

(2) USING OTHER APPROPRIATE MEANS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 32(a), (b), and (c).

Subsection (b)(1) of this section is revised to require compliance with "applicable" regulations and orders. Although former Art. 89, § 32(b) limited the duty of an employee to compliance with regulations and orders "which are applicable to his own actions and conduct in the course of his employment", former § 32(a) did not contain a similar limit on the duty of an employer.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that the scope of the duty imposed by subsection (c) of this section is unclear because "including" generally is illustrative and not definitive. See Art. 1, § 30 of the Code. Section 5-313 of this title, which allows a delayed effective date for a regulation if needed for an employer to inform employees of the regulation, suggests that subsection (c) of this section may have been intended to extend to other regulations in addition to occupational safety and health standards.

Defined terms: "Commissioner" § 5-101

"Employee" § 5-101 "Employer" § 5-101

"Occupational safety and health standard" § 5-101

"Place of employment" § 5-101

SUBTITLE 2. ADMINISTRATION AND ENFORCEMENT.

5-201. RESPONSIBILITY OF COMMISSIONER.

THE COMMISSIONER SHALL HAVE THE POWER AND AUTHORITY TO ADMINISTER AND ENFORCE THIS TITLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 30(a) as that subsection related to the power of the Commissioner.

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that the words "shall have the power and authority" imply discretion and the word "may" usually is substituted for those words. However, since no other unit has the authority or responsibility to administer and enforce this title, the word "may" seemed inappropriate. Substitution of the word "shall" seemed inappropriate since the Commissioner derives authority under this title from the Federal Occupational Safety and Health Act of 1970.

Defined term: "Commissioner" § 5-101

5-202. DELEGATION.

(A) GENERAL DELEGATION TO ASSISTANT COMMISSIONER.