

MAINE STATE LEGISLATURE

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N I N E T Y - T H I R D L E G I S L A T U R E

Legislative Document

No. 1177

H. P. 1547

House of Representatives, February 27, 1947.

Transmitted by revisor of statutes pursuant to joint order

Referred to Committee on Labor. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Dostie of Lewiston.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

**AN ACT Relating to Minimum Wages of Persons Employed in the Industry
of the Packing of Fish and Fish Products.**

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

Sec. 1. R. S., c. 25, § 101, amended. Section 101 of chapter 25 of the revised statutes, is hereby amended to read as follows:

'Sec. 101. Classification of business of packing fish, and fish products. The industry or business of packing of fish and fish products in oil or mustard or tomato sauce, in this state, ~~and the occupation or employment of women and minors therein~~ constitute an industry, business, occupation and employment of a special, seasonal and unusual nature, in which women and minors predominantly are employed and in which the industry and the hours for work are dependent wholly on the seasonal run of a certain kind of fish, over which run no person has any control; therefore it is found by the legislature that public health, safety and welfare require the protection of the industry or business and the regulation of the employment of ~~women and minors~~ persons therein.'

Sec. 2. R. S., c. 25, § 102, amended. Section 102 of chapter 25 of the revised statutes, is hereby amended to read as follows:

Sec. 102. Definitions. Terms used in sections 101 to 115, inclusive, 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 and state factory inspector.

II. "Wage board", a board created as provided in section 106.

III. ~~"Women", a female of 21 years or over.~~ "Industry", the industry or business of packing of fish and fish products in oil or mustard or tomato sauce in this state, as defined in section 101.

IV. ~~"Minor", a person of either sex under the age of 21 years.~~ "Employer", any individual, firm, partnership or corporation, engaged in the industry, which according to the common law of this state, bears to any person serving such individual, firm, partnership or corporation, the relationship of master.

V. "Employee", any person in service in the industry who bears such relationship to the person, firm, partnership or corporation for whom he is in service, that he would be deemed a servant of such person, firm, partnership or corporation according to the common law of this state.

~~V.~~ VI. "An oppressive and unreasonable wage", a wage which is both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health.

~~VI.~~ VII. "A fair wage", a wage fairly and reasonably commensurate with the value of the service or class of service rendered. In establishing a minimum fair wage for any service or class of service under the provisions of sections 101 to 115, inclusive, the commissioner and the wage board shall :

A. Take into account all relevant circumstances affecting the value of the service or class of service rendered in the seasonal industry, business, occupation and employment ;

B. Be guided by like considerations as would guide a court in a suit for the reasonable value of services rendered where services are rendered at the request of an employer without contract as to the amount of the wages to be paid ; and

C. Consider the wages paid in the state for work of like or comparable character by employers who voluntarily maintain minimum fair-wage standards.'

Sec. 3. R. S., c. 25, § 103, amended. Section 103 of chapter 25 of the revised statutes, is hereby amended to read as follows :

'Sec. 103. Prohibition of employment of persons at an oppressive or unreasonable wage. By reason of the findings set forth in section 101, it is declared unlawful, in the protection of the industry ~~or business~~ and in the enhancement of public interest, health, safety and welfare, for any employer to employ any ~~woman or minor~~ **employee** in the ~~business or occupation of packing fish or fish products in oil or mustard or tomato sauce~~ **industry** at an oppressive or unreasonable wage or at less than a fair wage, as said terms are defined in section 102.'

Sec. 4. R. S., c. 25, § 104, amended. Section 104 of chapter 25 of the revised statutes, is hereby amended to read as follows :

'Sec. 104. Administration. The commissioner and state factory inspector shall have full power and authority :

I. To investigate and ascertain the wages of ~~women and minors employees~~ employed in the industry ~~or occupation set forth in the classification and prohibition described in sections 101 and 103, inclusive;~~

II. To enter the place of business or employment of any employer ~~of women and minors~~ in the industry ~~or business described in section 101~~ for the purpose of examining and inspecting any and all books, registers, pay-rolls, and other records of any employer ~~of women or minors~~ that in any way appertain to or have a bearing upon the question of wages of any ~~such women or minors~~ **employee** and for the purpose of ascertaining whether the orders of the commissioner have been and are being complied with ; and

III. To require from such employer full and correct statements in writing of the wages paid to all ~~women and minors employees~~ employed by him in the industry ~~business, or occupation described in section 101.'~~

Sec. 5. R. S., c. 25, § 105, amended. Section 105 of chapter 25 of the revised statutes, is hereby amended to read as follows :

'Sec. 105. Investigations authorized. The commissioner shall have the power, and it shall be the duty of the commissioner on the petition of 50 or more residents of the state, to make an investigation of the wages being paid to ~~women and minors employees~~ in the industry ~~business, occupation, or employment described in section 101~~ to ascertain whether any substantial number of ~~women or minors employees~~ so employed are receiving oppressive and unreasonable wages, or less than a fair wage, as

defined in section 102. If, on the basis of such investigation, the commissioner is of the opinion that any substantial number of ~~women or minors~~ **employees** employed as aforesaid are receiving oppressive and unreasonable wages, or less than a fair wage, a wage board shall be appointed to report upon such protection as is necessary for the industry and for the establishment of minimum fair-wage rates for such ~~women or minors em-~~ **employees** employed therein.'

