# REVISED STATUTES

OF THE

# STATE OF MAINE

1954

---

## 1963 CUMULATIVE SUPPLEMENT

---

ANNOTATED

---

IN FIVE VOLUMES

VOLUME 1

---

**Discard Previous Supplement**

---

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

# Chapter 30.

# Department of Labor and Industry.

Sections 21-A to 21-J. Arbitration Pursuant to Collective Bargaining Contracts.
Section 56-A. Leave of Absence for Military Training.
Sections 88-A to 88-E. Board of Construction Safety Rules and Regulations.
Sections 132-A to 132-J. Minimum Wages.
Section 164. Appeals.
Section 165. Records Confidential.

## Organization.

**Sec. 1. Commissioner; deputy; assistants; salaries; expenses.**—A state department of labor and industry, as heretofore established and hereinafter in this chapter called the "department", shall be maintained under the direction of an officer whose title shall be commissioner of labor and industry and state factory inspector, hereinafter in this chapter called the "commissioner". He shall be appointed by the governor, with the advice and consent of the council, for a term of 3 years, and shall hold office until his successor is appointed and qualified. He shall have an office in the state capitol. He shall appoint, subject to the provisions of the personnel law, such employees as may be necessary and a deputy who shall be clerk of the department and deputy state factory inspector. The commissioner shall receive an annual salary of $9,000, and in addition $1,000 annually for his services as a member of the industrial accident commission and his actual, necessary cash expenses while away from his office on official business of the industrial accident commission. The commissioner and deputy state factory inspector shall also receive their actual traveling expenses. The commissioner shall also appoint a woman factory inspector. All expenses of the department shall be audited and paid as provided by law. (R. S. c. 25, § 1. 1945, c. 369 1951, c. 412, § 8. 1955, c. 473, § 8. 1957, c. 418, § 9. 1959, c. 361, § 8. 1963, c. 389, § 1.)

**Effect of amendments.** — The 1955 amendment increased the annual salary of the commissioner from $5,000 to $6,000.

The 1957 amendment, effective July 1, 1957, increased his annual salary from $6,000 to $6,750.

The 1959 amendment increased his salary from "$6,750" to "$8,000" and provided for appropriations for the fiscal years ending June 30, 1960 and 1961.

The 1963 amendment increased his salary from $8,000 to $9,000 and provided for appropriations for the fiscal years ending June 30, 1964 and 1965.

**Effective date.** — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: "The provisions of this act shall become effective for the week ending August 22, 1959."

## Powers and Duties.

**Sec. 2. Duties; acceptance of funds; laws relating to employment of women and minors; bulletins.**—The department shall collect, assort and arrange statistical details relating to all departments of labor and industrial pursuits in the state; to trade unions and other labor organizations and their effect upon labor and capital; to the number and character of industrial accidents and their effect upon the injured, their dependent relatives and upon the general public; to other matters relating to the commercial, industrial, social, educational, moral and sanitary conditions prevailing within the state, including the names of firms, companies or corporations, where located, the kind of goods produced or manufactured, the time operated each year, the number of employees classified according to age and sex and the daily and average wages paid each employee; and the exploitation of such other subjects as will tend to promote the permanent prosperity of the industries of the state. The commissioner is authorized and empowered, subject to the approval of the governor and the council, to accept from any other agency of

government, individual, group or corporation such funds as may be available in carrying out the provisions of this section, and meet such requirements with respect to the administration of such funds, not inconsistent with the provisions of this section, as are required as conditions precedent to receiving such funds. An accounting of such funds and a report of the use to which they were put shall be included in the biennial report to the governor. The commissioner shall cause to be enforced all laws regulating the employment of minors and women; all laws established for the protection of health, lives and limbs of operators in workshops and factories, on railroads and in other places; all laws regulating the payment of wages, and all laws enacted for the protection of the working classes. He shall, on or before the 1st day of July, biennially, report to the governor, and may make such suggestions and recommendations as he may deem necessary for the information of the legislature. He may from time to time cause to be printed and distributed bulletins upon any subjects that shall be of public interest and benefit to the state; and may conduct a program of research, education and promotion to reduce industrial accidents. (R. S. c. 25, § 2. 1959, c. 67. 1963, c. 105.)

**Effect of amendments.**—The 1959 amendment added two new sentences following the first sentence in this section.

The 1963 amendment added "and may conduct a program of research, education and promotion to reduce industrial accidents" at the end of the last sentence.

**Sec. 4. Powers to enter manufacturing establishment or construction activity.**—The commissioner as state factory inspector, and any authorized agent of the department, may enter any factory or mill, construction activity, workshop, private works or state institutions which have shops or factories, when the same are open or in operation, for the purpose of gathering facts and statistics such as are contemplated by this section and the 2 preceding sections, and may examine into the methods of protection from danger to employees and the sanitary conditions in and around such buildings and places, and may make a record of such inspection. (R. S. c. 25, § 4. 1955, c. 466, § 1.)

**Effect of amendment.**—The 1955 amendment inserted the words "construction activity" in line three.

**Sec. 5. Duty when conditions are found insanitary, unsafe or injurious to health.**

If the commissioner or any authorized agent of the department shall find, upon inspection of construction activities, that conditions of the activity are in violation of the rules and regulations and so as to be dangerous to employees working at or near them, he shall notify immediately the contractor or person in charge of such activity to make alterations or additions consistent with the rules and regulations by him deemed necessary for the safety and protection of the employee. Such notice shall be served personally upon the contractor or the person in charge of the activity, or in cases of obvious or extreme hazard where immediate action is necessary to preserve life and limb and where the contractor or person in charge of such activity is not readily accessible, he may conspicuously affix a written notice or tag to the object or device or to the part thereof declared to be unsafe. After such notice has been served or affixed, all persons shall cease using until the object or device, or part thereof, is altered or strengthened in such a manner as to provide safe conditions. The inspector shall make every effort to notify immediately the contractor or person in charge of such activity before undertaking such action. (R. S. c. 25, § 5. 1947, c. 208. 1955, c. 466, § 2.)

**Effect of amendment.**—The 1955 amendment added the above paragraph at the end of this section. As the rest of the section was not changed, it is not set out.

## Reports of Accidents, Deaths and Injuries.

**Sec. 8. Reports of deaths, accidents and injuries.**—The person in charge of any factory, workshop, construction activity or other industrial establishment shall, within 10 days after the occurrence, report in writing to the commissioner all deaths, accidents or serious physical injuries sustained by any person therein or on the premises, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. The term "serious physical injuries," as used in this section, shall be construed to mean every accident which results in the death of the employee or causes his absence from work for at least 6 days thereafter. The provisions of this section shall not apply to persons, firms or corporations obliged by law to report such deaths, accidents and injuries to the Maine industrial accident commission. (R. S. c. 2, § 8. 1955, c. 466, § 3.)

**Effect of amendment.**—The 1955 amendment inserted the words "construction activity" near the beginning of the first sentence.

## Penalties.

**Sec. 9. Penalties.**

Whoever refuses to admit or unreasonably delays the commissioner or any authorized agent of the department in entering any factory, mill, workshop, construction activity, private works or state institution referred to in section 4 for the purpose of carrying out the provisions of said section 4, or refuses to give the information required by said commissioner or authorized agent shall be punished by a fine of not more than $100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Any proprietor, owner or agent of any factory, mill, workshop, construction activity, private works or state institution, described in section 4, who fails to make the alterations or additions required by the commissioner as state factory inspector or any authorized agent of the department within 30 days from the date of the written notice specified in section 5 or within such time as said alterations or additions can be made with proper diligence, shall be punished by a fine of not less than $25, nor more than $200, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(1955, c. 466, § 4.)

**Effect of amendment.**—The 1955 amendment inserted the words "construction activity" in the second and third paragraphs. As the rest of the section was not changed by the amendment, only the second and third paragraphs are set out.

## Panel of Mediators.

**Sec. 11. Panel of mediators.**—A panel of mediators, as heretofore established, shall consist of 5 impartial members appointed by the governor, with the advice and consent of the council, from time to time upon the expiration of the terms of the several members, for terms of 3 years. One member of the panel shall be appointed chairman thereof by the governor with the advice and consent of the council. Vacancies occurring during a term shall be filled for the unexpired term. Members of the panel shall each receive $25 a day for their services, for the time actually employed in the discharge of their official duties and shall also receive their traveling and all other necessary expenses. Neither the commissioner nor any official of the department of labor and industry nor any member of the board of arbitration and conciliation shall be eligible to serve as a member of the panel

nor have any jurisdiction or authority over the panel in the performance of its duties. (1951, c. 353. 1953, c. 308, § 30. 1955, c. 468.)

**Effect of amendment.**—The 1955 amendment substituted "$25" for "$20" in the fourth sentence.

## State Board of Arbitration and Conciliation.

**Sec. 15. Appointment and qualification of board; salaries and expenses; duties; rules; report; rights of workers.**—The state board of arbitration and conciliation, as heretofore established, shall consist of 3 members appointed by the governor, with the advice and consent of the council, from time to time upon the expiration of the terms of the several members, for terms of 3 years. One member shall be an employer of labor or selected from some association representing employers of labor, and another shall be an employee or an employee selected from some bona fide trade or labor union. The 3rd member shall be chairman of the board and shall represent the public interests of the state. Vacancies occurring during a term shall be filled for the unexpired term. The board shall hold a meeting on the 3rd Wednesday of September in each year and shall organize by choosing from its members a secretary. Members of the board shall each receive $25 a day, for their services, for the time actually employed in the discharge of their official duties; they shall also receive their traveling and all other necessary expenses. The board shall from time to time make such rules of procedure as it deems necessary, and shall annually, on or before the 1st day of July, make a report to the governor and council, which shall be incorporated in and printed with the biennial report of the department of labor and industry. The appropriation for the board shall be included in the department of labor and industry's budget and authorization for expenditures shall be the responsibility of the commissioner of labor and industry.

Three alternate members, having the same qualifications as members, shall be appointed in the same manner and for the same terms as members; and shall, when serving as members of the board, have the same responsibilities and duties and be entitled to the same privileges and emoluments, as members.

Workers shall have full freedom of association, self organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection, free from interference, restraint or coercion by their employers or other persons, and it shall be the duty of the board to endeavor to settle disputes, strikes and lockouts between employers and employees. (R. S. c. 25, § 10. 1945, c. 282, § 1. 1949, c. 51. 1955, c. 462, § 1. 1963, c. 17.)

**Effect of amendments.**—The 1955 amendment deleted from the end of the second sentence the words "and not an employer of labor." It changed the compensation of board members from $20 to $25 a day, and transferred the former seventh sentence to become the third paragraph. The second paragraph is new with the amendment.

