

# TITLE XXIII

## LABOR

### CHAPTER 277

#### SAFETY AND HEALTH OF EMPLOYEES

##### Generally

##### Section 277:1

**277:1 Application.** – This chapter shall apply to all places of employment in which one or more persons are regularly employed.

**Source.** 1917, 183:1. 1919, 66:1. 1921, 130:1. PL 177:1. RL 215:1. RSA 277:1. 1955, 291:1. 1963, 220:1. 1985, 243:1, eff. Jan. 1, 1986.

##### Section 277:1-a

**277:1-a Elevator Law.** – The provisions of RSA 157-B also apply to all places covered by RSA 277:1.

**Source.** 1967, 310:2, eff. Jan. 1, 1968.

##### Section 277:1-b

##### **277:1-b Definitions.** –

In this chapter:

I. "Employee" means any person employed to work in a place of employment. Volunteers or auxiliary members of a fire, police department, ambulance service or the state police, whether paid or not paid, shall be deemed to be in the employment of a political subdivision when performing official service or duty for a political subdivision.

II. "Employer" means the state or any of its political subdivisions operating a place of employment.

III. "Imminent danger" means a situation created by any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm either immediately or before such danger could be eliminated through the procedures provided by this chapter.

IV. "Place of employment" means all buildings, offices or other sites owned or leased by the state or by any political subdivision of the state. "Place of employment" includes all buildings, sheds, structures or places used in connection with employee activity at a place of employment.

V. "Serious injury" means an incident that results in an amputation, loss or fracture of any body part, head injury, or internal injury that necessitates immediate hospitalization.

**Source.** 1985, 243:2, eff. Jan. 1, 1986. 2019, 29:1, eff. July 14, 2019.

### Building Construction and Repair Work

##### Section 277:2

**277:2 Scaffolding and Other Devices for Use of Employees.** – A person employing or directing another to perform labor of any kind in the erection, demolition, repairing, altering, painting, cleaning or pointing of a

building or structure shall furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons, ropes, and other devices which shall be so constructed, placed and operated as to give proper protection to a person so employed or directed.

**Source.** 1953, 201:1 par. 39-a, eff. June 3, 1953.

### **Section 277:3**

**277:3 Requirements.** – Scaffolding or staging more than 14 feet from the ground or floor, swung or suspended from an overhead support or erected with stationary supports, except scaffolding wholly within the interior of a building and covering the entire floor space of any room therein, shall have a safety rail of suitable material properly attached, bolted, braced or otherwise secured, rising at least 34 inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, with only such openings as may be necessary for the delivery of materials. Such scaffolding or staging shall be so fastened as to prevent it from swaying from the building or structure.

**Source.** 1953, 201:1 par. 39-b, eff. June 3, 1953.

### **Section 277:4**

**277:4 Weight Requirement.** – All scaffolding shall be so constructed as to bear 4 times the maximum weight required to be dependent therefrom or placed thereon when in use.

**Source.** 1953, 201:1 par. 39-c, eff. June 3, 1953.

### **Section 277:5**

**277:5 Duty of Commissioner.** – The labor commissioner shall immediately inspect a scaffold, ladder, or device concerning which complaint is made. He shall attach to every scaffold, ladder, or device that he inspects a certificate stating that he has made the inspection and has found the same safe or unsafe as the case may be. If unsafe, the commissioner shall at once, in writing, notify the person responsible for the scaffold, ladder, or mechanical device of the fact and shall prohibit the use of it by him or by any other person until all danger is removed by alteration, reconstruction or replacement as the commissioner may direct. Such notice may be served personally upon the person responsible or by affixing it conspicuously to the scaffold, ladder, or device declared unsafe.

**Source.** 1953, 201:1 par. 39-d, eff. June 3, 1953.

### **Section 277:5-a**

#### **277:5-a Occupational Safety and Health Administration Certification. –**

I. Any person signing a contract to work on a construction, reconstruction, alteration, remodeling, installation, demolition, maintenance, or repair of any public work or building by a state agency, municipality, or instrumentality thereof, and with a total project cost of \$100,000 or more, shall have an Occupational Safety and Health Administration (OSHA) 10-hour construction safety program for their on-site employees. All employees are required to complete the program prior to beginning work. The training program shall utilize an OSHA-approved curriculum. Graduates shall receive a card from OSHA certifying the successful completion of the training program. This section shall apply to the construction, reconstruction, alteration, remodeling, installation, demolition, maintenance, or repair of any public work or building paid for in whole or in part with state funds.

