

MAINE STATE LEGISLATURE

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S. P. 314.

In Senate, February 6, 1941.

Referred to Committee on Labor and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Laughlin of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-ONE

AN ACT to Promote the General Welfare and to Protect the Health and Welfare of the People of the State by Providing for the Elimination of Wage and Hour Standards Detrimental to the Health and Welfare of Workers.

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

Sec. 1. Findings and policy. In some occupations and industries in the state of Maine workers are employed at wages which are inadequate to recompense such workers for the labor performed and are insufficient to provide adequate maintenance or livelihood commensurate with the cost of living, and payment of such insufficient wages endangers the health and welfare of such workers and substantially and adversely affects the general welfare of the state; and in some occupations and industries of the state workers are employed for an excessive number of hours which said excessive hours are injurious to the health, efficiency and well-being of such workers, and adversely affects the general welfare of the state. It is hereby declared to be the policy of this state, through the exercise of the police powers of the state, to correct and eliminate said conditions.

Sec. 2. Definitions. As used in this act

I. "Commissioner" shall mean the commissioner of labor.

II. "Employer" shall mean any individual, partnership, association,

corporation, business, trust, local representative, or any group of persons acting directly or indirectly for an employer in relation to an employee that shall not include the United States, state of Maine, or any subdivision of the state.

III. "Employee" shall mean any individual employed by an employer, except that it shall not include any individual employed (a) in an executive or professional capacity; or (b) in agriculture; or (c) in domestic service in a private home.

IV. "Industry or occupation" includes any occupation, trade, business, industry, manufacturing plant or group of industries in which individuals are employed.

V. "Week" means any period of 7 consecutive days.

VI. "Day" means any period of 24 consecutive hours.

VII. "Agriculture" includes farming in all its branches, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as necessary or incident to the above farming operations, including delivery from a farm to storage or to market or to carriers for transportation to market.

Sec. 3. Wage and hour board. For the purpose of carrying out the declared policy of this act, whenever a complaint is made to the commissioner by any 5 employees in any specified industry or occupation, or by 10 disinterested citizens, that the wages paid to any of the employees in said industry or occupation are less than sufficient to maintain the employees in health, safety and well-being, or are inadequate for the labor performed, or that the hours of work in said industry are excessive, a wage board for said industry shall be created as follows: The commissioner shall appoint 3 persons representing the employers in said industry, to be selected from nominations submitted by said employers, and 3 employees in said industry selected from nominations submitted by said employees; and 3 disinterested citizens shall be appointed by the governor of the state, which said 9 persons shall constitute a wage and hour board for said industry, hereinafter called the "Board". Members of said board shall receive compensation at the rate of \$5 per day for each day actually spent in the work of the board.

Sec. 4. Duties and powers of wage and hour board. Said wage and

hour board shall make investigation into conditions in said industry or occupation, shall, within 30 days after its appointment, hold a public hearing, and shall within 60 days thereafter submit a report of its findings as to the conditions of the industry or occupation to the commissioner. The board may differentiate and classify employment and occupation in such business or industry according to the nature of the service rendered and shall determine appropriate minimum fair rates for each type of employment or occupation. In determining such classifications it shall consider, among other relevant factors, conditions in different localities, including cost of living and competitive conditions, as affected by transportation and production costs. No classification shall be made on the basis of age or sex. Said board further shall determine a suitable scale of fair wage rates for learners or apprentices and for persons whose earning capacity is impaired by reason of physical deficiency or injury. The board further shall determine the number of hours which shall constitute a standard work week, with provisions for the employment of workers for more hours than specified in said standard work week; and the rate of wages for such overtime work.

Sec. 5. Powers of wage and hour board. Any member of the board shall have power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of all books, records and other evidence relative to any matters under investigation. Such subpoenas shall be signed and issued by a member of the board and shall be served in the same manner as if issued out of the superior court. The board shall have power to cause depositions of witnesses residing within or without the state to be taken in the manner prescribed for like depositions in civil actions in the superior court.

Sec. 6. Report filed with commissioner. Said wage and hour board shall file with the commissioner a report of its findings and determinations. Within 10 days after the board has filed its report of its findings with the commissioner, the commissioner shall serve a copy of said findings on each employer in said specified industry in this state of whom he has information or record. Within 10 days after the commissioner has made such service, he shall file in his office as a public record a certificate containing the report, findings and determinations of said board, and a certificate of service of said findings upon said employers; and thereupon the findings of said board in regard to minimum wages, and to the standard work week, and provisions for overtime payment, as set forth and determined in the report of the board on file with the commissioner, shall become the effective minimum wage rate and the standard work week, including the provisions

for overtime work, which shall obtain in said industry or occupation; and thereafter every employer in such industry or occupation shall pay the wages provided for and conform to the findings as to hours of labor contained in the report of said board.

Sec. 7. Enforcement. If at any time after report of said board's findings and determinations, as herein provided for, has been filed with the commissioner and a copy thereof has been served upon the employers as provided herein, if the commissioner is in possession of any substantial evidence that any employer or employers affected thereby have failed for a period of 2 months to comply with the provisions of said findings, the commissioner shall thereupon bring action in the superior court of Kennebec county to enforce the provisions of said findings. He shall file in the office of the clerk of the superior court of Kennebec county the record of hearing before the board, together with its report, findings and determinations as filed with the commissioner, and his certificate of service on employers. A justice of the superior court, unless application for stay of proceedings and for hearing shall have been filed in the office of said clerk of the superior court for Kennebec county and shall have been allowed by a justice of the superior court or the supreme judicial court, shall render, within 30 days after the filing of the papers with the said clerk of the superior court as aforesaid, his decision affirming or disaffirming the findings and determinations of said board. Appeal may be had from the decision of said superior court only on question of law.

Sec. 8. Penalties. Any employer who wilfully violates any of the provisions of this act, or of the findings and determinations of the board, as certified to the commissioner, shall upon conviction thereof be fined not less than \$50 nor more than \$100, or shall be imprisoned for not less than 30 days nor more than 90 days, or both. Each day during which a violation shall continue shall constitute a separate offense.

Sec. 9. Saving clause. If any provision hereof, or the application thereof to any persons or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Sec. 10. Title of act. This act shall be known as the "Wage and Hour Act."