The 1963 amendment added the last sentence of the first paragraph.

**A strike for organizational purposes is unlawful** for it is by its very nature destructive of the protection for the employees provided by this section. Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

**And this section prohibits picketing for organizational purposes.**—This section is a solemn declaration of the public policy of the state against peaceful picketing at the place of business for organizational purposes. Furthermore, the restraint of such picketing does not abridge the right of free speech under the decisions of the supreme court. Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

Peaceful picketing for organizational purposes is at least an act of interference with the employee in the exercise of his personal rights. It violates the language and the purpose of this section and it is unlawful. Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

**Under this section the worker must be left free from interference by employer or other persons** in reaching a decision

whether to join or refrain from joining a union. It follows necessarily that pressure cannot lawfully be directed against the employer to force him to interfere with the free choice of his employees. The employer cannot lawfully be placed in a position where compliance with the strikers' demands requires action in violation of the law of the state. Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

**Labor union officials are included within the definition of "other persons."** Pappas v. Stacey, 151 Me. 36, 116 A. (2d) 497.

**Sec. 15-A. Duties of the board.**—The board's responsibility is to further harmonious labor-management relations in this state. They may serve as a board of inquiry, as a board of conciliation or as a board of arbitration. (1955, c. 462, § 2.)

**Sec. 15-B. Powers of the board.**—The board shall have the power to inquire and investigate. It shall have the authority to subpœna either party to a dispute. (1955, c. 462, § 2.)

**Sec. 15-C. Authority to summon witnesses and require production of books.**—The board may summon as witness any operative or any person who keeps records of wages earned in the department of business in which the controversy exists and may require the production of books which contain the record of wages paid. Summonses may be signed and oaths administered by any member of the board. Witnesses summoned by the board shall be allowed the same fees as are paid to witnesses in the superior court of the state of Maine; these fees together with all necessary expenses of the board shall be paid by the treasurer of the state on warrants drawn by the controller. (1955, c. 462, § 2.)

**Sec. 15-D. The board may recess any negotiations.**—When the board has taken jurisdiction of a case where a dispute exists, it may, at its discretion, recess the hearings for any reasonable purpose and may call a subsequent meeting as soon as practical at any appropriate place or time which it may designate for a continuation of the proceedings. (1955, c. 462, § 2.)

**Sec. 15-E. Board to be notified of strike or threatened strike; proceedings in settlement of strike.**—Whenever it appears to the employer or employees concerned in a dispute that a strike is threatened, or actually occurs, he or they may request the services of the state board of arbitration and conciliation and notification may be given by the mayor of a city or the selectmen of a town or any citizen of the state directly involved.

If, when such request or notification is received, it appears that as many as 10 employees are directly concerned therein, the state board of arbitration and conciliation shall endeavor, by conciliation, to obtain an amicable settlement; failing that, endeavor to persuade such employer and employees to submit the matter to arbitration by the state board, or a local board of arbitration.

Except in cases in which the public welfare is involved, a minimum of 3 working days notice shall be required before the board will convene.

The board may, at its discretion, in any particular case, designate a local board established by the parties as set forth in section 15-J as the board for the particular case.

When for any reason a member of the state board does not serve in any particular case, the alternate member having the same qualifications shall act as a member of the board in such case.

No member of the board shall act as such in any case in which his personal interest is involved. (1955, c. 462, § 2.)

**Sec. 15-F. Board may make inquiry into cause of controversy, hear the parties and serve as conciliators of the disputes.**—In any controversy where not less than 10 employees are directly concerned, the board shall, upon notification as herein provided, as soon as practicable, visit the place where the controversy exists or arrange a meeting of the interested parties at a convenient

place, and shall make careful inquiry into the cause of the dispute or controversy, and the board may, with the consent of the governor, conduct such inquiry beyond the limits of the state.

The board shall hear all interested persons who come before it, advise the respective parties what ought to be done by either or both to adjust such controversy, and shall, when the case is finally settled, make a written report to the governor and the commissioner of labor and industry. (1955, c. 462, § 2.)

**Sec. 15-G. Application for inquiry; secretary to give notice of time and place of hearing.**—In cases of controversy, where conciliation, mediation or arbitration is refused by one of the parties, either party may request the board to make inquiry. The application for such inquiry may be signed by the employer or by a majority of the employees in the department of the business in which the controversy exists or by their agent or by both parties, and, if signed by an agent claiming to represent a majority of the employees, the board shall satisfy itself that he is duly authorized to do so.

Upon receipt of the application for such inquiry, the secretary shall give notice of time and place of hearing, and may, at the board's discretion, give public notice by publishing in at least one newspaper the time and place of the hearing.

The state board shall, upon request of the governor or the mayor of a city or the selectmen of a town, investigate and report upon any controversy if, in his opinion, it threatens to affect the public welfare.

The board, after such inquiry, may make and publish a report of its findings. (1955, c. 462, § 2.)

**Sec. 15-H. Controversy may be submitted to arbitration; decision.**—If the case cannot be settled through the process of conciliation, the interested parties may submit the case to arbitration by filing an arbitration application with the secretary or chairman of the state board.

The secretary of the board shall forthwith after such filing give notice of the time and place of hearing to both parties. (1955, c. 462, § 2.)

**Sec. 15-I. Procedure in arbitration.**—In cases of arbitration, the parties concerned must submit in writing to the board the matters to which they mutually agree to submit to arbitration; the time limit that they agree to abide by the decision of the board; and such other details pertinent to the issues involved as they may agree upon, and a promise to continue in business or at work without any strike or lockout until the decision of the board is handed down if such decision is made within 3 weeks after the date of filing the application for arbitration. The contract of arbitration shall be signed by the responsible parties and witnessed by the board. When the matter is submitted to arbitration by the board, said board shall investigate the matters in controversy, shall hear all interested persons who come before it, and make a written decision thereof which shall be recorded by the secretary of the board; said decisions shall be for 6 months, unless in the contract of arbitration a different time limit is specified, and shall be binding on the parties who join in the agreement as specified above or until the expiration of 60 days after either party has given notice to the other in writing of his decision not to be bound thereby; such notice may be given to the employees by posting it in 3 conspicuous places in the shop, factory, yard or other place where they work, and copy of such notice shall be filed with the secretary or chairman of the board. (1955, c. 462, § 2.)

**Sec. 15-J. Controversy may be submitted to local board of arbitration; decision.**—On agreement of both parties in any controversy described in section 15-E, the state board may submit such controversy to a local board of arbitration selected by the state board and composed of 3 persons, one member shall be an employer of labor or selected from some association representing employers of labor, and another shall be an employee or an employee selected from some bona fide trade or labor union and not an employer of labor. The 3rd mem-

ber shall be chairman of the board and shall represent the public interests of the state. Such board shall have all the powers exercised by the state board and the same requirements as to contract of arbitration must be met, and its decision shall have the same effect as that of the state board. The decision of said board shall be rendered within 10 days after the close of any hearing held by it and copies of the decision shall at once be forwarded to the parties to the contract of arbitration and a copy thereof shall be filed with the secretary of the state board. If the case is delegated to a local board by the state board, each of the members of the local board shall be entitled to receive $15 for each day of actual service, to be paid by the treasurer of state on a warrant drawn by the controller after approval by the chairman of the state board of arbitration and conciliation.

Whenever the parties to a dispute have submitted their case to either private mediators or arbitrators, or to a state or federal mediator, the state board of arbitration and conciliation shall not take jurisdiction until requested to do so by the parties involved. (1955, c. 462, § 2.)

**Sec. 15-K. Advertising or solicitation during strike or disturbance, regulated; exceptions; penalty.**—If any employer, during the continuance of a strike among his employees, or during the continuance of a lockout or other labor trouble among his employees, publicly advertises in newspapers, or by posters or otherwise, for employees, or by himself or his agents solicits persons to work for him to fill the places of strikers, he shall plainly and explicitly mention in such advertisements or oral or written solicitations that a strike, lockout or other labor disturbance exists. If any employee, during the continuance of a strike, lockout or other labor trouble who advertises for or solicits business for a competitor of the employers engaged in the labor dispute, he shall plainly and explicitly mention in such advertisement or oral or written solicitations that a strike, lockout or other labor disturbance exists. The provisions of this section shall cease to be operative when the state board of arbitration and conciliation shall determine that the business of the employer, in respect to which the strike or other labor trouble occurred, is being carried on in the normal and usual manner and to the normal and usual extent. Said board shall determine this question as soon as may be, upon the application of the employer. Any person, firm, association or corporation who violates the provisions of this section shall be punished by a fine of not less than $250 nor more than $500. (1955, c. 462, § 2.)

**Sec. 15-L. Proceedings to be confidential.**—Any information disclosed by either party to a dispute to the board or any of its members in carrying out sections 15 to 15-K shall be confidential, except as provided in section 15-G. (1959, c. 223, § 3.)

**Secs. 16-21.** Repealed by Public Laws 1955, c. 462, § 3.

## Arbitration Pursuant to Collective Bargaining Contracts.

**Editor's note.**—The effective date of the act inserting sections 21-A to 21-J of this chapter is August 28, 1957.

**Sec. 21-A. Collective bargaining agreements to arbitrate.**—A written provision in any collective bargaining contract to settle by arbitration a controversy thereafter arising out of such contract or out of the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, or such refusal, herein designated in sections 21-A to 21-J, inclusive, as "a written submission agreement," shall be valid, irrevocable and enforceable, save upon such grounds, independent of the provisions for arbitration, as exist at law or in equity for the revocation of any contract. (1957, c. 409.)

**Sec. 21-B. Stay of proceedings where issue therein referable to arbitration.**—If any suit or proceeding be brought in any court upon any issue or controversy referable to arbitration under a written provision in any collective bargaining contract or under an agreement in writing for submission to arbitration of an existing controversy arising out of such collective bargaining contract, the court in which such suit or proceeding is pending, upon being satisfied that the issue involved in such suit or proceeding is thus referable to arbitration, shall on application of one of the parties stay the trial of the suit or proceeding until such arbitration has been had in accordance with the terms of the collective bargaining contract or the written agreement for submission to arbitration, provided the applicant for the stay is not in default in proceeding with such arbitration. (1957, c. 409.)

**Sec. 21-C. Failure to arbitrate under agreement.**—A party aggrieved by the alleged failure, neglect or refusal of another to arbitrate in accordance with any agreement embraced within section 21-A may institute proceedings in the superior court. Such proceedings shall be for an order directing that such arbitration proceed in the manner provided in the collective bargaining agreement or written submission agreement.

