

1 **CHAPTER 817. CHILD LABOR**

2
3 **PROPOSED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**
5 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF SECRETARY OF**
6 **STATE.**

7
8 The Texas Workforce Commission (TWC) proposes amendments to the following sections of
9 Chapter 817, relating to Child Labor:

- 10 Subchapter A. General Provisions, §817.2, §817.5 and §817.6
- 11 Subchapter B. Limitations on the Employment of Children, §817.22 and §817.24
- 12 Subchapter C. Employment of Child Actors, §817.31 and §817.32

13
14
15 TWC proposes the following new subchapter to Chapter 817, relating to Violations and
16 Administrative Penalties:

- 17 Subchapter D. Violations and Administrative Penalties, §817.34 - §817.36

18
19
20 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

21 The purpose of the amendments to Chapter 817 is to address statutory changes enacted by House
22 Bill (HB) 2459, 88th Texas Legislature, Regular Session (2023); clarify definitions and terms
23 under Texas Labor Code, Chapter 51; provide policy clarifications; and make other technical
24 corrections.

25
26 Prior to the enactment of HB 2459, only employers had appeal rights relating to child labor
27 preliminary determination orders or child labor appeal tribunal decisions. HB 2459 repealed and
28 replaced several sections of Texas Labor Code, Chapter 51, and amended Texas Labor Code
29 §301.0015 to establish Commission review of child labor appeal tribunal orders. The
30 administrative hearings process in Texas Labor Code, Chapter 51, now mirrors the process in
31 Texas Labor Code, Chapter 61. TWC is taking the opportunity to use its policy function to
32 provide additional clarity to employers regarding how inspections and penalties operate under
33 Texas Labor Code, Chapter 51, along with technical cleanup.

34
35 Rule Review

36
37 Texas Government Code §2001.039 requires that every four years each state agency review and
38 consider for re Adoption, revision, or repeal each rule adopted by that agency. TWC has assessed
39 whether the reasons for adopting or re Adopting the rules continue to exist. TWC finds that the
40 rules in Chapter 817 are needed, reflect current legal and policy considerations, and reflect
41 current TWC procedures. The reasons for initially adopting the rules continue to exist. TWC,
42 therefore, proposes to re Adopt Chapter 817 as amended.

43
44 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

45 (Note: Minor editorial changes are made that do not change the meaning of the rules and,
46 therefore, are not discussed in the Explanation of Individual Provisions.)

1
2 **SUBCHAPTER A. GENERAL PROVISIONS**

3 TWC proposes the following amendments to Subchapter A:

4
5 **§817.2. Definitions**

6 Section 817.2(1) adds a definition for Agency.

7 Section 817.2(8) adds a definition for Commission.

8 Section 817.2(12) adds the definition of Employer from an entity to a person to be consistent
9 with Texas Labor Code §51.002.

10 Section 817.2(12) adds a definition for Employers.

11
12 **§817.5. Certificate of Age**

13 Section 817.5(a)(1) is amended to clarify that applicants must use the TWC-provided application
14 form.

15
16 **§817.6. Appeals**

17 Section 817.6 is amended to clarify that hearings conducted under Texas Labor Code, Chapter
18 51, are subject to the rules and hearing procedures set out in TWC Chapter 815 Unemployment
19 Insurance.

20
21 **SUBCHAPTER B. LIMITATIONS ON THE EMPLOYMENT OF CHILDREN**

22 TWC proposes the following amendments to Subchapter B:

23
24 **§817.22. Hardship Waiver of Hours Requirements for 14- and 15-Year-Old Children**

25 Section 817.22 is amended to clarify the roles of the Agency and Commission.

26
27 **§817.24. Limitations on the Employment of Children to Solicit**

28 Section 817.24 is amended to clarify the roles of the Agency and its Wage and Hour Department.

29
30 **SUBCHAPTER C. EMPLOYMENT OF CHILD ACTORS**

31 TWC proposes the following amendments to Subchapter C:

32
33 **§817.31. Hardship Waiver of Hours Requirements for 14- and 15-Year-Old Children**

34 Section 817.31 is amended to clarify the roles of the Agency and Commission.

35
36 **§817.32. Application Exceptions**

37 Section 817.32 is amended to clarify the roles of the Agency and Commission.

38
39 **SUBCHAPTER D. VIOLATIONS AND ADMINISTRATIVE PENALTY**

40 **The Commission proposes new Subchapter D as follows:**

41
42 New Subchapter D, regarding violations and administrative penalties, provides clarification
43 regarding TWC's interpretation of the enforcement provisions in Texas Labor Code, Chapter 51.

