hold hearings at places of convenience to the parties concerned.

(b) The powers of the commission in the conduct of hearings (including the power to administer oaths and subpoena persons) may be exercised on its behalf by a member, members or a hearing examiner appointed by the chair of the commission.

(c) Hearings may be conducted on the basis of oral or written evidence.

(d) The commission may administer oaths and subpoena persons (including parties) as witnesses and may compel them to produce documentary evidence for hearings.

(e) Timely notice of the hearing and its time and place, as well as the future storage place for the hearing record, must be given to the parties, and copies of the notice of such hearing shall be posted by the employer at such places as the commission shall require.

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(f) The hearings shall be open to the public and the records of hearings shall be maintained and available for examination.

(g) For the orderly transaction of the hearings, the rules of civil procedure as adopted by Tennessee shall be used unless a different rule is adopted by the commission.

(h) The rules of the commission shall provide affected employees or their representatives an opportunity to participate as parties. [Acts 1972, ch. 561, § 15; 1974, ch. 585, § 37; T.C.A., § 50-556.]

**50-3-804. Quorum.** For the purpose of carrying out its functions under this chapter, two (2) members of the commission shall constitute a quorum, and official action can be taken only on the affirmative vote of at least two (2) members. [Acts 1972, ch. 561, § 15; 1974, ch. 585, § 37; T.C.A., § 50-557.]

**50-3-805. Facilities.** It is the duty of the department of labor and workforce development to provide such equipment, supplies, clerical assistance, and the like, as the commission may reasonably require. [Acts 1972, ch. 561, § 15; 1974, ch. 585, § 37; T.C.A., § 50-558; 1999, ch. 520, § 41.]

**50-3-806. Appeals.** (a) An appeal may be taken from any final order or other final determination of the commission by any person, including the commissioner, who is or may be adversely affected thereby.

(b) The appeal shall be processed in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. [Acts 1972, ch. 561, § 16; 1974, ch. 585, §§ 24, 25, 37; 1977, ch. 111, §§ 31, 32; T.C.A., §§ 50-559, 50-560.]

**PART 9 - MISCELLANEOUS ADMINISTRATIVE AND ENFORCEMENT PROVISIONS**

**50-3-901. Delegation of powers and duties by the commissioner.** (a) The commissioner shall designate those persons in the commissioner's department responsible for carrying out the commissioner's powers, duties and responsibilities under this chapter.

(b) Persons so designated shall be qualified by education, training, and experience to insure the effectiveness of this chapter. [Acts 1972, ch. 561, § 17; 1974, ch. 585, § 37; 1977, ch. 111, § 33; T.C.A., § 50-561.]

**50-3-902. Delegation of power of inspection.** The commissioner of labor and workforce development may delegate the power to conduct inspections under §§ 50-3-301 - 50-3-306 to any other department of state government or to any local or regional health agency; provided, that the procedures employed by such department or agency are as effective as those employed by the commissioner. [Acts 1972, ch. 561, § 17; 1974, ch. 585, § 37; 1977, ch. 111, § 34; T.C.A., § 50-562; 1999, ch. 520, § 41.]

**50-3-903. Limitation on delegation of powers.** (a) The commissioner of labor and workforce development shall not designate any person of a rank below division administrator to:

- (1) Determine to institute an action under § 50-3-401;
- (2) Seek judicial review under § 50-3-806;
- (3) Recommend to a district attorney general the institution of a criminal proceeding under § 50-3-409 or part 5 of this chapter; or
- (4) Permit the giving of advance notice of an inspection under §§ 50-3-301 - 50-3-306.

(b) The commissioner of labor and workforce development shall not designate any person of a rank below division director to assess penalties under §§ 50-3-402 - 50-3-408. [Acts 1972, ch. 561, § 17; 1974, ch. 585, §§ 26, 37; 1977, ch. 111, § 35; T.C.A., § 50-563; 1999, ch. 520, § 41; 2000, ch. 637, § 1.]

**50-3-904. Educational programs authorized.** The commissioner of labor and workforce development may engage in educational programs to provide an adequate supply of qualified personnel to carry out the purposes of this chapter and is authorized to conduct, directly or by grants or contracts, training of personnel engaged in work related to the commissioner's responsibilities under this chapter. In carrying out the commissioner's responsibilities under this chapter, the commissioner is authorized to:

- (1) Use, with the consent of any state agency or agency of county or municipal government, the

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services, facilities, and personnel of such agency, with or without reimbursement in accordance with existing regulations and procedures;

(2) Employ experts and consultants or organizations thereof; and compensate individuals so employed at rates determined by the commissioner and approved by the department of finance and administration, including travel time, and allow them travel expenses while so employed;

(3) Engage in programs of research, demonstrations and experiments (directly, or by grant or contract) relating to occupational safety and health; and

(4) Provide to employers or employees, to the extent feasible, advice and assistance to enable them to improve occupational safety and health in their work places. [Acts 1972, ch. 561, § 17; 1974, ch. 585, § 37; 1977, ch. 111, § 36; T.C.A., § 50-565; 1999, ch. 520, § 41.]