II. Any employee required to complete the OSHA 10-hour construction safety program under this section who has not completed the program shall be subject to removal from the worksite if the employee does not provide documentation of having completed such program by the fifteenth day after the date the employee is found to be in noncompliance. Proof of such documentation provided by the employer shall constitute compliance with this

section. The labor commissioner or commissioner's designee shall enforce this section.

III. The labor commissioner shall adopt rules under RSA 541-A relative to implementation and enforcement of this section. The commissioner may also assess a civil penalty of up to \$2,500; in addition, such an employer shall be assessed a civil penalty of \$100 per employee for each day of noncompliance. All funds collected under this section shall be deposited into the general fund. The labor commissioner shall appoint as many individuals as necessary to carry out the department's responsibilities under this section.

IV. The following individuals are exempt from the requirements of the OSHA 10-hour construction safety program:

(a) Law enforcement officers involved with traffic control or jobsite security.

(b) Flagging personnel who have completed the training required by the department of transportation.

(c) All relevant federal, state, and municipal government employees and inspectors.

(d) All individuals who are not considered to be on the site of work under the federal Davis-Bacon Act, including, but not limited to, construction and non-construction delivery personnel and non-trade personnel.

**Source.** 2007, 326:1, eff. Sept. 14, 2007. 2012, 144:3, eff. Jan. 1, 2013.

## **Maintenance of First Aid Equipment, Appliances, Etc.**

### **Section 277:6**

**277:6 Medical Chests.** – Every employer shall at all times keep and maintain, free of expense to the employees, such a medical and surgical chest as shall be required by the local board of health of the city or town, containing plasters, bandages, absorbent cotton, gauze and all other necessary medicines, instruments and other appliances for the treatment of persons injured or taken ill upon the premises.

**Source.** 1911, 30:1. PL 177:2. RL 215:2.

### **Section 277:7**

**277:7 Penalty.** – Whoever violates RSA 277:6 shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. Each week during which such violation continues shall constitute a separate offense.

**Source.** 1911, 30:2. PL 177:3. RL 215:3. RSA 277:7. 1973, 529:55, eff. Oct. 31, 1973 at 11:59 p.m.

### **Section 277:8**

**277:8 Repealed by 1985, 243:8, eff. Jan. 1, 1986. –**

### **Section 277:9**

**277:9 Repealed by 1985, 243:8, eff. Jan. 1, 1986. –**

### **Section 277:10**

**277:10 Sanitation, Provision for.** – Every employer shall provide and maintain reasonable and proper toilet facilities and reasonably sanitary and hygienic conditions for employees.

**Source.** 1917, 183:2. PL 177:6. RL 215:6.

### **Section 277:11**

**277:11 Safeguards.** – Whenever the nature or condition of any such place of employment, or the machinery or other appliances therein, are such as to render work therein or in proximity thereto dangerous to the safety or health of employees, it shall be the duty of the employer to provide and maintain such safeguards, safety devices, appliances and lighting facilities, and to do such other things as may be reasonably necessary and practicable to lessen the dangers of such employment.

**Source.** 1917, 183:2. PL 177:7. RL 215:7.

## **Section 277:12**

**277:12 Interference With.** – No person shall remove, displace, damage or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment so as to interfere with the intended use thereof, or interfere in any way with the use thereof by any other person, and no person shall interfere with the use of any method or process adopted for the protection of any employee in such employment or place of employment.

**Source.** 1917, 183:3. PL 177:8. RL 215:8.

# **Inspections and Orders by Commissioner**

## **Section 277:13**

**277:13 Inspection.** – The labor commissioner shall cause all places of employment subject to this law to be inspected at intervals to be determined by him, for the purpose of determining whether the provisions of this chapter have been complied with and the conditions therein with respect to the safety and health of the employees.