Five days' notice in writing of such application shall be served upon the party in default. Service thereof shall be made in the manner provided by law for the service of process in civil actions. The court shall hear the parties, and upon being satisfied that the making of the collective bargaining contract or the written submission agreement for arbitration or the failure to comply therewith is not in issue, the court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the collective bargaining contract or the written submission agreement. If the making of the collective bargaining contract or of the written submission agreement for arbitration of the failure, neglect or refusal to perform the same be in issue, the court shall proceed summarily to the trial thereof. If no jury trial be demanded by the party alleged to be in default, the court shall hear and determine such issue. Where such an issue is raised, the party alleged to be in default may, on or before the return day of the notice of application, demand a jury trial of such issue, and upon such demand the court shall make an order referring the issue or issues to a jury in the manner provided by law for referring to a jury issues in actions not triable of right by a jury or may specially call a jury for that purpose. If the jury find that no collective bargaining contract or written submission agreement for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury find that a collective bargaining contract or written submission agreement for arbitration was made and that there is a default in proceeding thereunder, the court shall make an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof. (1957, c. 409. 1961, c. 317, § 55.)

**Effect of amendment.**—The 1961 amendment deleted "the provisions of" formerly preceding "section 21-A" in the first sentence of the first paragraph of this section and substituted "the superior court" for "any court having jurisdiction in equity" in such sentence. It also substituted "civil actions" for "equity cases" at the end of the second sentence of the second paragraph of this section and substituted "in actions not triable of right by a jury" for "in an equity action" near the end of the sixth sentence thereof.

**Sec. 21-D. Appointment of arbitrators or umpires.**—If in the agreement provision be made for a method of naming or appointing an arbitrator or arbitrators or an umpire, such method shall be followed; but if no method be provided therein, or if a method be provided and any party thereto shall fail to avail himself of such method, or if for any other reason there shall be a lapse in the naming of an arbitrator or arbitrators or umpire, or in filling a vacancy, then upon the application of either party to the controversy the court shall designate and ap-

point an arbitrator or arbitrators or umpire, as the case may require, who shall act under the said agreement with the same force and effect as if he or they had been specifically named therein; and unless otherwise provided in agreement the arbitration shall be by a single arbitrator. (1957, c. 409.)

**Sec. 21-E. Application heard as motion.**—Any application to the court under the provisions of sections 21-A to 21-J, inclusive, shall be made and heard in the manner provided by law for the making and hearing of motions, except as otherwise expressly provided. (1957, c. 409.)

**Sec. 21-F. Witnesses before arbitrators; fees; compelling attendance.**—The arbitrators selected either as prescribed in sections 21-A to 21-J, inclusive, or otherwise, or a majority of them, may summon in writing any person to attend before them, or any of them, as a witness and in a proper case to bring with him or them any book, record, document or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before the superior court. Said summons shall issue in the name of the arbitrator or arbitrators, or a majority of them, and shall be signed by the arbitrators, or a majority of them, and shall be directed to the said person and shall be served in the same manner as subpoenas to appear and testify before the superior court. If any person or persons so summoned to testify shall refuse or neglect to obey said summons, upon complaint, any justice of the superior court may compel the attendance of such person or persons before said arbitrator or arbitrators, or punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of the state of Maine. (1957, c. 409. 1961, c. 317, § 56.)

**Effect of amendment.**—The 1961 amendment substituted "complaint" for "petition" in the last sentence of this section.

**Sec. 21-G. Award of arbitrators; confirmation; jurisdiction; procedure.**—If the parties in their collective bargaining contract or written submission agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified or corrected as prescribed in sections 21-H and 21-I. In the absence of such provision in the collective bargaining contract or written submission agreement of the parties, such application to have judgment entered upon the award may be made to the superior court in the county within which such award was made. Notice of application shall be served upon the adverse party. If the adverse party is a resident of the state, such service shall be made upon the adverse party or his attorney as prescribed by law for service of motion in an action in the same court. If the adverse party shall be a nonresident, then the notice of the application shall be served in like manner as other process of the court is served upon nonresidents. (1957, c. 409. 1961, c. 317, § 57.)

**Effect of amendment.**—The 1961 amendment deleted "or supreme judicial court sitting in equity" following "superior court" in the second sentence of this section.

**Sec. 21-H. Vacation; grounds; rehearing.** — In any of the following cases the superior court in and for the county wherein the award was made may make an order vacating the award upon the application of any party to the arbitration:

**I. Corruption, fraud or undue means.** Where the award was procured by corruption, fraud or undue means;

**II. Partiality or corruption in arbitrators.** Where there was obvious partiality or corruption in the arbitrators, or any of them;

**III. Abuse of discretion by arbitrators.** Where the arbitrators were guilty of abuse of discretion by which the rights of any party have been prejudiced;

**IV. Arbitrators exceeded powers.** Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made.

Where an award is vacated and the time within which the agreement required the award to be made has not expired, the court may, in its discretion, direct a rehearing by the arbitrators. (1957, c. 409. 1961, c. 317, § 58.)

**Effect of amendment.**—The 1961 amendment deleted "or supreme judicial court, sitting in equity" following "superior court" in the opening paragraph of this section.

**Sec. 21-I. Modification or correction; grounds; order.**—The superior court in and for the county wherein the award was made, may make an order modifying or correcting the award upon the application of any party to the arbitration where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the award. (1957, c. 409. 1961, c. 317, § 59.)

**Effect of amendment.**—The 1961 amendment deleted "or supreme judicial court, sitting in equity" following "The superior court" at the beginning of this section.

**Sec. 21-J. Application limited.**—The provisions of sections 21-A to 21-I, inclusive, shall not apply to any provision or agreement relative to arbitration contained in a collective bargaining contract entered into prior to the effective date of said sections, or to any agreement to submit to arbitration an existing controversy entered into prior to the effective date of said sections. (1957, c. 409.)

## Labor of Women and Children.

**Sec. 23. Employment of minors under 16 years of age prohibited in certain establishments.**—No minor under 16 years of age shall be employed, permitted or suffered to work in, about or in connection with any manufacturing or mechanical establishment, hotel, rooming house, laundry, except those commonly known as automatic laundries, dry cleaning establishments, bakery, bowling alley, poolroom, commercial places of amusement, including traveling shows and circuses, or in any theater or moving picture house. The provisions of this section pertaining to theaters shall not apply to minors under 16 years of age who are employed or in training as theatrical actors.

The provisions of this section pertaining to manufacturing establishments shall not apply to minors under 16 years of age who are employed in retail establishments where any frozen dairy product or frozen dairy product mix or related food product is manufactured on the premises, regardless of trade name or brand or coined name. (1949, c. 290, § 2. 1955, c. 335, § 1. 1961, c. 135, § 1; c. 162, § 1.)

**Effect of amendments.** — The 1955 amendment deleted the words "as usher or attendant, nor in or about a projection booth" formerly appearing at the end of the first sentence. It also added the second sentence. Chapter 135, P. L. 1961, inserted "except those commonly known as automatic laundries" in the first sentence. Chapter 162, P. L. 1961, added the second paragraph.

**Sec. 24. Minors under 16 not to be employed more than 8 hours a day, 48 hours or 6 days a week.**

No minor under 16 years of age shall be employed between the hours of 9 P. M. and 7 A. M. (1959, c. 273, § 1.)

**Effect of amendment.**—The 1959 amendment added the above paragraph as a new paragraph to follow the second paragraph of this section. Since the other paragraphs were not affected by the amendment, they are not set out.

**Sec. 25. Employment of minors under 14 years of age prohibited.**— No child under 14 years of age shall be employed, permitted or suffered to work in, about or in connection with any eating place, automatic laundries, retail establishment where frozen dairy products are manufactured on the premises, sporting or overnight camp or mercantile establishment, and no child between the ages of 14 and 16 years shall be so employed when the distance between the work place and the home of the child, or any other factor, necessitates the child's remaining away from home overnight. Except as otherwise provided, no child under 15 years of age shall be employed, permitted or suffered to work at any business or service for hire, whatever, during the hours that the public schools of the town or city in which he resides are in session. This section shall not apply to any such child who is employed directly by, with or under the supervision of either or both of its parents. (1949, c. 290, § 2. 1959, c. 273, § 2. 1961, c. 135, § 2; c. 162, § 2; c. 417, § 83.)

**Effect of amendments.** — The 1959 amendment raised the age near the beginning of the first sentence from 12 to 14 and added the provisions as to children between the ages of 14 and 16 at the end of that sentence.

Chapter 135, P. L. 1961, inserted "automatic laundries" in the first sentence and c. 162, P. L. 1961, inserted "retail establishment where frozen dairy products are manufactured on the premises" in that sentence. Chapter 417, P. L. 1961, reenacted the section as amended by the earlier 1961 acts except that "The provisions of" was deleted at the beginning of the last sentence.

**Sec. 26-A.** Repealed by Public Laws 1963, c. 132, § 1.

**Cross Reference.** — For present provisions as to part-time work permits, see c. 30, § 27.

**Editor's note.**—The repealed section, which related to part-time work permits, derived from P. L. 1959, c. 273, § 3.

**Sec. 27. Part-time and vacation work permits.**—Part-time and vacation permits shall be issued by the local superintendent of schools, or by some person authorized by him in writing, to minors under 16 years of age for the same occupations and on satisfaction of the same requirements, with the exception of the educational qualifications, as for the regular work permits provided for in section 26 and shall entitle their holders to work in those occupations during hours when school is not in session and during the summer school vacation. They shall be known as part-time and vacation permits, shall be of different color from the work permits and shall be issued only for work permissible for minors under 16 years of age under sections 22 to 25. (R. S. c. 25, § 19. 1949, c. 290, § 5. 1963, c. 132, § 2.)

**Effect of amendment.**—The 1963 amendment added "Part-time and" at the beginning of the first sentence, added "during hours when school is not in session and" near the end of the first sentence, deleted the former second sentence, added "part-time and" before "vacation permits" in the present second sentence and substituted "be issued only for work permissible for minors under 16 years of age under sections 22 to 25" for "state plainly the date after which they are void" at the end of the present second sentence.

**Sec. 28. Blanks furnished; duplicate permits filed; cancellation of permits.**—The blank work permit and other papers required by sections 26 and 27 shall be formulated by the commissioner and furnished by him to the persons authorized to issue work permits. The forms of such permits and other papers shall be approved by the attorney general. Every work permit and every vacation permit shall be made out in duplicate. All duplicates, accompanied by the original papers on which such permits were issued, shall be forwarded to the department by the officer issuing same, within 24 hours of the time that said permit was issued. Said department shall examine such papers and promptly return them to the officer who sent them. Such officer may thereupon return to the minor all papers with him filed in proof of age. Whenever there is reason to believe that a

work permit was improperly issued, the commissioner, his deputy or agent shall notify the local superintendent of schools of the place in which such certificate was issued. The local superintendent shall cancel such permit when directed to do so by the commissioner. (R. S. c. 25, § 20. 1959, c. 106.)