**50-3-905. Duties of attorney general and reporter and district attorneys general.** It is the duty of the attorney general and reporter and of the district attorneys general in the various districts of the state to assist the commissioner of labor and workforce development upon the commissioner's request, and to act promptly upon the commissioner's recommendations for the prosecution of persons alleged to be subject to sanctions under § 50-3-409 or part 5 of this chapter. [Acts 1972, ch. 561, § 18; 1974, ch. 585, §§ 27, 37; 1977, ch. 111, § 37; 1979, ch. 422, § 24; T.C.A., § 50-566; 1999, ch. 520, § 41.]

**50-3-906. State departments and agencies - Responsibilities.** It is the responsibility of each administrative department, commission, board, division or other agency of the state to establish and maintain an effective and comprehensive occupational safety and health program consistent with the standards promulgated under this chapter. The head of each agency shall (in consultation with employees or representatives of employees thereof):

(1) Provide a safe and healthful place and conditions of employment;

(2) Acquire, maintain and require the safety equipment, personal protective equipment and devices reasonably necessary to protect employees;

(3) Make, keep, preserve and make available to the commissioner of labor and workforce development, the commissioner's designated representative or persons within the agency to whom such responsibilities have been delegated, adequate records of all occupational accidents and personal injuries for proper evaluation and necessary corrective action as required under §§ 50-3-701 and 50-3-702;

(4) Consult with the commissioner with regard to the adequacy of the form and content of records kept pursuant to subdivision (3);

(5) By agreement with the commissioner, devise a program of inspection and sanctions required to carry out the purposes of this chapter;

(6) Consult with the commissioner regarding health and safety problems of the agency which are considered to be unusual or peculiar to its activities, or responsibilities such that they cannot be achieved under a standard required under this chapter;

(7) Make an annual report to the commissioner with respect to accidents and personal injuries and the agency's program under this chapter; and

(8) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this section, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health. [Acts 1972, ch. 561, § 19; 1974, ch. 585, §§ 28, 37; 1977, ch. 111, § 38; T.C.A., § 50-567; 1999, ch. 520, § 41.]

**50-3-907. Annual report of state department and agency programs.** The commissioner shall submit annually to the governor and the general assembly a summary or digest of reports submitted to the commissioner under of § 50-3-906(7), together with the commissioner's evaluations of the progress toward achievement of the purposes of the chapter, the needs and requirements in the field of occupational safety and health, any other relevant information, and the commissioner's recommendations derived from these reports. [Acts 1972, ch. 561, § 19; 1974, ch. 585, §§ 29, 37; T.C.A., § 50-568; 1999, ch. 520, § 41.]

**50-3-908. Violations by state departments or agencies - Notice.** (a) Whenever the commissioner has reason to believe that an agency or department is failing reasonably to abide by the

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provisions of §§ 50-3-906 - 50-3-913, the commissioner may issue to the head of such agency or department a written notification stating in what respects the agency or department has not adequately met its responsibilities.

(b) If the agency or department does not advise the commissioner within twenty (20) days of its intention to contest such notification, the commissioner shall submit a copy of such notification to the governor, together with a request that such action be taken as will bring such agency or department into compliance with the provisions of this chapter.

(c) If within twenty (20) days of receipt of notification, the agency or department advises the commissioner of its intention to contest the notification, the commissioner shall promptly so notify the commission, which shall afford opportunity for a hearing and shall thereafter issue to the governor its findings of fact and recommendations for action. [Acts 1972, ch. 561, § 19; 1974, ch. 585, §§ 30, 37; 1977, ch. 111, § 39; T.C.A., § 50-569; Acts 1999, ch. 520, § 41; 2004, ch. 558, § 2.]

**50-3-909. Conditions or practices by state departments or agencies endangering health - Abatement.** Whenever the commissioner of labor and workforce development has reason to believe that failure of an agency or department to meet its responsibilities under this chapter creates imminent danger of death or serious physical injury to any employee of this state, the commissioner shall immediately submit to the governor a statement of the reasons for the commissioner's belief, together with recommendations for the immediate abatement of the hazard. [Acts 1972, ch. 561, § 19; 1974, ch. 585, § 37; 1977, ch. 111, § 40; T.C.A., § 50-570; 1999, ch. 520, § 41.]

