



# State of Tennessee

## PUBLIC CHAPTER NO. 828

SENATE BILL NO. 1965

By Tracy, Roberts, Stevens

Substituted for: House Bill No. 1830

By Marsh, Terry, Durham, Cameron Sexton, Travis, Zachary, Todd, McManus

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5, Part 11 and Title 50, Chapter 1, Part 7, relative to employment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-1-703(a)(1)(A), is amended by deleting the language "on or after the phase-in period applicable to the particular size employer described in subsection (b)".

SECTION 2. Tennessee Code Annotated, Section 50-1-703(a)(1)(B)(i), is amended by deleting the language "on or after the phase-in period applicable to the particular size employer described in subsection (b)".

SECTION 3. Tennessee Code Annotated, Section 50-1-703(a)(1)(B)(ii)(a), is amended by deleting the language "on or after the applicable phase-in period described in subsection (b)".

SECTION 4. Tennessee Code Annotated, Section 50-1-703(a)(3), is amended by deleting the language "subdivision (a)(1)(B)" and substituting instead the language "subdivision (a)(1)(B) or subsection (b)".

SECTION 5. Tennessee Code Annotated, Section 50-1-703(a)(6), is amended by deleting the language "; and shall create no more than one (1) full-time administrative position to staff the office".

SECTION 6. Tennessee Code Annotated, Section 50-1-703(a)(7), is amended by deleting the subdivision and substituting instead the following:

(7) Except as otherwise provided in subsection (c), the department shall conduct an investigation concerning an employer's compliance with subdivision (a)(1) or subsection (b) in conjunction with any pending inquiry, investigation, or inspection of the employer by the department, or any successor agencies thereto. If the commissioner determines that the investigation report contains evidence of a violation of subdivision (a)(1) or subsection (b), then the commissioner shall issue a notice and initial order pursuant to subdivision (d)(1).

SECTION 7. Tennessee Code Annotated, Section 50-1-703(b), is amended by deleting the subsection and substituting instead the following:

(b) Notwithstanding subdivision (a)(1)(B), private employers with fifty (50) or more employees, on or after January 1, 2017, shall comply with the requirements in subdivision (a)(1)(B)(ii); provided, that such employers shall only be required to use the E-Verify program to verify the work authorization status of employees hired on or after January 1, 2017.

SECTION 8. Tennessee Code Annotated, Section 50-1-703(c), is amended by deleting the language "violation of subdivision (a)(1)" wherever it appears and substituting instead the language "violation of subdivision (a)(1) or subsection (b)", and is further amended by deleting the language "compliance with subdivision (a)(1)" wherever it appears and substituting instead the language "compliance with subdivision (a)(1) and subsection (b)".

SECTION 9. Tennessee Code Annotated, Section 50-1-703(c)(3), is amended by deleting the subdivision and substituting instead the following:

(3) If the commissioner determines that the investigation report contains evidence of a violation of subdivision (a)(1) or subsection (b), then the commissioner shall issue a notice and initial order pursuant to subdivision (d)(1). Upon request by the employer, the department shall provide the employer with the name of the individual filing a complaint if a complaint is filed.

SECTION 10. Tennessee Code Annotated, Section 50-1-703(c)(4), is amended by deleting the subdivision.

SECTION 11. Tennessee Code Annotated, Section 50-1-703(d), is amended by deleting the language "violation of subdivision (a)(1)" wherever it appears in the introductory clause of subdivision (3) and in subdivision (3)(B) and substituting instead the language "violation of subdivision (a)(1) or subsection (b)", and is further amended by deleting the language "violation of subdivision (a)(1)" in subdivision (3)(A) and substituting instead the language "violation of subdivision (a)(1) and subsection (b)".

SECTION 12. Tennessee Code Annotated, Section 50-1-703(d)(1), is amended by deleting the subdivision and substituting instead the following:

(1) If the commissioner determines that an employer has violated subdivision (a)(1) or subsection (b), pursuant to subdivision (a)(7) or (c)(3), or determines that an employer has violated § 50-1-704, then the commissioner shall issue a notice and initial order that shall include, at a minimum:

- (A) The commissioner's findings and determinations;
- (B) The penalties that will apply pursuant to subsections (f)-(j);
- (C) The process to request a contested case hearing; and
- (D) The process by which the commissioner shall waive all penalties for a first violation as provided in subdivision (d)(3).