**Effect of amendment.**—The 1959 amendment struck out the former sixth and seventh sentences of this section and rewrote the present sixth sentence.

**Sec. 30. Females not to be employed more than 9 hours a day.**—No female shall knowingly be employed or accept employment in any one or more workshops, factories, manufacturing, mechanical or mercantile establishments, nursing homes, beauty parlors, hotels, commercial places of amusement, restaurants, retail establishments where frozen dairy products are manufactured on the premises, dairies, bakeries, laundries, including automatic laundries, dry cleaning establishments, telegraph offices, in any telephone exchange which has more than 750 stations or by any one or more express or transportation companies in the state more than a total of 9 hours in any one day; except when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week. In no case shall the hours of labor exceed a total of 10 hours in any one day or a total of 54 hours in any one week. (R. S. c. 25, § 22. 1949, c. 290, § 6. 1955, c. 348, § 1. 1957, c. 29. 1961, c. 135, § 3; c. 162, § 3; c. 417, § 84. 1963, c. 91, § 1.)

**Effect of amendments.** — The 1955 amendment rewrote this section.

The 1957 amendment inserted the words "or accept employment" near the beginning of the section.

Chapter 135, P. L. 1961, divided this section into two sentences and inserted "including automatic laundries" in the present first sentence. Chapter 162, P. L. 1961, also divided the section into two sentences and inserted "retail establishments where frozen dairy products are manufactured on the premises" in that sentence. Chapter 417, P. L. 1961, reenacted the section as amended without change.

The 1963 amendment added "nursing homes" to the first sentence.

**Sec. 31. Fifty hours a week in certain establishments for females.**—No female shall knowingly be employed or accept employment as a production worker in any of one or more workshops, factories, manufacturing or mechanical establishments more than a total of 50 hours in any one week. (1949, c. 290, § 7. 1955, c. 348, § 2.)

**Effect of amendment.**—The 1955 amendment inserted the words "knowingly" and "or accept employment" in line two and made other changes.

**Sec. 32. Females not to be employed more than 54 hours in any 1 week.**—No female shall knowingly be employed or accept employment in any of one or more mercantile establishments, nursing homes, beauty parlors, hotels, commercial places of amusement, restaurants, retail establishments where frozen dairy products are manufactured on the premises, dairies, bakeries, laundries, including automatic laundries, dry cleaning establishments, telegraph offices, in any telephone exchange which has more than 750 stations or by any of one or more express or transportation companies in the state more than a total of 54 hours in any one week.

(1955, c. 348, § 3. 1961, c. 135, § 4; c. 162, § 4; c. 417, § 85. 1963, c. 91, § 2.)

**Effect of amendments.** — The 1955 amendment rewrote the first paragraph.

Chapter 135, P. L. 1961, inserted "including automatic laundries" in the first paragraph and c. 162, P. L. 1961, inserted "retail establishments where frozen dairy products are manufactured on the premises" in that paragraph. Chapter 417, P. L. 1961, reenacted the first paragraph as amended without change.

The 1963 amendment added "nursing homes" to the first paragraph.

As the second paragraph was not changed, it is not set out.

**Sec. 33. Application of sections 30-38.**—The provisions of sections 30 to 38, inclusive, shall not apply to any female working in an executive, adminis-

trative, professional or supervisory capacity, or to any female employed as personal office assistant to any person working in an executive, administrative, professional or supervisory capacity and who receives remuneration on an annual salary basis of more than $1,560, or to any female employed in offices of common carriers which are subject to the federal railway labor act. (1949, c. 290, § 9. 1953, c. 42. 1957, c. 70.)

**Effect of amendment.** — The 1957 amendment changed the sections referred to from "sections 30 to 37" to "sections 30 to 38."

**Sec. 36. No female to be employed more than 6½ hours at one time.** —No female shall, except in cases of emergency or extraordinary public requirement as provided in section 32, be employed or permitted to work for more than 6½ hours at one time in any establishment or occupation named in sections 30 and 32 in which 3 or more such females are employed, without a consecutive 30-minute rest period; but this shall not apply to any telephone exchange where the operator during the night is not required to operate at the switchboard continuously but is able to sleep the major part of the night. The commissioner may permit a shorter time to be fixed for rest periods in any manufacturing establishment, if it is proved to his satisfaction that it is necessary by reason of the continuous nature of the processes or of special circumstances affecting such manufacturing establishment and that such shorter time for rest periods will not be injurious to the health of the females affected thereby. The permit shall be in writing and copies shall be posted in a conspicuous place in every room in which females affected thereby are employed. (R. S. c. 25, § 25. 1949, c. 290, § 10. 1959, c. 61.)

**Effect of amendment.**—The 1959 amendment rewrote this section.

**Sec. 42. Penalty for employer.**—Any person, firm or corporation, agent or manager of any firm or corporation, who, either for himself or for some firm or corporation, or by himself, or through his agents, servants or foremen, employs, permits or suffers any child to be employed, or to work in violation of any of the provisions of sections 22 to 29, inclusive, and sections 40 or 41, or otherwise fails to comply with any of the provisions of said sections, shall be punished by a fine of not less than $25, nor more than $200.

(1955, c. 335, § 2.)

**Effect of amendment.**—The 1955 amendment made the first paragraph of this section also applicable to sections 23, 24 and 25 of this chapter. As the second paragraph was not changed, it is not set out.

## Wages.

**Sec. 50. Wages, time of payment; records; penalty.** — Every corporation, person or partnership engaged in a manufacturing, mechanical, mining, quarrying, mercantile, restaurant, hotel, summer camp, beauty parlor, amusement, telegraph or telephone business; in any of the building trades; in logging or lumbering operations; upon public works, or in the construction or repair of roads, bridges, sewers, gas, water or electric light works, pipes or lines; every incorporated express company or water company; and every steam railroad company or corporation shall pay weekly each employee engaged in his or its business the wages earned by him to within 8 days of the date of such payment; every county and city shall so pay every employee who is engaged in its business the wages or salary earned by him, unless such mechanic, workman, laborer or employee requests in writing to be paid in a different manner. Every town shall so pay each employee in its business if so required by him. An employee who is absent from his regular place of labor at a time fixed for payment shall be paid thereafter on demand. A true record shall be kept showing the date and amount paid to each person engaged in any of the above occupations. There shall also be kept

a daily record of the time worked by such person, excepting such employees as are paid a fixed weekly salary regardless of the number of hours worked, the same to be accessible at any reasonable hour to any representative of the department. Nothing contained in this section shall excuse any employer mentioned in section 38 from keeping the records required by said section 38. The provisions of this section shall not apply to an employee of a cooperative cooperation or association if he is a stockholder therein unless he requests such corporation to pay him weekly. The provision for weekly payment of wages shall not apply to an employee engaged in cutting and hauling logs and lumber, nor the driving of the same until it reaches its place of destination for sale or manufacture. No corporation, contractor, person or partnership shall by a special contract with an employee or by any other means exempt himself or itself from the provisions of this section. Whenever the terms of employment include provisions for paid vacations, vacation pay on cessation of employment shall have the same status as wages earned. Whoever violates any of the provisions of this section shall be punished by a fine of not less than $25 nor more than $50. (R. S. c. 25, § 38. 1951, c. 94. 1955, c. 278. 1957, c. 94, §§ 1, 2. 1961, c. 395, § 20; c. 417, § 86.)

**Effect of amendments.** — The 1955 amendment inserted the sentence which appears as the present sixth sentence.

The 1957 amendment rewrote the portions of this section which now appear as the first three sentences and the last five sentences.

P. L. 1961, c. 395, § 20, effective on its approval, June 17, 1961, deleted "street railway" and "street railroads" in the first sentence. P. L. 1961, c. 417, § 86, combined the first and the former second sentence and deleted the provision relative to payment of employees leaving their employment.

**Sec. 50-A. Cessation of employment.**—Any employee, leaving his or her employment, shall be paid in full within a reasonable time after demand at the office of the employer where payrolls are kept and wages are paid. Whoever violates any of the provisions of this section shall be punished by a fine of not less than $25 nor more than $50. (1961, c. 95.)

## Unfair Wage Agreements.

**Sec. 53. Unfair wage agreements.**—No person, firm or corporation shall require or permit any person as a condition of securing or retaining employment to work without monetary compensation or when having an agreement, verbal, written or implied that a part of such compensation should be returned to the person, firm or corporation for any reason other than for the payment of a loan, debt or advance made to the person, or for the payment of any merchandise purchased from the employer or for sick or accident benefits, or life or group insurance premiums, excluding compensation insurance, which an employee has agreed to pay, or for rent, light or water expense of a company-owned house or building. This section shall not apply to work performed in agriculture or in or about a private home.

(1959, c. 62.)

**Effect of amendment.**—The 1959 amendment struck out the words "in any factory, work shop, manufacturing, mechanical or mercantile establishment", formerly appearing after the word "employment" and before the word "to", in the first sentence of this section, and added the last sentence of the first paragraph. Since the last paragraph was not affected by the amendment, it is not set out.

## Leave of Absence for Military Training.

**Sec. 56-A. Leave of absence for military training.**—Any member of an organized unit or control group of the ready reserve of the armed forces, who, in order to receive military training with the armed forces of the United States not exceeding 17 days in any one calendar year, leaves a position other than a

temporary position in the employ of any employer, and who shall give notice to his employer of the date of departure and date of return for the purposes of military training, and of the satisfactory completion of such training immediately thereafter, and who is still qualified to perform the duties of such position, shall be entitled to be restored to his previous, or a similar, position with the same status, pay and seniority, and such period of absence for military training shall be construed as an absence with leave and, within the discretion of the employer, said leave may be with or without pay.

Such absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of his employment normally to be anticipated in his particular position.

If any employer fails to comply with any of the provisions of this section, the employee may, at his election, bring a civil action for damages for such noncompliance or apply to the courts for such equitable relief as may be just and proper under the circumstances. (1957, c. 205. 1961, c. 317, § 60.)

**Effect of amendment.**—The 1961 amendment substituted "a civil action" for "an action at law" in the last paragraph of this section.