**50-3-910. Local government's duty to employees.** (a) It is the duty of county, municipal and other local governments to provide their employees with conditions of employment consistent with the objectives of this chapter, and to comply with standards developed under § 50-3-201.

(b) On or before July 1, 2006, or in the case of local governments created after July 1, 2004, within two (2) years following the creation of the local government, each local government shall elect whether to:

- (1) Be treated as a private employer; or
- (2) Develop its own program of compliance.

(c) If a local government elects to develop its own program of compliance, it shall prepare a statement in writing of the program, including a description of methods of inspection, and shall register the program with the commissioner of labor and workforce development, by sending to the commissioner by certified mail a written notification that includes:

- (1) A statement that the local government elects to develop its own program of compliance;
- (2) A statement that the program has been developed and has been reduced to writing;
- (3) A statement of where the writing may be inspected;
- (4) A statement that employees of the local government have been informed of the program and have access to the writing;

(5) An assurance that the program incorporates standards developed under § 50-3-201; and

(6) An assurance that the program includes provisions for inspection and record keeping as effective as the provisions of this chapter.

(d) If a local government does not file the notification, it shall be considered to have elected to be treated as a private employer.

(e) On or before July 1, 2016, each utility district created by private act shall elect to either:

(1) Be treated as a private employer; or

(2) Develop its own program of compliance. [Acts 1972, ch. 561, § 19; 1974, ch. 513, § 1; 1974, 585, § 37; impl. am. Acts 1977, ch. 111, § 44; T.C.A., § 50-571; 1999, ch. 520, § 41; 2004, ch. 558, § 3; 2015, ch. 332, § 1.]

**50-3-911. Inspection and enforcement of local government programs.** No action shall be taken with reference to an employer which is a local government, other than the performance of inspections under §§ 50-3-301 - 50-3-306 performed for the purpose of determining the effectiveness of programs developed and registered by such employers under § 50-3-910, and other than investigation and enforcement actions under §50-3-409 unless such local government has elected to be treated as a private employer. [Acts 1972, ch. 561, § 19; 1974, ch. 585, §§ 31, 37; T.C.A., § 50-572; 2004, ch. 508, § 1.]

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**50-3-912. Report of failure of local government programs.** If the commissioner has reason to believe that any local government program of compliance is ineffective, the commissioner shall (after unsuccessfully seeking by negotiation to abate such failure) include this fact in the commissioner's annual report to the governor and the general assembly, together with the reasons therefor, and may recommend legislation intended to correct such condition. [Acts 1972, ch. 561, § 19; 1974, ch. 585, § 37; T.C.A., § 50-573; 1999, ch. 520, § 41.]

**50-3-913. Local governments as private employers - Enforcement not affected by notice to develop own program.** If proceedings under § 50-3-307, § 503-401, § 50-3-402 - 50-3-404, 50-3-407 and 50-3-408 or §§ 50-3-409, 50-3-501 - 50-3-503, 50-3-505 and 50-3-506 have been commenced with reference to a local government which has elected to be treated as a private employer, such proceedings (including subsequent review) shall not be terminated by the filing of a notification of an election to develop its own program of compliance. [Acts 1972, ch. 561, § 19; 1974, ch. 585, §§ 32, 37; T.C.A., § 50-574.]

**50-3-914. Trade secrets confidential.** (a) All information obtained by or reported to the commissioner pursuant to any section of this chapter which contains or might reveal a trade secret or is otherwise privileged shall be considered confidential for the purposes of that section. Such information may be disclosed to other officers or employees concerned with carrying out the provisions of this chapter or when relevant to any proceeding under this chapter.

(b) A violation of this section is a Class A misdemeanor. [Acts 1972, ch. 561, § 20; 1974, ch. 585, §§ 33, 37; 1977, ch. 111, § 41; T.C.A., § 50-575; Acts 1989, ch. 591, § 111; 1999, ch. 520, § 41.]

**50-3-915. Compliance with chapter - Relation of chapter to other laws.** (a) Compliance with any other state law which regulates safety and health in employment and places of employment shall not excuse any employer or employee or any other person from compliance with the provisions of this chapter or any standard or regulation promulgated pursuant to this chapter.

(b) Compliance with any provision of this chapter or any standard or regulation promulgated pursuant to this chapter shall not excuse any employer or employee or any other person from compliance with any state law regulating and promoting safety and health unless such state law is specifically repealed by this chapter or is repealed by subsequent legislation pursuant to this chapter. [Acts 1972, ch. 561, § 21; 1974, ch. 585, § 37; T.C.A., § 50-576.]

**50-3-916. Minimizing report burden.** (a) Records and reports required by this chapter shall be obtained with a minimum burden upon employers, especially those operating small businesses.