Sec. 6. R. S., c. 25, § 108, amended. Section 108 of chapter 25 of the revised statutes, is hereby amended to read as follows :

'**Sec. 108. Wage boards; commissioner to assist.** The commissioner shall present to a wage board promptly upon its organization all the information in the possession of the commissioner relating to conditions in the industry and to the wages of ~~women and minors~~ **employees** working under the conditions in respect whereof the wage board was appointed.'

Sec. 7. R. S., c. 25, § 109, amended. Section 109 of chapter 25 of the revised statutes, is hereby amended to read as follows :

'**Sec. 109. Wage boards; report.** Within 60 days after the appointment of a wage board, it shall hold a public hearing and submit a report of its findings as to the conditions in the industry and as to minimum fair-wage standards for ~~the women and minors~~ **employees** employed in the industry ~~business or occupation described in section 101.~~ A wage board may differentiate and classify employment and occupation in such industry ~~or business~~ according to the nature of the service rendered and may determine appropriate minimum fair-wage rates for each type of employment or occupation. A wage board also may determine fair-wage rates varying with localities, if in the judgment of the wage board conditions make such local differentiation proper and do not cause an unreasonable discrimination against any locality. A wage board further may determine a suitable scale of minimum fair-wage rates for learners and apprentices in any such industry ~~or business~~ which scale of learners' and apprentices' rates may be less than the regular minimum fair-wage rates determined for experienced ~~women and minor workers~~ **employees** in such industry ~~or business.~~

Sec. 8. R. S., c. 25, § 110, amended. Section 110 of chapter 25 of the revised statutes, is hereby amended to read as follows :

'**Sec. 110. Further proceedings.** The report, findings, and determinations of a wage board shall be filed with the commissioner, who, within 10 days, shall cause a copy thereof, certified to him to be a true copy, to be

served on each employer in this state of whom he has information or record. Within 5 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 the wage board and a certificate of service, and thereupon the minimum fair-wage rates set forth and determined in the report of the wage board shall become the effective minimum fair-wage rates to be paid to ~~women and minors~~ **employees** employed in the industry ~~or business described in section 101~~. Thereafter no employer in such industry ~~or business~~ shall pay to any ~~woman or minor~~ **employee** employed by him less than said minimum fair wage rates unless and until another wage board, after public hearing, shall have filed with the commissioner its report, findings and determinations fixing lower minimum fair-wage rates.'

Sec. 9. R. S., c. 25, § 113, amended. Section 113 of chapter 25 of the revised statutes, is hereby amended to read as follows :

'Sec. 113. Employers' records. Every employer engaged in the industry ~~or business described in section 101 who employs or gives employment to women or minors in such industry or business~~ shall keep true and accurate records of the hours worked by each ~~such~~ employee and of the wages paid by him to ~~them respectively~~ **each employee**, and shall furnish to the commissioner, upon demand by him, a sworn statement of the same; such records shall be open to inspection by the commissioner at any reasonable time. Every employer subject to minimum fair-wage rate findings and determinations shall keep a copy of such posted in a conspicuous place in every room in which ~~women or minors~~ **employees** are employed in the said industry ~~or business~~; employers shall be furnished by the commissioner, copies of such findings and determinations without charge therefor.'

Sec. 9. R. S., c. 25, § 114, amended. Section 114 of chapter 25 of the revised statutes, is hereby amended to read as follows :

'Sec. 114. Penalties.

I. Any employer or any of his agents, or the officer or agent of any corporation, who discharges or in any other manner discriminates against any employee because such employee has served or is about to serve on a wage board or has testified or is about to testify before any wage board, or because such employer believes that said employee may serve on any wage board or may testify before any wage board or in any investigation of proceedings under the provisions of sections 101 to 115, inclusive,

shall be punished by a fine of not less than \$50, nor more than \$200, for each offense.

II. Any employer or any of his agents, or the officer or agent of any corporation, who pays, or permits to be paid, or agrees to pay, to any ~~woman or minor~~ employee engaged in the industry ~~or occupation described in section 101~~ less than the minimum fair-wage rates applicable to such ~~woman or minor~~ employee under the report, findings and determinations of a wage board, shall be punished by a fine of not less than \$50, nor more than \$100, or by imprisonment for not less than 10 days nor more than 90 days, or by both such fine and imprisonment, and each day in any week on which any such employee is paid less than the rate applicable under any such minimum fair-wage report, finding, or determination shall constitute a separate offense.

III. Any employer or any of his agents, or the officer or agent of any corporation who fails to keep the records required under the provisions of sections 101 to 115, inclusive, or refuses to permit the commissioner to enter his place of business, or who fails to furnish such records to the commissioner upon demand shall be punished by a fine of not less than \$25, nor more than \$100, and each day of such failure to keep the records, or failure to furnish same to the commissioner, upon demand, shall constitute a separate offense.'

Sec. 10. R. S., c. 25, § 115, amended. Section 115 of chapter 25 of the revised statutes, is hereby amended to read as follows:

'**Sec. 115. Civil actions.** If any ~~woman or minor worker~~ employee employed or occupied in the industry ~~or occupation described in section 101~~ is paid by an employer less than the minimum fair-wage rate set forth in a minimum fair-wage report, finding and determination by the wage board, duly certified and served as provided in section 110 such employer shall recover, in a civil action, the full amount of such minimum fair-wage less any amount actually paid to such employee by the employer, together with costs and such reasonable attorney fees as may be allowed by the court, and any agreement between an employer and an employee to work for less than the minimum fair-wage rates set forth in any such report, finding or determination shall be no defense to such action.'