## Labels of Workingmen's Unions.

**Sec. 58. Labels and trade-marks filed and recorded in office of secretary of state; certificate of record, proof of adoption.**—Every such association or union, adopting a label, trade-mark, device or form of advertisement as aforesaid, shall file the same for record in the office of the secretary of state, by leaving 2 copies, counterparts or facsimile thereof, with the secretary of state, together with a statement in writing, signed and sworn to by some person for and in behalf of such association or union, stating when and by whom so far as he knows and believes such label, trade-mark, device or form of advertisement was adopted or used, in what manner and for what purpose the same is to be used and by what right the same is claimed, and such other particulars as shall serve to identify the same; the secretary shall deliver to such association or union, so filing the same, a duly attested certificate of the record of the same. Such certificate of record, in all civil actions and prosecutions under this chapter, shall be sufficient proof of the adoption of such label, trade-mark, device or form of advertisement. Whoever willfully swears or affirms falsely to any such statement in writing is guilty of perjury. No label, trade-mark, device or form of advertisement, so closely resembling one already recorded as to be liable to be mistaken therefor, shall be recorded, and when in the judgment of the secretary of state such resemblance exists, he may refuse to record such label, trade-mark, device or form of advertisement, and thereupon proceedings may be had for a writ of mandamus, upon the application of any such association or union, as provided in section 7 of chapter 182. (R. S. c. 25, § 45. 1961, c. 417, § 87.)

**Effect of amendment.**—The 1961 amendment substituted "civil actions" for "suits" and deleted "the provisions of" before "this chapter" in the second sentence.

**Sec. 59. Union using lawful trade-mark may enjoin manufacture and use of counterfeit; counterfeits to be destroyed.**—Every such association or union that has adopted and uses a label, trade-mark, device or form of advertisement, which has been recorded in the office of the secretary of state, may proceed by civil action to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, or of any goods to which such counterfeits or imitations shall be affixed or attached, or on which the same shall be printed, painted or impressed, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the complainant in such action, such damages resulting from such wrongful manufacture, use, display or sale as may by said court be deemed reasonable, and shall require

the defendants to pay such association or union the profits derived from such wrongful manufacture, use, display or sale. Said court shall order that all such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant, to be destroyed. (R. S. c. 25, § 46. 1961, c. 417, § 88.)

**Effect of amendment.**—The 1961 amendment split the section into two sentences, substituted "civil action" for "suit" and "action" for "suit" in the present first sentence and made other minor changes.

**Sec. 63. Prosecution of civil actions.**—In all cases where such association or union is not incorporated, civil actions and proceedings may be commenced and prosecuted by an officer or member of such association or union, for and in behalf of and for the benefit of such association or union. (R. S. c. 25, § 50. 1961, c. 417, § 89.)

**Effect of amendment.**—The 1961 amendment substituted "civil actions" for "suits" and deleted "hereunder" following "proceedings."

## Boilers and Unfired Steam Pressure Vessels.

**Sec. 66. Definitions.**

The term "schoolhouse" as used in this chapter shall include, but shall not be limited to, any structure used by schools or colleges, public or private, for the purpose of housing classrooms, gymnasiums, auditoriums or dormitories. (R. S. c. 25, § 53. 1955, c. 404, § 1.)

**Effect of amendment.**—The 1955 amendment added the above paragraph at the end of this section. As the rest of the section was not changed, it is not set out.

**Editor's note.**—P. L. 1963, c. 124, § 2, provided that wherever the words "special inspector" or "special inspectors" appear in chapter 30, §§ 66 to 84, they shall mean "authorized inspector" or "authorized inspectors" respectively.

**Sec. 68. Chief and deputy inspectors.**—The commissioner shall appoint, with the approval of the governor and council, and may remove for cause when so appointed, a citizen of this state who shall have had, at the time of such appointment, not less than 5 years' practical experience with steam boilers as a steam engineer, mechanical engineer, boiler maker or boiler inspector, and who has passed the same kind of an examination as that prescribed for deputy and special inspectors in section 71 to be chief inspector of boilers at any time the office may become vacant.

The commissioner may likewise appoint such deputy inspectors as are necessary to carry out the provisions of sections 64 to 84, inclusive, from among applicants who have successfully passed the examination provided for in section 71. (R. S. c. 25, § 55. 1957, c. 272, § 1; c. 397, § 25; c. 429, § 40.)

**Effect of amendments.**—The first 1957 amendment inserted the words "of boilers" following the words "chief inspector" in the first sentence and deleted the words "as above provided" which formerly appeared at the end of the last sentence of the first paragraph. It also changed a former reference to "sections 64 to 79" to read "sections 64 to 84" and deleted the requirement that applicants hold certificates of competency to be eligible for appointment as deputy inspectors in the last paragraph. The second 1957 amendment, which did not refer to or give effect to the first amendment, deleted all of the former last sentence of the first paragraph, which sentence pertained to the term of the present incumbent. The third 1957 amendment referred to the first and second amendments and again deleted the former last sentence of the first paragraph.

**Effective date.**—P. L. 1957, c. 429, became effective on its approval, October 31, 1957.

**Sec. 70. Authorized inspectors; duties.**—In addition to any deputy boiler inspectors authorized and appointed under section 68, the commissioner shall, upon the request of any company authorized to insure against loss from

explosion of steam boilers in this state, issue to the boiler inspectors of such company certificates of authority as authorized inspectors, provided that each inspector before receiving his certificate of authority shall pass satisfactorily the examination provided for in section 71, or, in lieu of such examination, shall hold a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this state, or a certificate from the national board of boiler and pressure vessel inspectors. Such authorized inspectors shall receive no salary from, nor shall any of their expenses be paid by, the state, and the continuance of an authorized inspector's certificate shall be conditioned upon his continuing in the employ of a boiler inspection and insurance company duly authorized and upon his maintenance of the standards imposed by sections 64 to 84. Such authorized inspectors shall inspect all steam boilers insured by their respective companies, and the owners or users of such insured boilers shall be exempt from the payment of the fees provided for in section 76. Each company employing such authorized inspectors shall within 30 days following each annual internal inspection made by such inspectors, file a report of such inspection with the chief inspector. (R. S. c. 25, § 57. 1963, c. 124, § 1.)

**Effect of amendment.**—The 1963 amendment substituted "authorized" for "special" before "inspectors" throughout the section, substituted "84" for "79" at the end of the second sentence and made other minor changes.

**Sec. 71. Deputy and special inspectors to be examined.**—The examination for deputy inspectors and special inspectors shall be given by the chief inspector of boilers, or by at least 2 examiners to be appointed by said chief inspector. The person to be examined must pay an examination fee of $10. Such examination must be written or part written and part oral, recorded in writing, and must be confined to questions the answers to which will aid in determining the fitness and competency of the applicant for the intended service and must be of uniform grade throughout the state. The chief inspector shall certify to the commissioner the names of applicants who have successfully passed the examination. In case an applicant for an inspector's certificate of authority fails to pass this examination, he may appeal to the board of boiler rules for a 2nd examination, which shall be given by said board, or, by examiners other than those by whom the first examination was given and these examiners shall be appointed forthwith to give said 2nd examination. Upon the result of this examination on appeal, the board shall determine whether the applicant be qualified. The record of an applicant's examination, whether original or on appeal, shall be accessible to him and to his employer.

The fee for issuing a certificate of authority as special inspector shall be $10 when such certificate is granted under the provisions of section 70, to a person who holds a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this state or a certificate from the national board of boiler and pressure vessel inspectors, and whose examination has been waived in accordance with the provisions of section 70.

A certificate of authority may be revoked by the commissioner for incompetence or untrustworthiness of the holder thereof or for willful falsification of any matter or statement contained in his application or in a report of any inspection. A person whose certificate is revoked may appeal from the revocation to the board of boiler rules which shall hear the appeal and either set aside or affirm the revocation and its decision shall be final. The person whose certificate has been revoked shall be entitled to be present in person and by counsel on the hearing of the appeal. If a certificate is lost or destroyed a new certificate shall be issued in its place without another examination. A person, who has failed to pass the examination or whose certificate of authority has been revoked, shall be entitled to apply for a new examination and certificate after 90 days from such failure or revocation. (R. S. c. 25, § 58. 1947, c. 277, § 1. 1957, c. 272, § 2.)

**Effect of amendment.** — The 1957 amendment substituted the words "certificate of authority" for the words "certificate of competency" throughout this section, inserted the third sentence of the first paragraph and all of the second paragraph, substituted "commissioner" for "chief inspector" in the first sentence of the last paragraph, and made other minor changes.

**Sec. 72. Inspection of boilers; certificates issued.** —Each steam boiler used or proposed to be used within this state and all hot water supply and hot water heating boilers located in schoolhouses, and all boilers owned by municipalities, except boilers exempt under the provisions of section 78, shall be thoroughly inspected while not under pressure by the chief inspector or by one of the deputy inspectors or special inspectors provided for herein, as to its design, construction, installation, condition and operation. Each steel boiler shall be inspected internally and externally; and all normally accessible surfaces of cast iron boilers shall be cleaned for inspection but need not be dismantled unless in the opinion of the inspector it is necessary. If it shall be found to be suitable and to conform to the rules of the board of boiler rules, upon payment by the owner or user of such a boiler of the sum of $2 to the chief inspector, the latter shall issue to such owner or user an inspection certificate for each such boiler. Inspection certificates shall specify the maximum pressure that the boiler inspected may be allowed to carry. Such inspection certificate shall be valid for not more than 14 months from its date and it shall be posted under glass in the engine or boiler room containing such boiler or an engine operated by it, or, in the case of portable boiler, in the office of the plant where it is located for the time being. The chief inspector or any deputy inspector may at any time suspend an inspection certificate when, in his opinion, the boiler for which it was issued may not continue to be operated without menace to the public safety or when the boiler is found not to comply with the rules herein provided for, and a special inspector shall have corresponding powers with respect to inspection certificates for boilers insured by the company employing him. Such suspension of an inspection certificate shall continue in effect until said boiler shall have been made to conform to the rules of the board and until said inspection certificate shall have been reinstated by a state inspector, if the inspection certificate was suspended by a state inspector, or by a special inspector if it was suspended by a special inspector. Not more than 14 months shall elapse between such inspections and there shall be at least 4 such inspections in 37 consecutive months. Each such boiler, except miniatures, shall also be inspected externally while under pressure with at least the same frequency and at no greater intervals. (R. S. c. 25, § 59. 1947, c. 277, § 2. 1951, c. 299. 1953, c. 319, § 1. 1955, c. 404, § 2.)

**Effect of amendment.**—The 1955 amendment rewrote the former first sentence to appear as the present first three sentences, inserting in the first sentence the references to "hot water supply" boilers and "all boilers owned by municipalities." The second sentence is new with the amendment.