44
45 **§817.34. Violations**

1 New §817.34 clarifies the requirements to establish a violation under Texas Labor Code, Chapter
2 51, or this chapter. While an offense under Texas Labor Code, Chapter 51, includes a culpability
3 requirement, a violation that may lead to an administrative penalty does not include a required
4 culpability. As such, an offense will always be a violation, but a violation will not always be an
5 offense. This section also clarifies that TWC has jurisdiction over child labor violations for the
6 two-year period preceding the inspection, as established under Texas Labor Code §51.021, and
7 jurisdiction over violations by a sexually oriented business for a five-year period preceding an
8 inspection under Texas Labor Code §51.016. The new section also clarifies that TWC has
9 jurisdiction to impose an administrative penalty for child labor violations that occurred during
10 the two-year period even if the child is no longer working for the employer at the time the
11 administrative penalty is imposed.

12
13 **§817.35. Inspection; Collection of Information; Hinderance**

14 New §817.35 clarifies the places that TWC may inspect by defining the basis that can be used to
15 establish good reason to believe a violation has occurred and addresses TWC's authority to
16 request records concerning the employment of a child. This section also specifies what actions
17 are considered a hinderance to an inspection and a violation under Texas Labor Code, Chapter
18 51, and this chapter.

19
20 **§817.36. Administrative Penalty**

21 New §817.36 provides clarification regarding TWC's interpretation of the administrative penalty
22 factors under Texas Labor Code §51.033 and requires the Commission to adopt a penalty matrix.

23
24 **PART III. IMPACT STATEMENTS**

25 Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the
26 rules will be in effect, the following statements will apply:

27
28 There are no additional estimated costs to the state and to local governments expected as a result
29 of enforcing or administering the rules.

30
31 There are no estimated cost reductions to the state and to local governments as a result of
32 enforcing or administering the rules.

33
34 There are no estimated losses or increases in revenue to the state or to local governments as a
35 result of enforcing or administering the rules.

36
37 There are no foreseeable implications relating to costs or revenue of the state or local
38 governments as a result of enforcing or administering the rules.

39
40 There are no anticipated economic costs to individuals required to comply with the rules.

41
42 There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural
43 communities as a result of enforcing or administering the rules.
44

1 Based on the analyses required by Texas Government Code §2001.024, TWC has determined
2 that the requirement to repeal or amend a rule, as required by Texas Government Code
3 §2001.0045, does not apply to this rulemaking.
4

5 Takings Impact Assessment

6 Under Texas Government Code §2007.002(5), "taking" means a governmental action that affects
7 private real property, in whole or in part or temporarily or permanently, in a manner that requires
8 the governmental entity to compensate the private real property owner as provided by the Fifth
9 and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19,
10 Article I, or restricts or limits the owner's right to the property that would otherwise exist in the
11 absence of the governmental action, and is the producing cause of a reduction of at least 25
12 percent in the market value of the affected private real property, determined by comparing the
13 market value of the property as if the governmental action is not in effect and the market value of
14 the property determined as if the governmental action is in effect. TWC completed a Takings
15 Impact Assessment for the proposed rulemaking action under Texas Government Code
16 §2007.043. The primary purpose of this proposed rulemaking action, as discussed elsewhere in
17 this preamble, is to implement the statutory changes in HB 2459, particularly the Commission's
18 review of child labor appeal tribunal decisions, and to clarify the TWC's enforcement of the child
19 labor protections in Texas Labor Code, Chapter 51.
20

21 The proposed rulemaking action will not create any additional burden on private real property or
22 affect private real property in a manner that would require compensation to private real property
23 owners under the US Constitution or the Texas Constitution. The proposal also will not affect
24 private real property in a manner that restricts or limits an owner's right to the property that
25 would otherwise exist in the absence of the governmental action. Therefore, the proposed
26 rulemaking will not cause a taking under Texas Government Code, Chapter 2007.
27