**Source.** 1917, 183:4. PL 177:9. RL 215:9. RSA 277:13. 1957, 187:15. 1963, 220:2, eff. July 1, 1963.

## **Section 277:13-a**

**277:13-a Petition for Inspection.** – Any employee may petition the commissioner to inspect any place of employment in which the employee is employed for the purpose of determining whether the employer has violated any of the provisions of this chapter or rules adopted under this chapter. Upon receipt of such petition, the commissioner shall cause such place of employment to be inspected within a reasonable time.

**Source.** 1985, 243:4, eff. Jan. 1, 1986.

## **Section 277:14**

**277:14 Report.** – A report of such inspection shall be filed in the office of the commissioner and a copy thereof given the employer.

**Source.** 1917, 183:4. PL 177:10. RL 215:10.

## **Section 277:15**

**277:15 Entry.** – The commissioner, factory inspectors and other assistants of the commissioner shall have the right to enter any such place of employment and to examine the same for the purposes of this chapter.

**Source.** 1917, 183:4. PL 177:11. RL 215:11.

## **Section 277:15-a**

**277:15-a Inspections.** – In the case of a workplace incident resulting in a serious injury or death involving the state, a state agency, a county, a municipality or municipal agency, a school district, or other public corporation or political subdivision, the commissioner of labor, or his or her designee, shall inspect such place of employment.

**Source.** 2019, 29:2, eff. July 14, 2019.

## **Section 277:15-b**

### **277:15-b Reports of Death or Serious Injury. –**

I. Every employer shall report the death of any person in the workplace or on the workplace premises within 8 hours of such occurrence to the commissioner of the department of labor by telephone or electronically, stating as fully as possible the cause of the death and the place where the body of the deceased person was sent, and supplying any other information relative to the death that may be required by the commissioner. The commissioner shall investigate the cause of death and may notify the employer of precautions to be taken that may prevent the recurrence of similar events. A statement contained in any such report shall not be admissible in evidence in any action arising out of the death reported.

II. Every employer shall report the serious injury of any person in the workplace or on the workplace premises within 24 hours of such occurrence to the commissioner of the department of labor by telephone or electronically, stating as fully as possible the cause of the injury and the place where the injured person was sent for medical evaluation or treatment, and supplying any other information relative to the injury that may be required by the commissioner. The commissioner may investigate the cause of the injury and notify the employer of precautions to be taken that may prevent the recurrence of similar events. A statement contained in any such report shall not be admissible in evidence in any action arising out of the injury reported.

**Source.** 2019, 29:2, eff. July 14, 2019.

## **Section 277:16**

### **277:16 Rulemaking. –**

I. The commissioner of labor shall adopt such rules, under RSA 541-A, as he deems reasonable and necessary in order to carry out properly the provisions of RSA 277:10 and 277:11.

II. Prior to January 1, 1987, the commissioner of labor shall present proposed legislation containing a specific delegation of rulemaking authority to replace this section to the chairman of the joint legislative committee on administrative rules established under RSA 541-A and to the senate president and the speaker of the house of representatives who may refer such proposed legislation to the appropriate standing committees. This proposed legislative delegation of rulemaking authority shall be drafted in as narrow a manner as possible, consistent with the need to provide the commissioner of labor with sufficient authority to fulfill the regulatory role assigned to him under RSA 277:10-11.

**Source.** 1917, 183:5. PL 177:12. RL 215:12. RSA 277:16. 1963, 220:3. 1985, 243:6. 1987, 140:1, eff. May 7, 1987.

## **Section 277:17**

**277:17 Modification.** – Whenever the commissioner, after any place of employment subject to this chapter shall have been inspected in accordance with RSA 277:13, shall be of the opinion that the special conditions in that place of employment render the standards inadequate or unreasonable, as applied to such place of employment, he may, by special order applicable to that place, so modify or extend the requirements of such standards as to make the same adequate and reasonable with respect to such special conditions.

**Source.** 1917, 183:5. PL 177:13. RL 215:13. RSA 277:17. 1963, 220:4, eff. July 1, 1963.

### **Section 277:18**

**277:18 Added Safeguards.** – Whenever, after inspection as provided in RSA 277:13, the commissioner shall be of the opinion that compliance with the standards, under the special conditions obtaining in any place of employment, necessitates the use of any safeguard, or the doing of any other act for which the standards adopted by him do not provide, he shall have power, by special order, to require the adoption in that place of employment of such particular safeguards, safety devices, appliances, lighting facilities, or other means as may be reasonable and practicable for the safety and health of the employees.