**Sec. 73. Temporary inspection certificates.** — Whenever it shall appear to the commissioner that an emergency affecting public safety and welfare exists, the commissioner may authorize the chief inspector to issue a temporary inspection certificate for a period not exceeding 6 months after an inspection certificate shall have expired. A temporary inspection certificate may be issued without an internal inspection being made. If the boiler is insured, the temporary inspection certificate shall not be issued until recommended in writing by the authorized special inspector of the company insuring the boiler and by the chief inspector or one of his deputies; or, if the boiler is not insured, the temporary inspection certificate shall be recommended in writing by at least 2 authorized state inspectors. The provisions as to posting of the inspection certificate shall apply to the temporary inspection certificate. (1953, c. 305. 1957, c. 272, § 3.)

**Effect of amendment.** — The 1957 amendment made the former second sentence into two sentences and inserted the word "special" preceding the word "inspector" in the present third sentence.

**Sec. 74. Inspection certificate.**—It shall be unlawful for any person, firm, partnership or corporation to operate under pressure in this state a steam boiler to which sections 64 to 84, inclusive, apply without a valid inspection certificate as provided for in said sections. The operation of a steam boiler without an inspection certificate shall constitute a misdemeanor on the part of the owner or user thereof and be punishable by a fine of not more than $100 or by imprisonment for not more than 30 days, or by both. (R. S. c. 25, § 60. 1957, c. 272, § 4.)

**Effect of amendment.** — The 1957 amendment changed a former reference to "sections 64 to 79" to read "sections 64 to 84" in the first sentence, and deleted the words "such fine and imprisonment" which formerly appeared at the end of the last sentence.

**Sec. 77.** Repealed by Public Laws 1963, c. 414, § 11.

**Editor's note.** — The repealed section, which related to the application of sections 64-84 to boilers now in use, was amended in 1957, by P. L. 1957, c. 272, § 5.

**Sec. 78. Exemptions.**—The provisions of sections 64 to 84, inclusive, shall not apply to boilers which are under federal control; or those under the control of the public utilities commission; or to boilers used solely for propelling motor road vehicles; or to boilers of steam fire engines brought into the state for temporary use in times of emergency to check conflagrations; or to boilers used for agricultural purposes only; or to steam heating boilers, except boilers located in schoolhouses or boilers owned by municipalities, which carry pressures not exceeding 15 pounds per square inch, constructed and installed in accordance with the rules adopted by the board of boiler rules; or to miniature boilers exempt by the provisions of section 76. (R. S. c. 25, § 64. 1953, c. 319, § 2. 1957, c. 272, § 6.)

**Effect of amendment.** — The 1957 amendment changed a former reference to "sections 64 to 79" to read "sections 64 to 84" and inserted the words "or boilers owned by municipalities" following the word "schoolhouses".

**Sec. 83. Operation of condemned vessels.**—No steam boiler or unfired steam pressure vessel that has been condemned for further use in this or any other state by an authorized boiler inspector employed by an insurance company or by an inspector authorized to inspect boilers by a state or the federal government shall be operated in this state at a gauge pressure of over 15 pounds. Each steam boiler or unfired steam pressure vessel located in a schoolhouse or owned by a municipality, if condemned, shall not be operated.

Whoever operates a boiler in violation of the provisions of this section shall be punished by a fine of not less than $100. (R. S. c. 25, § 69. 1955, c. 404, § 3. 1957, c. 272, § 7.)

**Effect of amendments.** — The 1955 amendment added the proviso to the first paragraph.

The 1957 amendment made such proviso into a separate sentence, deleted hot water heating boilers from the enumeration in such sentence and inserted the words "or owned by a municipality" therein.

## Board of Construction Safety Rules and Regulations.

**Sec. 88-A. Establishment and purpose.**—There is hereby created and established the board of construction safety rules and regulations for the purpose of formulating and adopting reasonable safety regulations and codes in order to provide for personal, material and public safety in connection with construction, and such other activities usually associated with the construction industry. The said board shall consist of 8 members of which 6 shall be appointed to membership by the commissioner of labor and industry, subject to the approval of the governor and council. Of the 6 appointed members of the board, 2 shall represent the construction contractors within the state; 2 shall represent the construction workers

within the state; and one shall represent the insurance companies licensed to insure workmen's compensation within the state; one shall represent the public. The 7th member of the board shall be the commissioner of labor and industry and the 8th member shall be the insurance commissioner. The chairman shall be elected annually by the members of the board. The board shall meet at least twice yearly at the state capitol, or at any other place designated by the chairman. Of the 6 appointed members, 2 shall be appointed for a term of 2 years; 2 shall be appointed for a term of 3 years; and 2 shall be appointed for a term of 4 years. Each member shall hold office until his successor is duly appointed and qualified. At the expiration of each member's term his successor shall be appointed by the commissioner of labor and industry, subject to the approval of the governor and council, from the same classification in accordance with the provisions of this section for a term of 4 years. In case of a vacancy in board membership, the commissioner of labor and industry, with the approval of the governor and council, shall appoint a member of the proper classification to serve the unexpired term of the absent member.

The 6 appointed members of the board shall serve without salary and shall receive their actual expenses while engaged in the performance of their duties as members of said board. The chairman of said board shall approve and countersign all vouchers for expenditures under the provisions of this section. (1955, c. 466, § 5.)

**Sec. 88-B. Definitions.**—Under sections 88-A to 88-D, the following words shall have the following meanings:

**I. Approved.** "Approved" shall mean as approved by the board of construction safety rules and regulations;

**II. Board.** "Board" shall mean the board of construction safety rules and regulations;

**III. Commissioner.** "Commissioner" shall mean the commissioner of labor and industry;

**IV. Construction.** "Construction" shall mean and include forming, erection, demolition, dismantling, alteration, repair and moving of buildings and all other structures and all operations in connection therewith; and shall also include all excavation, roadways, sewers, trenches, tunnels, pipe lines and all other operations pertaining thereto. The term "construction" shall apply to persons and corporations engaged for hire, or by virtue of a contract. The term "construction" shall not apply to construction for self use where the number of persons engaged for hire, or by virtue of a contract, does not exceed 5. (1955, c. 466, § 5. 1963, c. 65, § 1.)

**Effect of amendment.**—The 1963 amendment split the section into four subsections, substituted "88-D" for "88-E" in the first sentence of the introductory paragraph, deleted all the words appearing after the word "contract" in the second sentence of subsection IV and added the third sentence of subsection IV.

**Sec. 88-C. Duties and powers of the board.**—The board shall formulate and adopt reasonable rules and regulations for safe and proper operations in construction within the state. The rules and regulations so formulated shall conform as far as practicable to the standard safety codes for construction. Such rules and regulations shall become effective 90 days after the date they are adopted; provided, however, that before any rules and regulations are adopted a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers within the state. (1955, c. 466, § 5.)

**Sec. 88-D. Appeals.**—Any person aggrieved by an order or act of the inspector or the department under sections 88-A to 88-D may, within 15 days after notice thereof, appeal from such order or act to the board which shall hold a hearing thereon, and said board shall, after such hearing, issue an appropriate order either approving or disapproving said order or act.

Any such order of said board or any rule or regulation formulated by said board shall be subject to review by the superior court by an appeal taken within 30 days after the date of such order to the superior court held in and for the county in which the operation is located at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by complaint to which such party shall annex the order of the board and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof the court shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court may modify, affirm or reverse the order of the board and the rule or regulation on which it is based in whole or in part in accordance with law and the weight of the evidence. The court shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper. (1955, c. 466, § 5. 1961, c. 317, § 61. 1963, c. 65, § 2.)

**Effect of amendments.**—The 1961 amendment substituted "the superior court" for "a justice of the superior court in term time or vacation time" in the first sentence of the second paragraph of this section, substituted "complaint" for "petition" in the second sentence of such paragraph, deleted "in term time or a justice thereof in vacation" preceding "shall order notice thereof" at the end of the third sentence of such paragraph, deleted "or a justice thereof" preceding "may modify" in the fourth sentence of such paragraph, and deleted "or a justice thereof" following "The court" at the beginning of the fifth sentence of such paragraph.

The 1963 amendment substituted "88-D" for "88-E" in the first sentence and deleted "the provisions of" before "sections" in the first sentence.

**Sec. 88-E.** Repealed by Public Laws 1963, c. 65, § 3.

**Editor's Note.** — The repealed section, which related to exceptions to the safety rules and regulations, derived from P. L. 1955, c. 466, § 5.

## Board of Elevator Rules and Regulations.

### Sec. 116. Definitions.

"Elevator" shall mean a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction, and shall include the doors, well, enclosures, means and appurtenances required by these regulations. The term "elevator" shall not include a dumb-waiter, endless belt, conveyor, chain or bucket hoist or temporary devices used for the primary purpose of elevating or lowering building materials, nor shall it include tiering, piling, feeding or other machines or devices giving service within only 1 story. (1955, c. 3.)

**Effect of amendment.**—The 1955 amendment changed the first sentence of the sixth paragraph by extending the definition of "elevator" to include "doors, well, enclosures, means and appurtenances." As the rest of the section was not changed, only the sixth paragraph is set out.

### Sec. 127. Appeals.

Any such order of said board or any rule or regulation formulated by said board shall be subject to review by the superior court by an appeal taken within 60 days after the date of such order to the superior court held in and for the county in which the equipment is located at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by complaint to which such party shall annex the order of the board and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof the court shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court may modify, affirm or reverse the order of the board and the rule or regulation on which it is based in whole or in part in accordance with law and

the weight of the evidence. The court shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any such order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper.

An appeal may be taken to the law court as in other actions. (1949, c. 374. 1959, c. 317, § 11. 1961, c. 317, § 62.)

**Effect of amendments.** — The 1959 amendment rewrote the last paragraph of this section.

The 1961 amendment substituted "the superior court" for "a justice of the superior court in term time or vacation" in the first sentence of the second paragraph of this section, substituted "complaint" for "petition" in the second sentence, deleted "in term time or a justice thereof in vacation" following "court" in the third sentence, and deleted "or a justice thereof" following "court" in the fourth and fifth sentences.

As the first paragraph of the section was not affected by the amendments, it is not set out.

**Effective date and applicability of Public Laws 1959, c. 317.** — Section 420, Chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all further proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

## Minimum Wages.

**Sec. 132-A. Declaration of policy.**—It is the declared public policy of the State of Maine that workers employed in any occupation should receive wages sufficient to provide adequate maintenance and to protect their health, and to be fairly commensurate with the value of the services rendered. (1959, c. 362.)

**Legislature withheld members of municipal fire departments from purview of minimum wage law.** State v. Westbrook, 156 Me. 542, 167 A. (2d) 242.