28 Government Growth Impact Statement

29 TWC has determined that during the first five years the rules will be in effect, they:

- 30 --will not create or eliminate a government program;
 - 31 --will not require the creation or elimination of employee positions;
 - 32 --will not require an increase or decrease in future legislative appropriations to TWC;
 - 33 --will not require an increase or decrease in fees paid to TWC;
 - 34 --will not create a new regulation;
 - 35 --will not expand, limit, or eliminate an existing regulation;
 - 36 --will not change the number of individuals subject to the rules; and
 - 37 --will not positively or adversely affect the state's economy.
- 38

39 Economic Impact Statement and Regulatory Flexibility Analysis

40 TWC has determined that the rules will not have an adverse economic impact on small
41 businesses or rural communities, as the proposed rules place no requirements on small businesses
42 or rural communities.
43

44 Mariana Vega, Director, Labor Market Information, has determined that there is not a significant
45 negative impact upon employment conditions in the state as a result of the rules.
46

1 Chuck Ross, Director, Fraud Deterrence and Compliance Monitoring, has determined that for
2 each year of the first five years the rules are in effect, the public benefit anticipated as a result of
3 enforcing the proposed rules will be to provide better clarity regarding the enforcement of Texas
4 Labor Code, Chapter 51.

5
6 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be
7 within TWC's legal authority to adopt.

8
9 **PART IV. COORDINATION ACTIVITIES**

10 HB 2459 amended Texas Labor Code, Chapter 51, to establish Commission review of child labor
11 appeal tribunal orders. The proposed rule amendments clarify the rules and make technical
12 corrections to align with the changes made to the Texas Labor Code. The public will have an
13 opportunity to comment on these proposed rules when they are published in the *Texas Register*
14 as set forth below.

15
16 **PART V. PUBLIC COMMENTS**

17 Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov
18 and must be received no later than August 26, 2024.

19
20 **PART VI. STATUTORY AUTHORITY**

21 The rules are proposed under:

22 -- Texas Labor Code §51.023, which provides TWC with the specific authority to adopt rules
23 necessary to promote the purpose of Texas Labor Code, Chapter 51; and

24 --Texas Labor Code §301.0015(a)(6), which provides TWC with the general authority to adopt,
25 amend, or repeal such rules as it deems necessary for the effective administration of TWC
26 services and activities.

27
28 The proposed rules relate to Texas Labor Code, Title 2.

1 **CHAPTER 817. CHILD LABOR**

2
3 **SUBCHAPTER A. GENERAL PROVISIONS**

4
5 **§817.2. Definitions.**

6
7 The following words and terms, when used in this chapter or in Texas Labor Code,
8 Chapter 51, shall have the following meanings.

9
10 (1) Agency--The unit of state government established under Texas Labor Code,
11 Chapter 301, that is presided over by the Commission and administered by the
12 executive director to operate the integrated workforce development system;
13 administer the unemployment compensation insurance program in this state as
14 established under the Texas Unemployment Compensation Act, Texas Labor
15 Code, Title 4, Subtitle A, as amended; and enforce child labor protections
16 under Texas Labor Code, Chapter 51.

17
18 ~~(2)~~(1) Applicant--A child or the child's parent, legal guardian, legal custodian, or
19 prospective employer.

20
21 ~~(3)~~(2) Business or enterprise operated by a parent or custodian--A business or
22 enterprise in which a parent or custodian exerts active direct control over the
23 entire operation of the business or enterprise by making day-to-day decisions
24 affecting basic income and work assignments, hiring and firing employees, and
25 exercising direct supervision of the work.

26
27 ~~(4)~~(3) Business or enterprise owned by a parent or custodian--A business or
28 enterprise owned by a parent or custodian as a sole proprietor, a partner in a
29 partnership, or an officer or member of a corporation.

30
31 ~~(5)~~(4) Casual employment--Employment that is irregular or intermittent and not
32 on a scheduled basis.

33
34 ~~(6)~~(5) Child--An individual under 18 years of age.

35
36 ~~(7)~~(6) Child actor--A child under the age of 14 who is to be employed as an actor
37 or other performer.

