

MAINE STATE LEGISLATURE

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New Draft of: H. P. 820, L. D. 1135

ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 1537

H. P. 1115

House of Representatives, April 11, 1961

Reported by a Majority of the Committee on Labor. Printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Revising Minimum Wage Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 30, § 132-A-1, additional. Chapter 30 of the Revised Statutes is amended by adding a new section 132-A-1, to read as follows:

'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.'

Sec. 2. R. S., c. 30, § 132-B, sub-§ II, amended. Subsection II of section 132-B of chapter 30 of the Revised Statutes, as enacted by chapter 362 of the public laws of 1959, is amended to read as follows:

'II. Employ. "Employ," ~~includes~~ to suffer or permit to work;'

Sec. 3. R. S., c. 30, § 132-B, sub-§ III, amended. Subsection III of section 132-B of chapter 30 of the Revised Statutes, as enacted by chapter 362 of the public laws of 1959, is amended to read as follows:

'III. Employee. "Employee," any individual employed or permitted to work by an employer but ~~shall not include~~; 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 ~~not to include commercial greenhouse employees~~ 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 or service employee who receives the major portion of his remuneration in the form of gratuities~~, 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 ;
- D.** Any individual engaged in the activities of a public-supported nonprofit organization or in a program controlled by an educational nonprofit organization or employed in a private nursing home; or employed in a private hospital ;
- E.** Those employees ~~of who are counselors or junior counselors at summer camps for boys or girls under the age of 19 who are counselors, or junior counselors~~; 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 ~~engaged in commercial fishing; or 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+;
or
- I.** ~~Any individual employed in a business or service establishment which has 3 or less employees at any one location~~ 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.'

Sec. 4. R. S., c. 30, § 132-B, sub-§ V, amended. Subsection V of section 132-B of chapter 30 of the Revised Statutes, as enacted by chapter 362 of the public laws of 1959, is amended to read as follows :

'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 ~~also~~ includes the reasonable cost ~~which~~

shall be consistent with the rules and regulations as set forth by the Employment Security Commission to the employer of furnishing such employee with board, lodging or other facilities as are customarily furnished by such employer to his employee and used by employees, provided that in the computation of such wages there shall be included tips, gratuities and commissions of every kind who furnishes such employee board, lodging or other services and benefits;

Sec. 5. R. S., c. 30, § 132-B, sub-§ VI, additional. Section 132-B of chapter 30 of the Revised Statutes, as enacted by chapter 362 of the public laws of 1959, is amended by adding a new subsection VI to read as follows:

‘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.’

Sec. 6. R. S., c. 30, § 132-C, amended. Section 132-C of chapter 30 of the Revised Statutes, as enacted by chapter 362 of the public laws of 1959, is amended to read as follows:

‘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 defined in section 132-B, subsection III otherwise provided in sections 132-A to 132-J at the rate of less than \$1 per hour.’

Sec. 7. R. S., c. 30, § 132-H, sub-§ I, amended. Subsection I of section 132-H of chapter 30 of the Revised Statutes, as enacted by chapter 362 of the public laws of 1959, is amended to read as follows:

‘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 section 132-C, shall have authority to enter the place of business or employment of any employer or employees in the State, as defined in section 132-B, for the purpose of examining and inspecting any or all books, registers, payrolls and other records of any such employer that in any way relate to or have a bearing upon the question of wages, hours and other conditions of employment of any such employees; copy any or all of such books, registers, payrolls and other records as he or his authorized representative may deem necessary or appropriate; and question such employees in the presence of the employer or his authorized agent for the purpose of ascertaining whether sections 132-A to 132-J have been and are being complied with. 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.’

Sec. 8. R. S., c. 30, § 132-I, amended. Section 132-I of chapter 30 of the Revised Statutes, as enacted by chapter 362 of the public laws of 1959, is amended by adding at the end a new paragraph to read as follows:

'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.'

Sec. 9. P. L., 1961, c. 55, repealed; limitation. Chapter 55 of the public laws of 1961, heretofore passed by this Legislature, amending paragraph C of subsection III of section 132-B of chapter 30 of the Revised Statutes, is repealed and shall not be printed as part of the session laws of 1961.

Sec. 10. P. L., 1961, c. 166, repealed; limitation. Chapter 166 of the public laws of 1961, heretofore passed by this Legislature, amending paragraph A of subsection III of section 132-B of chapter 30 of the Revised Statutes, is repealed and shall not be printed as part of the session laws of 1961.