(b) Unnecessary duplication will be avoided by encouraging and approving the use of existing substitute records for those required under §§ 50-3-701 and 50-3-702 to the maximum extent possible. [Acts 1972, ch. 561, § 22; 1974, ch. 585, § 37; T.C.A., § 50-577.]

**50-3-917. Cooperation with federal government.** The commissioner of labor and workforce department, subject to the direction and designation of the governor under § 4-4-116, is authorized to submit in accordance with § 18 of the federal Occupational Safety and Health Act of 1970 (Pub. L. 91-596)(29 U.S.C., § 667), a state plan for the state of Tennessee that will provide for safe and healthful employment by the adoption of standards and means for enforcement of such standards which are at least as effective of those standards and means for enforcement of such standards as are provided by the federal Occupational Safety and Health Act of 1970 (29 U.S.C., §§ 651-678); to accept funds made available under that act and similar or related acts; to enter into such agreements and to make such reports as are necessary to the acceptance of such funds; and to cooperate with the federal government in such ways as are reasonably designed to carry out the purposes of the Act. [Acts 1972, ch. 561, § 23; 1974, ch. 585, § 37; 1977, ch. 111, § 42; T.C.A., § 50-578; 1999, ch. 520, § 41.]

**50-3-918. Hazardous condition - Action by commissioner - Emergency stop orders.** (a) If the commissioner of labor and workforce development, upon an inspection or investigation, finds a hazardous condition at a place of employment that presents an imminent threat to life or limb of an employee, the

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commissioner may issue an emergency stop order requiring the immediate alleviation of the condition. This may require the discontinuation of a practice or the removal of all individuals from the threatened area. The stop order shall be in writing and is effective from the time it is posted in the place where the condition exists. Immediately after the order is posted, a copy shall be given to the employer. The commissioner shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the commissioner. Not more than twenty-four (24) hours after the start of the hearing, and without adjournment thereof, the commissioner shall affirm, modify or set aside the commissioner's previous order. The commissioner shall cause a transcript to be made of the proceeding in a hearing, copies of which shall be made available to all parties affected, at a reasonable cost.

(b) The action taken by the commissioner shall be subject to review by the chancery or circuit court of the county in which the condition is found to exist, upon petition for certiorari in the manner now provided for review of actions of boards and commissions in title 27, chapter 9. Such review shall take precedence upon the docket over all other matters except application for extraordinary process. Upon petition for certiorari, the stop order may be vacated by the reviewing court upon the giving of a bond as the court may find appropriate in the circumstances by the party seeking such review.

(c) Should the commissioner fail to abide by the provision for affirming, modifying or setting aside of the commissioner's order, any work or project halted by the stop order may resume, it being the legislative intent that such stop order shall not serve to be a device to be used arbitrarily. [Acts 1973, ch. 29, §§ 1, 2; 1977, ch. 111, § 43; impl. am. Acts 1977, ch. 111, § 44; T.C.A., § 50-579; 1999, ch. 520, § 41.]

**50-3-919. [Repealed.]**

[Acts 1988, ch. 722, § 1; 1999, ch. 520, §§ 41, 52, repealed by Acts 2011, ch. 61, § 3, effective April 11, 2011.]

**50-3-920. No regulation and enforcement of changes in federal regulations relating to child labor performed on farms.**

On or after April 16, 2012, no public funds of this state or any political subdivision of this state shall be allocated to the regulation or enforcement of any change made after December 1, 2011, to the United States department of labor's Hazardous Occupations Orders for Agricultural Employment relating to children, compiled in 29 CFR part 570. [Acts 2012, ch. 757, § 1.]

**PART 10 – HIGH VOLTAGE LINES**

**50-3-1001. Part definitions.** As used in this part, unless the context otherwise requires:

- (1) "Approved" means approved by the commissioner;
- (2) "Commissioner" means the commissioner of labor and workforce development or any of the commissioner's authorized representatives;
- (3) "Department" means the department of labor and workforce development;
- (4) "High-voltage" means a voltage in excess of seven hundred fifty (750) volts between conductors or from any conductor to ground; and
- (5) "Overhead lines" means all bare or insulated electrical conductors installed above ground, except those conductors that are enclosed in approved metal covering.[ Acts 1955, ch. 289, § 1; T.C.A., §§ 53-2801, 68-21-101; Acts 1999, ch. 520, § 46; 2011, ch. 157, § 1; 2012, ch. 681, §§ 1, 4; T.C.A. § 68-103-101.]