38
39 ~~(8)~~(7) Child actor extra--A child under the age of 14 who is employed as an extra
40 without any speaking, singing, or dancing roles, usually in the background of
41 the performance.

42
43 (9) Commission--The body of governance of the Texas Workforce Commission
44 composed of three members appointed by the governor as established under
45 Texas Labor Code §301.002 that includes one representative of labor, one
46 representative of employers, and one representative of the public. The duties of

1 the Commission include reviewing the decision of a child labor appeal tribunal
2 under Subchapter D, Chapter 51, of the Texas Labor Code. The definition of
3 Commission shall apply to all uses of the term in rules contained in this part,
4 unless otherwise defined, relating to the Texas Workforce Commission.
5

6 ~~(10)(8)~~ Direct supervision of the parent or custodian--A child is employed under the
7 direct supervision of a parent or custodian when the parent or custodian
8 controls, directs, and supervises all activities of the child.
9

10 ~~(11)(9)~~ Employee--An individual who is employed by an employer for
11 compensation.
12

13 ~~(12)(10)~~ Employer--~~A person~~~~An entity~~ who employs one or more employees or acts
14 directly or indirectly in the interests of an employer in relation to an employee.
15

16 ~~(13)(11)~~ Employment--Any service, including service in interstate commerce, that
17 is performed for compensation or under a contract of hire, whether written,
18 oral, express, or implied.
19

20 ~~(14)~~ Employs--To suffer or permit to work.
21

22 ~~(15)(12)~~ Executive director--The executive director of the Texas Workforce
23 Commission or the executive director's designee.
24

25 (16) Private school--As set forth in Texas Education Code, Chapter 5, a school that
26 offers a course of instruction for students in one or more grades from
27 prekindergarten through grade 12, and is not operated by a governmental
28 entity.
29

30 **§817.5. Certificate of Age.**

31
32 (a) To request a certificate of age, an applicant must submit the following:

- 33
34 (1) a completed application on a form provided by the ~~Agency~~~~Commission~~;
35
36 (2) a recent photograph (color or black and white) approximately 1 1/2 inches by 1
37 1/2 inches, showing a full head shot of the applicant; and
38
39 (3) proof of age. A copy of one of the following documents is required as proof of
40 age:
41
42 (A) birth certificate;
43
44 (B) baptismal certificate showing the date of birth;
45

- 1 (C) life insurance policy insuring the life of the child and reflecting the date
2 of his or her birth;
3
4 (D) passport or certificate of arrival in the United States issued not more than
5 one year prior to the date of application for certificate; or
6
7 (E) the school record or the school-census record of the age of the child,
8 together with the sworn statement of a parent, guardian, or person having
9 custody of the child as to the age of the child, ~~and also~~ a certificate
10 signed by a physician specifying his or her opinion as to the age of the
11 child, and the height, weight, and other facts relating to development
12 upon which his or her opinion concerning age is based.
13
14 (b) Certificates of age are effective from the date of their issuance until the applicant
15 reaches 18 years of age. No renewal is necessary, but lost certificates may be
16 reissued upon new application.
17

18 **§817.6. Appeals.**

19
20 Hearings conducted under Texas Labor Code, Chapter 51, are subject to the rules and
21 hearing procedures set out in Chapter 815 of this title (relating to Unemployment
22 Insurance), ~~except to the extent that such sections are clearly inapplicable or contrary to~~
23 ~~provisions set out under this chapter~~ Chapter the Unemployment Insurance Rules at 40
24 ~~TAC Chapter 815, except to the extent that such sections are clearly inapplicable or~~
25 ~~contrary to provisions set out under the Texas Child Labor Rules~~ or under Texas Labor
26 Code, Chapter 51.
27

28 **SUBCHAPTER B. LIMITATIONS ON THE EMPLOYMENT OF CHILDREN**

29 30 **§817.22. Hardship Waiver of Hours Requirements for 14- and 15-Year-Old ~~14 and 15~~** 31 **~~Year-Old~~ Children.**

- 32
33 (a) An applicant applying for a hardship waiver from the limitations on hours worked
34 for 14- and 15-year-old ~~14 and 15 year old~~ children must obtain a certificate of age
35 under the provisions of §817.5 of this chapter ~~title (relating to Certificate of Age)~~ and
36 file a hardship application. The applicant may file both applications concurrently.
37
38 (b) A hardship application must contain:
39
40 (1) full details of the prospective employment and the proposed hours to be
41 worked;
42
43 (2) a written statement that it is necessary for the child to work to support himself
44 or his immediate family, with supporting information;
45