**Sec. 132-A-1. Coverage.**—Employers employing 4 employees or more in any day of the week are subject to sections 132-A to 132-J for that week, and in the count of employees there shall be included waiters, waitresses, doormen, bellhops and chambermaids; students; and members of the family of the employer otherwise exempt under section 132-B, subsection III. (1961, c. 277, § 1.)

**Sec. 132-B. Definitions.**—Terms used in sections 132-A to 132-J shall be construed as follows, unless a different meaning is clearly apparent from the language or context:

**I.** "Commissioner," the commissioner of labor and industry;

**II. Employ.** "Employ," to suffer or permit to work;

**III. Employee.** "Employee," any individual employed or permitted to work by an employer but the following individuals shall be exempt from sections 132-A to 132-J except as provided in section 132-A-1:

**A.** Any individual employed in agriculture as defined in the Maine Employment Security Law and the Federal Unemployment Insurance Tax Law;

**B.** Any individual employed in domestic service in or about a private home;

**C.** Any individual employed as a waiter, waitress, car hop, not to include counter waiters or waitresses, or those whose tips are required to be divided with others; doorman or bellhop, or as a chambermaid in a resort establishment; or those employees whose earnings are derived in whole or in part from sales commissions and whose hours and places of employment are not substantially controlled by the employer;

**C-1.** Any individual employed as a taxicab driver;

**D.** Any individual engaged in the activities of a public-supported nonprofit organization or in a program controlled by an educational nonprofit organi-

zation or employed in a private nursing home; or employed in a private hospital;

**E.** Those employees who are counselors or junior counselors at summer camps for boys or girls; or employees of any business who are under the age of 19 and are regularly enrolled in an educational institution, or are on vacation therefrom;

**F.** Any individual employed in the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading or packing of such products for shipment or in propagating, processing (other than canning), marketing, freezing, curing, storing or distributing the above products or by-products thereof; or any individual employed as a smoked fish worker;

**G.** Any individual employed as a switchboard operator in a public telephone exchange which has less than 750 stations;

**H.** Any home worker who is not subject to any supervision or control by any person whomsoever, and who buys raw material and makes and completes any article and sells the same to any person, even though it is made according to specifications and the requirements of some single purchaser;

**I.** Members of the family of the employer who reside with and are dependent upon the employer;

**J.** Any individual employed in a bona fide executive, administrative, or professional capacity.

**IV. "Occupation,"** an industry, trade or business or branch thereof or class of work therein in which workers are gainfully employed.

**V. Wages.** "Wages" paid to any employee includes compensation paid to such employee in the form of legal tender of the United States, checks on banks convertible into cash on demand, and includes the reasonable cost to the employer who furnishes such employee board, lodging or other services and benefits;

**VI. Resort establishment.** "Resort establishment," any hotel, motel, sporting camp, cottage colony or similar establishment which primarily offers lodging accommodations of a vacational rather than a transient nature. (1959, c. 362; 1961, cc. 55, 92, 166; c. 277, §§ 2-5, 9, 10.)

**Effect of amendments.** — This section was amended four times in 1961. The first and third amendments were repealed by the fourth amendment. The second amendment added paragraph C-1 to subsection III. The fourth amendment deleted "includes" in subsection II, substituted "the following individuals shall be exempt from sections 132-A to 132-J except as provided in section 132-A-1" for "shall not include" at the end of the introductory paragraph of subsection III, substituted "as defined in the Maine Employment Security Law and the Federal Unemployment Insurance Tax Law" for "not to include commercial greenhouse employees" at the end of paragraph A of that subsection, which substitution had previously been made by the third 1961 amendment, deleted "or service employee who receives the major portion of his remuneration in the form of gratuities" at the end of paragraph C of that subsection and added all of that paragraph following "waitress", including provisions previously added by the first 1961 amendment, rewrote paragraph E of subsection III, deleted "engaged in commercial fishing" at the end of paragraph F of that subsection and added all of that paragraph following "individual", rewrote paragraph I of that subsection, which formerly applied to establishments with three or less employees at any one location, added paragraph J to that subsection, rewrote subsection V, which formerly provided for the inclusion of tips, etc., in computing wages, and added subsection VI.

**Legislature withheld members of municipal fire departments from purview of minimum wage law.** State v. Westbrook, 156 Me. 542, 167 A. (2d) 242.

**Sec. 132-C. Prohibition of employment except as provided for.**— By reason of the declaration of policy set forth in section 132-A and in the protection of the industry or business and in the enhancement of public interest, health, safety and welfare, it is declared unlawful for any employer to employ any employee except as otherwise provided in sections 132-A to 132-J at the rate of less than $1 per hour. (1959, c. 362. 1961, c. 277, § 6.)

**Effect of amendment.**—The 1961 amendment substituted "otherwise provided in sections 132-A to 132-J" for "defined in section 132-B, subsection III" near the end of the section.

**Sec. 132-D. Handicapped workers.** — For any employment in which the minimum wage is applicable, the commissioner of labor and industry may issue to any person physically handicapped by age, or otherwise, a special certificate authorizing the employment of such person for a period not to exceed one year at a wage less than the minimum wage established by sections 132-A to 132-J. The commissioner of labor and industry may hold such hearings and conduct such investigations as he shall deem necessary for the purpose of fixing the special minimum wage for the licensee. Such license may be renewed from time to time by the commissioner. (1959, c. 362.)

**Sec. 132-E. Apprentice.**—For any occupation within the scope of sections 132-A to 132-J, the commissioner may cause to be issued to an employer of any learner, or of an employee under an approved apprentice training program, a special certificate authorizing employment at such wages, less than the minimum wage established by sections 132-A to 132-J, and for such period of time as shall be fixed by the commissioner and stated in the certificate. The commissioner may hold such hearings and conduct such investigations as he shall deem necessary before fixing a special wage for such apprentice or learner. (1959, c. 362.)

**Sec. 132-F. Posting of summary.** — Every employer subject to sections 132-A to 132-J shall keep a summary of sections 132-A to 132-J, furnished by the commissioner of labor and industry, without charge, posted in a conspicuous place, in or about the premises wherein any person subject to sections 132-A to 132-J is employed, or in a place accessible to his employees. (1959, c. 362.)

**Sec. 132-G. Enforcement.**—Whenever the commissioner of labor and industry has information that any employer is violating sections 132-A to 132-J, he shall notify such employer immediately by registered mail of such violation and order such employer to comply with sections 132-A to 132-J. If such employer fails or refuses to comply with sections 132-A to 132-J, the county attorney of the county where the violation occurs shall, upon notification by the commissioner of labor and industry or upon the sworn complaint of any other person, institute criminal action against such employer. (1959, c. 362.)

**Sec. 132-H. Duties and powers of commissioner.**—

**I. Examination of records, books, etc.** Every employer subject to sections 132-A to 132-J shall keep a true and accurate record of the hours worked by each employee and of the wages paid; and the commissioner or his authorized representative may, and upon written complaint setting forth the violation of sections 132-C, shall have authority to enter the place of business or employment of any employer or employees in the state, as defined in sections 132-B, for the purpose of examining and inspecting such records; and copy any or all of such records as he or his authorized representative may deem necessary or appropriate. Any and all information so received shall be considered as confidential and shall not be divulged to any other person or agency except insofar as may be necessary for the enforcement of sections 132-A to 132-J.

**II.** The commissioner may make and promulgate from time to time such rules

and regulations, not inconsistent with sections 132-A to 132-J, as he may deem appropriate or necessary for the proper administration and enforcement of sections 132-A to 132-J. Such rules and regulations affecting any particular class of employees and employers shall be made and promulgated only after a duly held public hearing with notice and opportunity to be heard to those employees and employers affected. (1959, c. 362. 1961, c. 277, § 7.)

**Effect of amendment.**—The 1961 amendment added that portion of subsection I preceding the first semicolon, inserted "may, and" following "representative" after that semicolon and deleted former provisions describing the records to be inspected and authorizing the questioning of employees in that subsection.

**Sec. 132-I. Penalties.**—Any employer who violates sections 132-A to 132-J shall, upon conviction thereof, be punished by a fine of not less than $50 nor more than $200.

Any employer, who discharges or in any other manner discriminates against any employee because such employee makes a complaint to the commissioner or to the county attorney concerning a violation of sections 132-A to 132-J, shall be punished by a fine of not less than $50 nor more than $200. (1959, c. 362. 1961, c. 277, § 8.)

**Effect of amendment.**—The 1961 amendment added the second paragraph.

**Sec. 132-J. Employees' remedies.**—Any employer who continues in violation of any provision of section 132-C after having received notice from the commissioner of labor and industry shall be liable to the employee or employees affected thereby for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of any employee or employees, in any action brought to recover unpaid wages under sections 132-A to 132-J, such judgment shall include, in addition to the unpaid wages adjudged to be due, an additional amount equal to such wages as liquidated damages, and costs of suit including a reasonable attorney's fee. (1959, c. 362.)

## Voluntary Apprenticeship System.

**Sec. 148. Definitions.**—When used in sections 148 to 154:

**I. Apprentice.** "Apprentice" shall mean a person at least 16 years of age, employed under a written agreement to work at and learn a specific trade;

**II. Apprentice agreement.** "Apprentice agreement" shall mean a written agreement entered into by an apprentice or organization of employees with an employer or with an association of employers, or organization of employees, which agreement provides for not less than 4,000 hours of reasonably continuous employment for the apprentice, for his participation in a definite sequency of job training, and for such related and supplemental instruction as may be deemed necessary to qualify as a journeyman in the particular trade effected;

**III. Council.** "Council" shall mean the state apprenticeship council. (R. S. c. 25, § 116. 1951, c. 172, § 1. 1963, c. 72, § 1.)

**Effect of amendment.**—The 1963 amendment split the section into three subsections and added "or organization of employees" following "association of employers" in present subsection II.

**Sec. 149. State apprenticeship council.**—The state apprenticeship council, as heretofore established, shall be composed of 11 members to be appointed by the governor and made up as follows: 4 members shall be representatives of employees, and shall be bona fide members of a recognized major labor organization; 4 members shall be representatives of employers, and shall be bona fide employers or authorized representatives of bona fide employers; and 3 members shall be representatives of the public and shall be selected from neither industrial employers nor employees, nor shall they be directly concerned with any particular

industrial employer or employee. The appointments shall be made so that the term of one member of each group shall expire each year. Each member shall hold office until his successor is appointed and qualified, and any vacancy shall be filled by appointment for the unexpired portion of the term. The chairman and secretary of the council shall be named by the members of the council, the chairman coming from the group which represents the public. The director of vocational education, the commissioner of labor and industry and the chairman of the Maine employment security commission shall be ex officio members of the council without vote. The members of the council shall receive no reimbursement for their services, but shall be reimbursed for travel at the same mileage rate and on the same basis as regular state employees and shall receive reimbursement for subsistence necessarily incurred in the performance of their duties.