**50-3-1002. Guarding against accidental contact by employee.** No person, firm, or corporation, or agent of a person, firm or corporation, shall require or permit any employee to perform any function in proximity to high-voltage overhead lines; to enter upon any land, building, or other premises and engage in any excavation, demolition, construction, repair or other operation; or to erect, install, operate, or store in or upon such premises any tools, machinery, equipment, materials, or structures, including house moving, well drilling, pile driving or hoisting equipment, unless and until danger from accidental contact with such high-voltage overhead lines has been effectively guarded against in the manner prescribed in this part. [ Acts 1955, ch. 289, § 2; T.C.A., §§ 53-2802, 68-21-102; Acts 2011, ch. 157, § 2; 2012, ch. 681,

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§§ 1, 4; T.C.A. § 68-103-102.]

**50-3-1003. Clearance or safeguard required.** (a) The operation, erection or transportation of any tools, machinery, or equipment, or any part of any tools, machinery, or equipment, capable of vertical, lateral or swinging motion, the handling, transportation or storage of any supplies, materials or apparatus, or the moving of any house or other building, or any part of any house or building, under, over, by or near high-voltage overhead lines, is expressly prohibited, if at any time during such operation, transportation or other manipulation it is possible to bring the equipment, tools, materials, building, or any part of the equipment, tools, materials or building, within ten feet (10') of the high-voltage overhead lines, or the distance required by an applicable standard of the Tennessee occupational health administration, except where the high-voltage overhead lines have been effectively guarded against danger from accidental contact, by either:

- (1) The erection of mechanical barriers to prevent physical contact with high-voltage conductors;
- (2) De-energizing the high-voltage conductors and grounding where necessary; or
- (3) By insulating the lines.

(b) Only in the case of an exception referenced in subdivision (a)(1), (a)(2) or (a)(3) may the clearance required by subsection (a) be reduced. The clearance required by subsection (a) shall not be provided by movement of the conductors through strains impressed, by attachments or otherwise, upon the structures supporting the high-voltage overhead line nor upon any equipment, fixtures or attachments on the structures.

(c) If temporary relocation of the high-voltage conductors is necessary, appropriate arrangements shall be made with the owner or operator of the overhead line for such temporary relocation. [Acts 1955, ch. 289, § 3; T.C.A., §§ 53-2803, 68-21-103; Acts 2011, ch. 157, §§ 3, 4; 2012, ch. 681, § 4; T.C.A. § 68-103-103.]

**50-3-1004. [Repealed.]**

[Acts 1955, ch. 289, § 4; T.C.A., §§ 53-2804, 68-21-104, repealed by Acts 2011, ch. 157, § 5, effective May 5, 2011; transferred by Acts 2012, ch. 681, § 4 from § 68-103-104, effective July 1, 2012.]

**50-3-1005. Notification to power company and responsibility for safeguards.** When any operations are to be performed, tools or materials are to be handled, or equipment is to be moved or operated, within ten feet (10'), or the distance required by an applicable standard of the Tennessee occupational health administration, of any high-voltage overhead line, the person or persons responsible for the work to be done shall promptly notify the operator of the high-voltage overhead line of the work to be performed, and such person shall be responsible for the completion of the safety measures that are required by §§ 50-3-1002 and 50-3-1003, before proceeding with any work that would impair the clearance. [Acts 1955, ch. 289, § 5; T.C.A., §§ 53-2805, 68-21-105; Acts 2011, ch. 157, §§ 6, 7; 2012, ch. 681, §§ 2, 4; T.C.A. § 68-103-105.]

**50-3-1006. Enforcement.** The commissioner shall administer and enforce this part and the commissioner is empowered to prescribe and promulgate rules and regulations consistent with this part. [Acts 1955, ch. 289, § 6; T.C.A., §§ 53-2806, 68-21-106; Acts 2012, ch. 681, §§ 1, 4; T.C.A. § 68-103-106.]

**50-3-1007. Violation of part.** A violation of any provision of this part is a violation of § 50-3-105(1). [Acts 1955, ch. 289, § 7; T.C.A., § 53-2807; Acts 1989, ch. 591, § 112; T.C.A., § 68-21-107; Acts 2011, ch. 157, § 8; 2012, ch. 681, §§ 1, 4; T.C.A. § 68-103-107.]

