

MAINE STATE LEGISLATURE

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October 16, 1961

Madge K. Ames

Labor and Industry

George E. West, Deputy

Attorney General

Minimum Wage Law

Reference is made to your memo of October 12, 1961. You point out that under the provisions of section 132-H, Chapter 39, that the Department of Labor and Industry may enter a place of business for the purpose of examining records of the hours worked by the employees and of the wages paid. You further state that sometimes you find that there are no such records and it is not possible to determine by this means whether or not there is a violation of the minimum wage law.

You ask a question: "Is there any authority under the minimum wage provisions or in any other law for agents of the Department to interview employees in order to make this determination?"

I would say that there is no law which says you can, but on the other hand, in this type of situation it would appear reasonable to say that the absence of such a law is based on the assumption that it is not necessary because the Department may interview employees for such purposes. I think it is quite obvious that you may talk with employees and ask them about the hours worked and the pay received. I would not think that perhaps this could be done at the place of employment if it is going to interrupt the work of the employer. It might be more advisable to ask employees outside the premises of the employer.

I might point out to you, however, that the verbal statements of the employees without some supporting records such as pay stubs, pay checks or other written proof, might not be too valuable for use in prosecuting an employer for failing to pay minimum wages.

I might further point out to you that section 132-H provides that the employer shall keep a true and accurate record of the hours worked by each employee and of the wages paid. Section 132-I provides: "Any employer who violates sections 132-A to 132-J shall, upon conviction thereof, be punished by a fine of not less than \$50.00 nor more than \$200.00."

Wadge E. Amos

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October 16, 1961

It would seem to me that if you find an employer who does not have true and accurate records as required by section 132-H, that you could very well secure a warrant in the municipal court for failure to keep such records. The employer would be subject to the fine mentioned. Perhaps this course of action might solve your difficulty and be more effective than simply getting verbal information from employes which could not be substantiated by any type of record.

George C. West
Deputy Attorney General

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