**Source.** 1917, 183:5. PL 177:14. RL 215:14. RSA 277:18. 1963, 220:5, eff. July 1, 1963.

### **Section 277:19**

**277:19 Repealed by 1963, 220:6, eff. July 1, 1963. –**

### **Section 277:20**

**277:20 Compliance, Time.** – Every order made by the commissioner shall fix the time when it shall take effect, and in every case a reasonable time shall be allowed to the employer affected thereby for compliance with the order.

**Source.** 1917, 183:6. PL 177:16. RL 215:16. RSA 277:20. 1985, 243:7, eff. Jan. 1, 1986.

### **Section 277:21**

**277:21 Notice of Orders.** – Notice shall be given by certified mail of every order to those who are required to comply with the order. Notice of any such order of general application may be given by publication in some newspaper having circulation throughout the state.

**Source.** 1917, 183:6. PL 177:17. RL 215:17. RSA 277:21. 1985, 243:7, eff. Jan. 1, 1986.

### **Section 277:21-a**

**277:21-a Consultation.** – The commissioner shall provide occupational health and safety services to public and private employers, and shall consult with the commissioner of the department of health and human services relative to the implementation of occupational health unit programs authorized by RSA 125:16-16-d.

**Source.** 1983, 291:1, I; 410:2. 1995, 310:182, eff. Nov. 1, 1995.

## **Proceedings Before the Commissioner**

### **Section 277:22**

**277:22 Powers.** – For the purpose of carrying into effect the provisions of this chapter the commissioner shall have power to administer oaths, certify to official acts, issue subpoenas and compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony.

**Source.** 1917, 183:10. PL 177:18. RL 215:18.

### **Section 277:23**

**277:23 Depositions.** – The deposition of any witness within or without the state, taken in the manner prescribed by law for depositions in civil actions, may be used in any proceeding for review or appeal.

**Source.** 1917, 183:11. PL 177:19. RL 215:19.

## **Section 277:24**

**277:24 Record.** – The commissioner shall keep a complete record of all orders, rules or regulations made and adopted by him.

**Source.** 1917, 183:10. PL 177:20. RL 215:20.

# **Review of Orders**

## **Section 277:25**

**277:25 Petition.** – Any employer affected by such order, rule or regulation may petition the commissioner for a review of the validity or reasonableness thereof. The commissioner may join in one proceeding all petitions alleging invalidity or unreasonableness of the same or substantially similar orders, rules or regulations. The petition for review shall be filed within 30 days after notice of the adoption of the order, rule or regulation; provided, that the commissioner may, whenever in his opinion justice may require it, extend the time for filing such petition.

**Source.** 1917, 183:7. PL 177:21. RL 215:21.

## **Section 277:26**

**277:26 Hearing.** – Upon receipt of the petition the commissioner shall, if necessary to determine the issue raised, order a hearing. Notice of the time and place of hearing, which shall be open to the public, shall be given to the petitioner and to such other persons as the commissioner may find to be directly interested in the issues raised.

**Source.** 1917, 183:7. PL 177:22. RL 215:22.

## **Section 277:27**

**277:27 Revocation of Order or Regulation.** – If, upon such hearing, the commissioner finds that the order, rule or regulation complained of is invalid or unreasonable he shall revoke it, or substitute therefor a new or amended one.

**Source.** 1917, 183:7. PL 177:23. RL 215:23.

## **Section 277:28**

**277:28 Effect of Commissioner's Decision.** – The decision of the commissioner upon such petition shall be final unless appeal is taken in the manner herein provided.

**Source.** 1917, 183:7. PL 177:24. RL 215:24.

# **Appeals From Orders**

## **Section 277:29**

**277:29 Petition.** – Any employer aggrieved by any order, rule or regulation of the commissioner may file a petition in the superior court against the commissioner to determine the validity and reasonableness thereof. Such petition shall be filed within 30 days after notice of the adoption of the order, rule or regulation, or, if a petition for review is filed, within 30 days from the decision upon such petition.

**Source.** 1917, 183:8. PL 177:25. RL 215:25.

## **Section 277:30**

**277:30 Notice; Procedure.** – Such notice shall be given to the commissioner of the pendency of such proceedings as the superior court may order. Such petition, so far as practicable, shall have precedence over other actions in the same court, and the order appealed from shall be prima facie valid and reasonable. The proceedings upon such petition shall be as nearly as may be in accordance with proceedings in equity, and the court shall make such order or decree as justice may require.