**50-3-1008. Operations exempt.** This part shall not be construed as applying to, shall not apply to, and is not intended to apply to, the construction, reconstruction, operation, and maintenance of overhead electrical conductors and their supporting structures and associated equipment by authorized and qualified electrical workers; nor to the authorized and qualified employees of any person, firm or corporation engaged in the construction, reconstruction, operation, and maintenance of overhead electrical circuits or conductors and their supporting structures and associated equipment of rail transportation systems, or electrical generating, transmission, distribution, and communication systems. This exception, when applied to railway systems, shall be construed as permitting operation of standard

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rail equipment that is normally used in the transportation of freight or passengers or both and the operation of relief trains, or other equipment in emergencies, or in maintenance of way service, at a distance of less than ten feet (10'), or the distance required by an applicable standard of the Tennessee occupational health administration, from any high-voltage overhead conductor of such railway system; but this part shall be construed as prohibiting normal repair or construction operations at a distance of less than ten feet (10'), or the distance required by an applicable standard of the Tennessee occupational health administration, from any high-voltage overhead conductor by other than properly qualified and authorized persons or employees under the direct supervision of an authorized person who is familiar with the hazards involved, unless there has been compliance with the safety provisions of §§ 50-3-1002 -- 50-3-1005. [Acts 1955, ch. 289, § 8; T.C.A., §§ 53-2808, 68-21-108; Acts 2011, ch. 157, § 9; 2012, ch. 681, §§ 1, 3, 4; T.C.A. § 68-103-108.]

**PARTS 11-19 - [RESERVED]**

**PART 20 - HAZARDOUS CHEMICAL RIGHT TO KNOW LAW**

**50-3-2001. Employer compliance with the federal hazard communication standard for chemicals and other compliance requirements.** Each employer shall comply with all of the requirements of the federal hazard communication standard codified in 29 CFR 1910.1200. In addition to the requirements set forth in 29 CFR 1910.1200 each employer must also comply with the following:

(1) (A) Employers shall keep a record of the dates of training sessions given to their employees;

(B) The hazard communication program and employee information and training required of employers pursuant to 29 CFR 1910.1200 and the education and training program pursuant to subdivision (1) shall require annual refresher training after the initial training pursuant to 29 CFR 1910.1200 is conducted, unless the commissioner grants an exemption from annual refresher training. The exemption may be granted if the commissioner determines that the nature of the work assignment, the level of exposure or the nature of the hazardous chemical involved would not reasonably require annual refresher training;

(2) (A) For the purposes of this section only, "workplace" means any workplace as defined in 29 CFR 1910.1200(c) that is located within the fire chief's actual jurisdiction or that is located in a jurisdiction to which the fire chief responds pursuant to a mutual aid pact;

(B) Employers and distributors who normally store a hazardous chemical in excess of fifty-five gallons (55 gal.) or five hundred pounds (500 lbs.) shall provide the fire chief, in writing, the names and telephone numbers of knowledgeable representatives of the manufacturing employer, non-manufacturing employer or distributor who can be contacted for further information or in the event of an emergency;

(C) Each employer and distributor shall provide a copy of the workplace chemical list to the fire chief and shall thereafter notify the fire chief of any significant changes that occur in the workplace chemical list;

(D) The fire chief or the fire chief's representative, upon request, shall be permitted on-site inspections of the hazardous chemicals on the workplace chemical list during normal business hours for the sole purpose of preplanning emergency fire department activities;

(E) Employers and distributors, upon written request, shall provide the fire chief a copy of the safety data sheet (SDS) for any chemical on their workplace chemical list;

(F) The fire chief shall, upon request, make the workplace chemical list and SDSs available to members of the fire chief's fire company having jurisdiction over the workplace, or their designated representatives, but shall not otherwise distribute the information without written approval of the manufacturing employer, nonmanufacturing employer or distributor who provided the workplace chemical list or SDSs; except that approval shall not be required in an emergency situation in which human life is at stake. In the event the workplace chemical list or SDSs are released under an emergency situation, the fire chief shall promptly notify the supplier of the workplace chemical list or SDSs, in writing, as to whom the information was released and the circumstances of the emergency. Persons receiving workplace chemical lists or SDSs from the fire chief shall hold the information contained in the workplace chemical lists or SDSs in confidence;

(G) (i) Employers and distributors shall place one (1) sign in accordance with the NFPA704M series

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on the outside of any building that contains a class A explosive, class B explosive, poison gas (poison A), water-reactive flammable solid (flammable solid W), or radioactive material as listed in Table 1 of the federal department of transportation (DOT) regulations at 49 CFR, Part 172, and further defined in federal DOT regulations at 49 CFR, Part 173, or any other hazardous chemical in excess of the amounts listed in subdivision (2)(B);

(ii) The commissioner shall promulgate rules in accordance with § 50-3-102(b)(3) to establish specifications on the size, color, lettering and posting requirements pursuant to the series. The regulations shall provide that the number used shall be determined by the hazardous chemical that presents the greatest danger;

(iii) The commissioner shall exempt an employer from this subdivision (2)(G) who can satisfactorily demonstrate that:

(a) The employer maintains a trained fire or emergency preparedness team considered capable of handling workplace chemical or fire emergencies without external assistance; or