- 1 (3) a written statement from the principal of the school in which the child is
2 enrolled as to the advisability of allowing the child to work the hours
3 identified; and
4
- 5 (4) a written statement from the prospective employer. The prospective employer's
6 statement shall provide:
7
- 8 (A) that the child will be employed; and
9
- 10 (B) full details of the work, including rate of pay, hours to be worked, and
11 expected duration of employment.
12
- 13 (c) A hardship application may contain any other information the applicant believes
14 would support ~~granting~~~~the granting of~~ the waiver.
15
- 16 (d) All waivers shall be valid for one year unless established for a shorter period and
17 may be extended at the sole discretion of the executive director.
18
- 19 (e) After all pertinent information has been reviewed by the ~~Agency Commission~~, the
20 waiver will be granted or denied. If additional information is needed before a
21 decision is made, the ~~Agency Commission~~ may gather additional facts and schedule a
22 conference to review the merits of the application with interested persons.
23
- 24 (f) At any conference, the ~~Agency Commission~~ will be represented by an employee
25 designated by the executive director, who shall make a written report to the
26 executive director within 20 working days following the conference. The report shall
27 contain a determination as to whether or not the waiver should be granted. Unless
28 changed by the executive director, the initial determination shall remain in full force
29 and effect. All interested parties will be advised in writing of the final determination
30 of the ~~Agency Commission~~ as soon as practicable. No appeal to the
31 ~~Commission Commissioners~~ is authorized.
32
- 33 (g) This proceeding is not a contested case under the Texas Government Code, Chapter
34 2001, Administrative Procedure Act.
35

36 **§817.24. Limitations on the Employment of Children to Solicit.**
37

- 38 (a) A person may not begin the employment of a child to solicit as defined in Texas
39 Labor Code §51.0145 and as described in §817.4(b) of this ~~chapter~~ ~~Chapter (relating~~
40 ~~to Statement of Commission Intent)~~, until the ~~Agency's Wage and Hour~~
41 ~~Commission's Labor Law~~ Department has received:
42
- 43 (1) a copy of the signed Parental Consent Form approved by the
44 ~~Agency Commission~~; and
45

1 (2) the information required by statute to be provided to the individual who gives
2 consent.

3
4 (b) A copy of the Parental Consent Form may be obtained from the [Agency's Wage and](#)
5 [Hour Commission's Labor Law](#) Department.

6
7 (c) A person employing a child under Texas Labor Code §51.0145 shall limit each
8 solicitation trip to within a radius of no greater than thirty miles from the child's
9 home, unless the parent or other person identified in Texas Labor Code
10 §51.0145(c)(1) signs a Parental Consent Form in advance of the solicitation trip
11 specifically approving a greater distance.

12
13 **SUBCHAPTER C. EMPLOYMENT OF CHILD ACTORS**

14
15 **§817.31. Child Actor Authorization.**

16
17 (a) A child under 14 years of age may be employed in Texas as a child actor only by
18 compliance with the provisions of this subchapter.

19
20 (b) Every person applying for child actor authorization must submit:

21
22 (1) an application for authorization on a form provided by the [Agency Commission](#)
23 and signed by a parent, guardian, or person having custody of the child;

24
25 (2) proof of age; and

26
27 (3) a photograph that complies with §817.5 of this [chapter title \(relating to](#)
28 [Certificate of Age\)](#).

29
30 (c) An authorization is effective when issued and expires when the child reaches 14
31 years of age; unless the [Agency Commission](#) establishes a shorter time period. Lost
32 authorization certificates may be reissued upon new application.

