

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1354

S. P. 485

In Senate, March 17, 1955

Referred to the Committee on Labor, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Chapman of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Relating to Minimum Wages.

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

Sec. 1. R. S., c. 30, §§ 132-A - 132-N, additional. Chapter 30 of the revised statutes is hereby amended by adding thereto 14 new sections to be numbered 132-A to 132-N, inclusive, to read as follows:

'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.

Sec. 132-B. Definitions. Terms used in sections 132-A to 132-N, 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. "Employee," any individual employed by an employer but shall not include:

A. any individual employed in agriculture;

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

C. any individual employed by the United States, or by the State or any political subdivision thereof;

D. any individual engaged in the activities of a public-supported non-profit organization or in a program controlled by an educational non-profit organization;

E. any individual employed by a summer camp for boys or girls under the age of 19 years; or

F. any individual engaged in commercial fishing.

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

IV. "Wage Board," a Board created as provided in section 132-F.

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, employing 8 or more persons, to employ any employee, as defined in subsection II of section 132-B, at a rate of less than 75c per hour.

Sec. 132-D. Administration. The Commissioner and State Factory Inspector shall have full power and authority:

I. To investigate and ascertain the wages of employees, as defined in subsection II of section 132-B, in any industry or occupation in the State.

II. To enter the place of business or employment of any employer of employees in such industry or business in the State for the purpose of examining and inspecting any and all books, registers, payrolls and other records of any employer of employees that in any way appertain to or have a bearing upon the question of wages of any such employees 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 employees employed by him in any industry, business or occupation covered by the provisions of sections 132-A to 132-N, inclusive.

IV. To cause to be issued a special license to any apprentice, learner or physically or mentally handicapped person engaged in any occupation for which minimum fair-wage rates have been established, provided that such a license shall be issued only to apprentices indentured under the program of the State Apprenticeship Council, or to a handicapped worker only if his handicap is directly related to his earning capacity in the particular job. Such a license shall authorize employment at such wages less than such minimum fair-wage rates and for such a period of time as shall be fixed by the Commissioner and stated in the license.

V. To determine the amount of deductions for board, lodging, apparel or other items or services supplied by the employer, or other such conditions or circumstances as may be usual in a particular employer-employee relationship including gratuities; provided, however, that in no case shall the total remuneration

neration received by an employee, including wages, board, lodging, apparel or other items or services supplied by the employer or such other conditions or circumstances, including gratuities, equal less than the minimum wage rate set forth in section 132-C.

Sec. 132-E. Investigations. 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 any industry, business, occupation or employment as set forth in section 132-D, to ascertain whether the coverage shall be extended. If, on the basis of such investigation, the Commissioner is of the opinion that such coverage should be extended, a Wage Board shall be appointed to report upon and recommend such protection as is necessary and for the extension of coverage to the employees employed therein.

In proceedings to establish any extension of coverage to any industry, business, occupation or employment as set forth in section 132-D, the Commissioner and any Wage Board shall:

- I. Take into account all relevant circumstances affecting the value of the service or class of services rendered in the industry, business, occupation or employment; and
- II. Be guided by like considerations as would guide a court in a suit for the reasonable value of services rendered where services were rendered at the request of the employer without contract as to the amount of the wages to be paid.

Sec. 132-F. Wage Board; membership. A Wage Board shall be composed of not more than 2 representatives of the employers in any industry or business in which the provisions of sections 132-A to 132-N, inclusive, are applicable, an equal number of representatives of the employees employed in such industry or business and of not more than 2 disinterested persons representing the public; one of the said 2 disinterested persons shall be designated as chairman. The Commissioner shall appoint the members of such Wage Board, and the representatives of the employers and of the employees shall be selected, in so far as practicable from nominations submitted by employers and employees, respectively, in the aforesaid industry, business, employment or occupation. Two-thirds of the members of such Wage Board shall constitute a quorum and the recommendations or report of such Wage Board shall require a vote of not less than a majority of its members. Members of a wage board shall be entitled to compensation at the rate of not exceeding \$10 per day for each day actually spent in the work of the Board. They shall be reimbursed for all necessary traveling expenses. The Commissioner shall make and establish from time to time rules and regulations not inconsistent with the provisions of sections 132-A to 132-N, inclusive, governing the selection of a Wage Board and its mode of procedure.