SECTION 13. Tennessee Code Annotated, Section 50-1-703(d)(3)(A), is amended by deleting the language "sixty (60)" and substituting instead the language "forty-five (45)", and is further amended by deleting the language "initial order" and substituting instead the language "notice and initial order".

SECTION 14. Tennessee Code Annotated, Section 50-1-703(e), is amended by deleting the language:

commissioner shall issue a final order on the date the contested case hearing concludes or is waived and assess penalties in accordance with subsections (f)-(j)

and substituting instead:

notice and initial order shall be deemed a final order not subject to further review. If there is a contested case hearing, the commissioner shall issue a final order. If the employer does not timely remedy the violations within forty-five (45) days of receipt of the notice and initial order, the notice and initial order shall be deemed a final order, not subject to further review. If a contested case hearing is conducted or a final order is otherwise required to be issued, then the commissioner shall issue a final order

SECTION 15. Tennessee Code Annotated, Section 50-1-703(f)(1), is amended by deleting the language:

If the commissioner issues a final order for a violation of subdivision (a)(1) by a private employer, or a violation of § 50-1-704, then the commissioner shall assess

and substituting instead:

If the commissioner issues a final order, or a notice and initial order is deemed a final order, not subject to further review, for a violation of subdivision (a)(1) by a private employer, or a violation of § 50-1-704, then the commissioner shall assess

SECTION 16. Tennessee Code Annotated, Section 50-1-703(f)(2), is amended by designating the existing language as a new subdivision (A), and by adding the following language as a new subdivision (B):

(B) In addition to the civil penalties provided in subdivisions (f)(1) and (f)(2)(A), the commissioner shall also assess a monetary penalty in the amount of five hundred dollars (\$500) for any employer that knowingly violates subsection (b) and additional penalties in the amount of five hundred dollars (\$500) per day for each day that such violation of subsection (b) continues to exist, beginning forty-five (45) days after the notice and initial order is received by the employer.

SECTION 17. Tennessee Code Annotated, Section 50-1-703(f)(3), is amended by deleting the language "subdivision (a)(1) within sixty (60) days" and substituting instead the language "subdivision (a)(1) and subsection (b) within forty-five (45) days".

SECTION 18. Tennessee Code Annotated, Section 50-1-703(g), is amended by deleting the language "subdivision (a)(1)" and substituting instead the language "subdivision (a)(1) or subsection (b)".

SECTION 19. Tennessee Code Annotated, Section 50-1-703(j), is amended by deleting the language "subdivision (a)(1)" and substituting instead the language "subdivision (a)(1) or subsection (b)"; and is further amended by deleting the language "If the commissioner issues a final order" and substituting instead "If the commissioner issues a final order, or a notice and initial order is deemed a final order, not subject to further review,,"; and is further amended by adding the following language at the end of the subsection:

If the employer does not timely remedy the violations within forty-five (45) days of receipt of the notice and initial order, the notice and initial order shall be deemed a final order, not subject to further review. If a contested case hearing is conducted or a final order is otherwise required to be issued, then the commissioner shall issue a final order.

SECTION 20. Tennessee Code Annotated, Section 36-5-1106(b), is amended by deleting the language:

any agencies administering the worker's compensation program of a state or territory; and to the Title IV-D agency in this state

and substituting instead the language:

to any agencies administering the worker's compensation program of a state or territory; to any agencies administering the Tennessee Lawful Employment Act, compiled in title 50, chapter 1, part 7; and to the Title IV-D agency in this state

SECTION 21. Tennessee Code Annotated, Section 50-1-703(d)(2), is amended by deleting the language "an initial order" and substituting instead the language "a notice and initial order", and is further amended by deleting the language "the initial order" and substituting instead the language "the notice and initial order".

SECTION 22. This act shall take effect July 1, 2016, the public welfare requiring it, and shall apply to violations occurring on or after that date.

SENATE BILL NO. 1965

PASSED: April 7, 2016

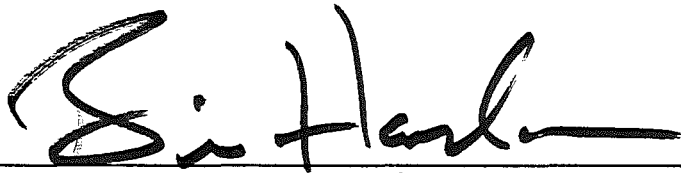


RON RAMSEY  
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 21<sup>st</sup> day of April 2016



BILL HASLAM, GOVERNOR