The budget request of the council shall be incorporated in the overall budget of the department of labor and industry, and the commissioner shall be responsible for the disbursement of these funds according to council policy. The commissioner shall be responsible for the selection and supervision of all personnel who may be employed by the council.

The council shall:

**I. Establish standards.** Establish standards, through joint action of employers and employees, and assist in the development of apprenticeship programs in conformity with sections 148 to 154, and generally encourage and promote the establishment of apprenticeship programs.

**II. Registration.** Register or terminate or cancel the registration of apprenticeship programs and apprenticeship agreements.

**III. Certificates of completion.** Issue such certificates of completion of apprenticeship as shall be authorized by the council to apprentices who have been certified by a joint apprenticeship committee or employer as satisfactorily completing their training.

**IV. Records.** Keep a record of apprenticeship programs and apprentice agreements.

**V. Cooperate with others.** Cooperate with the state department of education and the local school authorities in the organization and establishment of classes of related and supplemental instruction for apprentices employed under approved agreements.

**VI. Rules and regulations.** Issue such rules and regulations as may be necessary to carry out the intent and purpose of sections 148 to 154.

**VII. Reports.** Make a report to the governor of its activities and the results thereof, which report shall be incorporated in the biennial report of the commissioner of labor and industry.

Meetings of the council shall be held quarterly and as often as is necessary in the opinion of the majority of the council. The chairman shall designate the time and place of the meetings and the secretary shall notify all council members at least one week in advance of each meeting. A majority of the membership of the council shall constitute a quorum, provided that each group has at least one representative present. (R. S. c. 25, § 117. 1951, c. 172, § 2. 1963, c. 72, § 2.)

**Effect of amendment.**—The 1963 amendment increased the number of members of the council from 9 to 11, provided that 4 members shall be representatives of employees and 4 representatives of employers, provided for the naming of a secretary, made the director of vocational education, the commissioner of labor and industry and the chairman of the Maine employment security commission ex officio members, added the second paragraph, added the reference to §§ 148 to 154 in subsection VI, substituted "a" for "an annual" before "report" in subsection VII and substituted "incorporated in the biennial report of the commissioner of labor and industry" for "published and made available to the public" in subsection VII.

**Sec. 151. Standards for apprenticeship agreements.**—Standards for apprenticeship agreements shall contain the following:

**I. Trade or craft taught.** A statement of the trade or craft to be taught and the required hours for completion of apprenticeship which shall be not less than 4,000 hours of reasonably continuous employment;
**II. Processes.** A statement of the major work processes in the trade or craft in which the apprentice is to be taught and the approximate amount of time to be spent at each process;
**III. Hours.** A statement of educational subjects to be studied and mastered. Where formal classroom instruction can be established by the state department of education a statement that such classes shall operate at least 144 hours per year;
**IV. Age.** A statement that the apprentices shall be not less than 16 years of age;
**V. Wages.** A statement of the progressively increasing scale of wages to be paid the apprentice;
**VI. Probation.** Provision for a period of probation during which the apprenticeship council shall be directed to terminate the apprenticeship agreement at the request in writing of any party thereto. After the probationary period, the apprenticeship council shall be empowered to terminate the registration of an apprentice upon agreement of the parties;
**VII. Services of apprenticeship council.** Provision that the services of the apprenticeship council may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement, where such differences cannot be adjudged locally or in accordance with the established trade procedure;
**VIII. Transfer of obligation of employer.** Provision that if an employer is unable to fulfill his obligation under the apprenticeship agreement he may transfer such obligation to another employer;
**VIII-A. No discrimination.** Provision that there will be no discrimination in employment of apprentices under the program because of sex, race, creed or color;
**IX. Additional standards.** Such additional standards as may be prescribed in accordance with sections 148 to 154. (R. S. c. 25, § 119. 1951, c. 172, § 4. 1963, c. 72, § 3.)

**Effect of amendment.**—The 1963 amendment substituted "shall contain the following" for "or as follows" at the end of the introductory paragraph, added "major work" before "processes" and deleted "divisions" after "craft" in subsection II, deleted the words "A statement of the number of hours to be spent by the apprentice in work and" at the beginning of subsection III and added subsection VIII-A.

## Bedding and Upholstered Furniture.

**Sec. 155. Definitions.—**
**I.** "Article of bedding" in sections 155 to 162, inclusive, shall mean any mattress, upholstered box spring, pillow, comforter, cushion, muff, bed quilt or similar article designed for use for sleeping purposes. "Article of bedding" in sections 155 to 162, inclusive, shall also mean any glider, hammock, chaise lounge or other substantially similar article which is wholly or partly upholstered. (1955, c. 151, § 1)
**II-A.** "Cushion" in sections 155 to 162, inclusive, shall mean any bag or case made of leather, cotton or other textile or plastic material, which is filled in whole or in part with concealed material, capable of use for sitting, sleeping, resting or reclining purposes but does not include any seat or cushion which is used as an integral part of any automobile, truck, bus, airplane, railroad equipment or on any mechanized equipment used generally in the construction industry or in agriculture. (1955, c. 151, § 2)
**VII. Stuffed toy.** "Stuffed toy" shall mean any article intended for use by

infants or children as a plaything which is filled with or contains any fiber, chemical or other stuffing. (R. S. c. 22, §§ 147-151. 1947, c. 330. 1953, cc. 35, 333. 1963, c. 49, § 1.)

**Effect of amendments.**—The 1955 amendment added the second sentence of subsection I. It also added subsection II-A. The 1963 amendment added subsection VII.

As the rest of the section was not changed by the amendment, it is not set out.

**Sec. 156. Secondhand materials.**—No person shall manufacture for sale, sell, lease, offer to sell, or lease or deliver or consign in sale or lease, or have in his possession with intent to sell, lease, deliver or consign in sale or lease any article of bedding, upholstered furniture or stuffed toy covered in sections 155 to 162, in which in the making, remaking or renovation thereof, any secondhand material has been used, unless such material, before such re-use, has been effectively cleansed and sterilized or disinfected by a process approved by the department and in accordance with the regulations of the department. (R. S. c. 22, §§ 147-151. 1947, c. 330. 1953, cc. 35, 333. 1963, c. 49, § 2.)

**Effect of amendment.**—The 1963 amendment added "or stuffed toy" following "upholstered furniture."

**Sec. 160. Administration and enforcement.**—The department is charged with the administration and enforcement of the provisions of sections 155 to 162, inclusive; and may make and enforce reasonable rules and regulations for the enforcement of said sections, and shall have the power through its officers or agents to inspect the manufacture and sale or delivery of all articles or materials subject to the provisions of sections 155 to 162, inclusive, to open and examine the contents thereof and to seize and hold for evidence any article in whole or in part which he has reason to believe is made or offered for sale in violation of the provisions of sections 155 to 162, inclusive, or the rules and regulations of the department; and any places where any articles covered by said sections are made, remade or offered for sale, or where sterilization or disinfecting is performed under the provisions of said sections, shall be subject to inspection by the department through its officers or agents. (1947, c. 330. 1953, cc. 35, 333. 1955, c. 151, § 3.)

**Effect of amendment.**—The 1955 amendment inserted the provision empowering the department to inspect the manufacture, sale or delivery of articles, etc., and to open and examine the contents thereof. It also inserted the words "in whole or in part which he has reason to believe is" near the middle of the section.

## Enforcement of Fines and Penalties.

**Sec. 163. Enforcement of fines and penalties.**—The district court and the superior court shall have original jurisdiction of action brought for the recovery of fines and penalties imposed by this chapter, and of prosecutions for violations of the provisions thereof. (R. S. c. 25, § 35. 1963, c. 402, § 55.)

**Effect of amendment.**—The 1963 amendment substituted "The district court and the superior court" for "Trial justices within their county," deleted "concurrent with municipal courts and the superior court" following "jurisdiction" and deleted "the provisions of" preceding "this chapter."

**Application of 1963.**—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

## Appeals.

**Sec. 164. Appeals.**—Any order by a board created and established under this chapter, or any rule, regulation, determination or declaration formulated by such board or by the commissioner, shall be subject to review by the superior

court by an appeal taken within 30 days after the effective date of such rule, regulation, determination or declaration to the superior court, held in or for the county in which the operation is located, at the instance of any party in interest and aggrieved by said rule, regulation, determination or declaration. Such appeal shall be prosecuted by complaint. Upon the filing thereof the court shall order notice thereof. Upon the evidence and after hearing, which shall be held not less than 7 days after notice thereof, the court may modify, affirm or reverse the rule, regulation, determination or declaration in whole or in part in accordance with law and the weight of the evidence. The court shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any rule, regulation, determination or declaration pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper. (1957, c. 28. 1961, c. 317, § 63.)

**Effect of amendment.**—The 1961 amendment substituted "the superior court" for "a justice of the superior court in term time or vacation" in the first sentence of this section, substituted "complaint" for "petition" at the end of the second sentence, deleted "in term time or a justice thereof in vacation" following "court" in the third sentence, and deleted "or a justice thereof" following "court" in the fourth and fifth sentences.

### Records Confidential.

**Sec. 165. Records confidential.**—All information and reports recorded by the commissioner of labor and industry or his authorized agents under this chapter shall be confidential, and no names of individuals, firms or corporations shall be used in any reports of the commissioner nor made available for public inspection. (1959, c. 223, § 4.)

---

## Chapter 31.

## Industrial Accidents.

### The Workmen's Compensation Act.

**Purpose of Workmen's Compensation Act.**

The basic purpose of the Workmen's Compensation Act is to provide compensation for loss of earning capacity from actual or legally presumed incapacity to work arising from accidents in industry. Cook v. Colby College, 155 Me. 306, 154 A. (2d) 169.

**Sec. 2. Definitions.**

**II. Employee.** "Employee" shall include officials of the state, counties, cities, towns which have accepted the provisions of this act, water districts and all other quasi-municipal corporations of a similar character and every person in the service of another under any contract of hire, express or implied, oral or written, except:

**III. Assenting employer.** "Assenting employer" shall include all private employers who have become assenting employers in accordance with section 6, and it shall include all towns voting to accept the provisions of the act. This act shall be compulsory as to the state, counties, cities, water districts and all other quasi-municipal corporations of a similar nature; but the provisions of said section 6 shall not apply thereto or to assenting towns.

**IV. Commission; commissioner.** "Commission" shall mean the industrial accident commission created by section 29; except that as to hearings on petitions authorized by sections 9 and 40, it shall mean any 2 or more members thereof designated from time to time by the chairman, and except in any such case by agreement of the parties the authority of the commission may be