(b) The employer maintains twenty-four (24) hour security personnel who maintain accurate records of the location of chemicals and who can readily direct emergency personnel from outside sources to affected company facilities;

(H) The department of labor and workforce development shall assist employers and fire personnel to effectuate the purposes of this section;

(3) (A) (i) Manufacturing employers shall compile and maintain a list of the hazardous chemicals known to be present using a product identifier that is referenced on the appropriate safety data sheet and the work area or workplace in which the hazardous chemical is normally used or stored;

(ii) The manufacturing employer shall maintain the workplace chemical list for no less than thirty (30) years. The manufacturing employer shall send complete records pertinent to the workplace chemical list to the commissioner if the manufacturing employer generating the list ceases to operate a business within the state;

(iii) The workplace chemical list shall be filed with the commissioner within ninety-six (96) hours of a request by an authorized representative of the commissioner;

(B) (i) Nonmanufacturing employers shall compile and maintain a list of the hazardous chemicals known to be present using a product identifier that is referenced on the appropriate safety data sheet and the work area or workplace in which the hazardous chemical is normally used or stored. This subdivision (3)(B)(i) shall apply to employers who store such chemicals in excess of fifty-five gallons (55 gal.) or five hundred pounds (500 lbs.);

(ii) The nonmanufacturing employer shall maintain the workplace chemical list for no less than thirty (30) years. The nonmanufacturing employer shall send complete records pertinent to the workplace chemical list to the commissioner if the nonmanufacturing employer generating the list ceases to operate a business within the state;

(iii) The nonmanufacturing employer shall notify new or newly assigned employees about the workplace chemical list and its contents before working in a work area containing hazardous chemicals; and

(iv) The nonmanufacturing employer shall file the workplace chemical list with the commissioner within ninety-six (96) hours of a request by an authorized representative of the commissioner.

(C) The workplace chemical list may consist of either a single listing prepared for the workplace as a whole or a collection of lists prepared for each work area individually;

(D) The department of labor and workforce development shall provide the following information and services:

(i) The CAS number for any hazardous chemical on the workplace chemical list that is not included by the manufacturing or nonmanufacturing employer pursuant to subdivision (3)(D)(i)(a) or (b), if:

(a) The chemical is not a mixture; and

(b) A CAS number exists for the chemical;

(ii) The employer shall make available a copy of the workplace chemical list for inspection by the public during regular office hours at the division's central office or any division field office. The copy must be requested by the public and received by the division as specified by this section;

(iii) Copies of any workplace chemical list may be obtained from the division of occupational safety and health upon written request and payment of a reasonable copying and mailing fee. The division shall provide the list within ten (10) business days of receipt of the written request;

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(E) It is the intention of the general assembly, pursuant to this section, to provide access to information concerning hazardous chemicals used and stored in this state to the citizens of this state who live and work in proximity to the chemicals to enable the citizens to make informed decisions concerning their health, safety and welfare.[Acts 2013, ch. 257, § 1; 2014, ch. 709, § 1.]

**50-3-2002. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2003. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2004. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2005. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2006. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2007. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2008. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2009. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2010. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2011. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2012. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2013. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2014. [Repealed.]**

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[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2015. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2016. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2017. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2018. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

**50-3-2019. [Repealed.]**

[Acts 1985, ch. 417, §§ 1-17, 19, 20; 1989, ch. 490, § 1; 1999, ch. 520, § 41; 2003, ch. 83, §§ 1-4; repealed by Acts 2013, ch. 257, § 2, effective April 23, 2013.]

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**ADMINISTRATIVE INSPECTIONS**

| SECTION  |   | SECTION  |  |
|----------|---|----------|--|
| 50-4-101 | Administrative inspection warrant available to department of labor and workforce development. | 50-4-105 | Contents of warrant.   |
| 50-3-102 | "Issuing officer" defined.  | 50-4-106 | Assistance of department of labor and workforce development representative - Execution of warrant. |
| 50-4-103 | Grounds for issuing administrative inspection warrants - Probable cause.                      | 50-4-107 | Obstruction of inspection - Misdemeanor.   |
| 50-3-104 | Issuance of warrant - Notice not required.  | 50-4-108 | Suppression of evidence seized during unlawful inspection.   |

**50-4-101. Administrative inspection warrant available to department of labor and workforce development.** In event that an employee or official of the state department of labor and workforce development authorized to conduct inspections is denied permission to make that inspection, and a warrant is required by the constitution of the United States or the state of Tennessee, such employee or official may obtain an administrative inspection warrant in accordance with the procedures outlined in this chapter. The provisions of § 39-16-402 and title 40, chapter 6, part 1 do not apply to warrants issued pursuant to this chapter. [Acts 1979, ch. 345, § 2; T.C.A., § 50-601; Acts 1996, ch. 675, § 50; 1999, ch. 520, § 41.]