**Source.** 1917, 183:8. PL 177:26. RL 215:26.

## **Section 277:31**

**277:31 Reference.** – The court may, and on the request of the parties shall, refer any issues arising in such action to one or more persons, who shall find and report the facts, together with his or their recommendations, to the court. One or more of such persons may be a layman conversant with the subject matter involved in such appeal.

**Source.** 1917, 183:8. PL 177:27. RL 215:27.

## **Section 277:32**

**277:32 Effect of Appeal, Etc.** – During the pendency of any petition for review, the order, rule or regulation under review shall be suspended, and during the pendency of an appeal to the superior court, it may be suspended by the superior court if justice requires. Except as herein provided, every order, rule or regulation made and adopted under the provisions of this chapter shall have the effect of law.

**Source.** 1917, 183:9. PL 177:28. RL 215:28.

# **Inspectors and Other Assistants**

## **Section 277:33**

**277:33 Inspectors.** – For the purpose of inspecting establishments subject to this chapter, the commissioner may employ competent persons who shall be known as inspectors, one of whom shall be a woman, and shall fix their compensation in accordance with the state personnel regulations and within the limits of available appropriations and funds.

**Source.** 1917, 183:12. 1921, 130:2. PL 177:29. RL 215:29. 1950, 5, part 18:13. 1951, 168:1. RSA 277:33. 1957, 172:1. 1963, 220:7, eff. July 1, 1963.

## **Section 277:34**



**277:34 Assistants.** – The commissioner may employ such other assistants and clerical employees as may be necessary to the proper discharge of his duties.

**Source.** 1917, 183:12. 1921, 130:2. PL 177:30. RL 215:30. RSA 277:34. 1963, 220:8, eff. July 1, 1963.

## **Prosecutions, Penalties, Etc.**

### **Section 277:35**

**277:35 Preliminary Requirements.** – No prosecution against any employer shall be commenced under this chapter until the commissioner shall have made an order in accordance with the provisions hereof, and the employer affected thereby shall have had a reasonable opportunity to comply therewith.

**Source.** 1917, 183:13. PL 177:31. RL 215:31.

### **Section 277:35-a**

**277:35-a Petition for Review.** – If an employer retaliates or takes any action against an employee who exercises his rights under this chapter, the employee may petition the commissioner for a review of the employer's action. The commissioner shall hold a hearing pursuant to RSA 277:25. The commissioner may order reinstatement of the employee or such other action as he deems necessary pending his decision.

**Source.** 1985, 243:3, eff. Jan. 1, 1986.

### **Section 277:36**

#### **277:36 Penalties; Stop Work Order. –**

I. Any employer who does not comply with any lawful order or rule made under this chapter shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.

II. Any person who willfully violates RSA 277:12 shall be guilty of a violation if a natural person or guilty of a misdemeanor if any other person.

III. In case of imminent danger in any place of employment, the commissioner shall direct that work in the area of endangerment cease until the danger is abated. No employee shall suffer loss of wages, salary, seniority, fringe benefit or other benefit as a result of the commissioner's order.

**Source.** 1917, 183:13. PL 177:32. RL 215:32. RSA 277:36. 1973, 529:56. 1985, 243:5, eff. Jan. 1, 1986.

### **Section 277:37**

**277:37 Statements.** – Every employer subject to the provisions of RSA 277 shall immediately send to the commissioner a statement setting forth his name, address, business and approximate number of employees. Any employer wilfully neglecting to comply with the provisions of this section shall be guilty of a violation.

**Source.** 1917, 183:14. PL 177:33. RL 215:33. RSA 277:37. 1973, 531:95, eff. Oct. 31, 1973 at 11:59 p.m.

### **Section 277:38**

**277:38 Enforcement of Laws, Orders, and Regulations.** – It shall be the duty of the commissioner to administer and enforce, so far as not otherwise provided for, all laws relating to factories, workshops, commercial and mercantile establishments, and all valid orders, rules or regulations.

**Source.** 1917, 183:12. 1921, 130:2. PL 177:34. RL 215:34.