33
34 **§817.32. Application Exceptions.**

35
36 (a) Special authorization for child actors to be employed as extras is granted without the
37 need for filing an application if the employer or its agent:

38
39 (1) communicates with the [Agency Commission](#) prior to the actual work being
40 performed, identifying the employer, the project, the approximate number of
41 extras intended to be employed on the particular project, and the anticipated
42 dates of employment;

43
44 (2) prior to employment, uses reasonable efforts to establish that each prospective
45 child actor extra is under 14 years of age;

- 1 (3) secures the written consent of a parent, guardian, or person having custody of
2 the child to his or her employment as an extra on the particular project;
3
4 (4) notifies all affected school principals of the intent to employ their students as
5 extras, furnishing such details concerning the nature and duration of the work
6 as to give school authorities reasonable information concerning the proposed
7 use of their students in the particular project; and
8
9 (5) submits a written post-production report to the Agency Commission, within 10
10 days following the last day extras are employed, identifying the name, social
11 security number, date of birth, and inclusive dates of employment for each
12 child actor so employed, certifying compliance with Texas Labor Code,
13 Chapter 51 and this chapter ~~(relating to Child Labor)~~.
14
15 (b) Special authorizations for extras are deemed effective upon employment and expire
16 as soon as one of the following events occurs:
17
18 (1) the child reaches age 14;
19
20 (2) the child receives a Child Actor Authorization;
21
22 (3) the parent, guardian, or person having custody of the child revokes consent in
23 writing; or
24
25 (4) the child's employment on the particular project by that employer ends.
26

27 SUBCHAPTER D. VIOLATIONS AND ADMINISTRATIVE PENALTIES

28 §817.34. Violations.

- 29
30
31 (a) An offense under Texas Labor Code, Chapter 51, is criminal conduct and includes a
32 requirement of culpability per Texas Penal Code, Chapter 6.
33
34 (b) A person commits a violation by failing to adhere to a requirement or restriction of
35 Texas Labor Code, Chapter 51, or this chapter. A person may commit a violation and
36 an offense for the same activity. A violation under Texas Labor Code, Chapter 51, is
37 administrative in nature and not criminal conduct and does not include a requirement
38 of culpability.
39
40 (c) An inspection may result in multiple violations, each with a penalty amount not to
41 exceed \$10,000.
42
43 (d) The Agency has jurisdiction over violations that occurred during the five-year period
44 preceding, up to, and including the date of an inspection under Texas Labor Code
45 §51.016.

1 (e) The Agency has jurisdiction over violations that occurred during the date of an
2 inspection and for the two-year period preceding, up to, and including the date of an
3 inspection under Texas Labor Code §51.021.

4
5 **§817.35. Inspection; Collection of Information; Hinderance.**

6
7 (a) The Agency has authority to inspect, request proof or records, and collect
8 information under Texas Labor Code §51.016 and §51.021.

9
10 (b) Per §51.016(h), the Agency has good reason to believe that an individual younger
11 than 21 years of age is employed, has been employed, or has entered into a contract
12 for the performance of work or the provision of service with a sexually oriented
13 business based upon complaints, observations, or information obtained from law
14 enforcement or the attorney general.

15
16 (c) Per §51.021, during working hours, the Agency, or its designee, may inspect a place
17 where there is good reason to believe that a child is employed or has been employed
18 within the last two years. The Agency may consider location, historical data, industry
19 characteristics, complaints, trends, or observations when determining whether good
20 reason to believe a child is or has been employed exists.

21
22 (d) Per §51.021, during working hours, the Agency, or its designee, may collect
23 information concerning the employment of a child who works, or within the last two
24 years has worked, at a place inspected under Texas Labor Code §51.021(a)(1). The
25 Agency may require the person to produce any records necessary to properly
26 administer Texas Labor Code, Chapter 51, or this chapter.

27
28 (e) A person commits a violation under §51.021(b) if the person resists, delays, or
29 obstructs the Agency's inspection or collection of information under this section,
30 which includes, but is not limited to, preventing access to a place, failing to timely
31 provide to the Agency requested information, or destroying records to obscure a
32 violation.

33
34 **§817.36. Administrative Penalties.**

35
36 (a) The Commission shall adopt a penalty matrix that will be used to determine the
37 amount of an administrative penalty under Texas Labor Code §51.033.

38
39 (b) When evaluating "the seriousness of the violation" under Texas Labor Code
40 §51.033, the Commission will consider the level of risk of injury or death to a minor.

41
42 (c) When evaluating "the history of previous violations" under Texas Labor Code
43 §51.033, the Commission will look at an employer's pattern or practice of violations.