**50-4-102. "Issuing officer" defined.** "Issuing officer" as used in this chapter means either:  
(1) Any official authorized by law to issue search warrants; or  
(2) Any court of record in the county of residence of the agency making application for an administrative inspection warrant. [Acts 1979, ch. 345, § 3; T.C.A., § 50-602.]

**50-4-103. Grounds for issuing administrative inspection warrants - Probable cause.** The issuing officer is authorized to issue administrative inspection warrants authorizing an employee or official of the state department of labor and workforce development to inspect named premises and seize certain items. In so doing, the issuing officer must determine from the affidavits filed by the agency requesting the warrant that:

(1) The agency and employee or official has the statutory authority to conduct the inspection;  
(2) Probable cause exists to believe that a violation of law has occurred or is occurring. Probable cause in these cases is not the same standard as used in obtaining criminal search warrants. In addition to showing of specific evidence of an existing violation, probable cause can be found upon a showing of facts justifying further inquiry, by inspection, to determine whether a violation of law is occurring. This finding can be based upon a showing that:

(A) The inspection of the premises in question was to be made pursuant to an administrative plan containing neutral criteria supporting the need for the inspection;

(B) Previous inspections have shown violations of law and the present inspection is necessary to determine whether those violations have been abated;

(C) The business, occupation, product, equipment, materials, wastes or other characteristics of a particular enterprise or class of enterprises, including the named premises, present a probability of violation of the law in excess of the general business community;

(D) Complaints have been received by the agency and presented to the issuing officer, from persons who by status or position have personal knowledge of violations of law occurring on the named premises;  
or

(E) Any other showing consistent with constitutional standards for probable cause in administrative inspections.

(3) The inspection is reasonable and not intended to arbitrarily harass the persons or business involved;

(4) The areas and items to be inspected or seized are accurately described and are consistent with

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the statutory inspection authority; and

(5) The purpose of the inspection is not criminal in nature and the agency is not seeking sanctions against the person or business for refusing entry. [Acts 1979, ch. 345, § 4; T.C.A., § 50-603; 1999, ch. 520, § 41.]

**50-4-104. Issuance of warrant - Notice not required.** (a) The issuing officer shall immediately make a finding as to whether an administrative inspection warrant should be issued and if the issuing officer so determines, issue such warrant.

(b) No notice shall be required prior to the issuance of the warrant. [Acts 1979, ch. 345, § 5; T.C.A., § 50-604.]

**50-4-105. Contents of warrant.** All warrants shall include at least the following:

- (1) The name of the agency and employee or official requesting the warrant;
- (2) The statutory authority for the inspection;
- (3) The name of the person or persons submitting affidavits in support of the issuance of such warrants;
- (4) The names of the persons who will conduct the inspection;
- (5) A reasonable description of the property and items to be inspected and seized;
- (6) A brief description of the purposes of the inspection; and
- (7) Any other requirements or particularity required by the constitutions of the United States and the state of Tennessee, regarding administrative inspections. [Acts 1979, ch. 345, § 6; T.C.A., § 50-605.]

**50-4-106. Assistance of department of labor and workforce development representative - Execution of warrant.** (a) It is the duty of any representative of the department of labor and workforce development charged with the enforcement of the Occupational Safety and Health Act, compiled in chapter 3 of this title, upon the request of the inspecting person or persons, to accompany such person or persons and assist in the service and execution of an administrative inspection warrant issued pursuant to this chapter. (b) All warrants shall be executed within ten (10) days of issuance. [Acts 1979, ch. 345, § 7; T.C.A., § 50-606; 1999, ch. 520, § 41.]

**50-4-107. Obstruction of inspection - Misdemeanor.** Any person who willfully refuses to permit inspection, obstructs inspection or aids in the obstruction of an inspection of property described in an administrative inspection warrant commits a Class C misdemeanor. [Acts 1979, ch. 345, § 8; T.C.A., § 50-607; Acts 1989, Ch. 591, § 113.]

**50-4-108. Suppression of evidence seized during unlawful inspection.** (a) Any person aggrieved by an unlawful inspection of premises named in an administrative inspection warrant may in any judicial or administrative proceeding move to suppress any evidence or information received, or move for the return of any item seized, by the agency pursuant to such inspection.

(b) If the court or the administrative agency finds that the inspection was unlawful, such evidence and information shall be suppressed and any item seized returned and not considered in the proceeding. [Acts 1979, ch. 345, § 9; T.C.A., § 50-608.]