Sec. 132-G. Wage Boards; powers. Any member of a Wage 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 Wage Board and shall be served in the same manner as if issued out of the Superior Court. A Wage 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. 132-H. 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 employees working under the conditions in respect whereof the Wage Board was appointed.

Sec. 132-I. Wage Boards; report. After the appointment of a Wage Board, it shall hold a public hearing and submit, within 60 days after its appointment, a report of its findings as to the conditions in the industry, business, occupation or employment and its recommendations regarding an extension of coverage to the employees employed in the industry, business or occupation for which said Wage Board was appointed; provided, however, that in no event shall the Wage Board report or recommend a minimum wage rate or rates less than the minimum wage rate set forth in section 132-C. A Wage Board may differentiate and classify employment and occupation in such industry or business according to the nature of the service rendered. A Wage Board may recommend and determine the amount of deductions for board, lodging, apparel or other items or services supplied by the employer or such other conditions or circumstances as may be usual in a particular employer-employee relationship including gratuities; provided, however, that in no case shall the total remuneration received by an employee, including wages, board, lodging, apparel or other items or services supplied by the employer or such other conditions or circumstances, including gratuities, equal less than the minimum wage rate set forth in section 132-C.

Sec. 132-J. Further proceedings.

I. A Wage Board shall submit its report and recommendations to the Commissioner who shall file in his office as a public record, the report together with such of the regulations recommended by the Board and with such modifications and amendments to the regulations or order as he may approve, and then conduct public hearings, giving due notice thereof to all interested parties. The Commissioner shall, within 30 days after such hearings, accept or reject such report and recommendations either in whole or in part. He may at any time confer with the Wage Board which may make such changes in the report or recommendations as it may deem fit. If the report and recommendations are rejected, the Commissioner may resubmit the matter to the same Wage Board or to a new Wage Board. If the report and recommendations are accepted either in whole or in part, the Commissioner shall make a minimum wage order which shall define the occupation or occupations as recommended in the report of the Wage Board and shall include the regulations as approved by the Commissioner, such order to be effective 60 days from the date of the making thereof.

II. The Commissioner may from time to time propose such modifications of or additions to any regulations included in any minimum wage order of the Commissioner without reference to a Wage Board, as he may deem appropriate to effectuate the purposes of sections 132-A to 132-N, inclusive, provided such proposed modifications or additions could legally have been included in

the original order, and shall give notice of a public hearing to be held not less than 15 days after such publication, at which all persons may be heard in respect to such proposed modifications or additions. After such hearing the Commissioner may make an order putting into effect such of the proposed modifications of or additions to the regulations as he may deem appropriate.

III. If any person is aggrieved by the decision of the Commissioner, he may within 10 days thereafter appeal to any Justice of the Superior Court by presenting to him a petition therefor in term time or vacation. Such Justice shall forthwith fix a time and place for immediate hearing which may be in vacation and cause notice thereof to be given to the Commissioner; and after hearing, such Justice may affirm, modify or reverse the decision of the Commissioner. Pending judgment of the court, the decision of the Commissioner shall remain in full force and effect. Appeal by such aggrieved person to such law court from such decision may be taken as in equity cases. Upon such appeal, the proceedings shall be the same as in appeal in equity procedure and the law court may, after consideration, reverse or modify any decree so made by a Justice based upon an erroneous ruling or finding of law. The decision of the Justice of the Superior Court or the law court on appeal shall be retroactive to the date when the decision of the Commissioner was first effective.

Sec. 132-K. Court proceedings. If at any time after a report of a Wage Board, containing findings and determinations as to minimum fair-wage rates, has been filed with the Commissioner and any employer or employers affected thereby have failed for a period of 2 months to pay such minimum fair-wage rates, the Commissioner shall thereupon take court action to enforce such minimum fair-wage rates. The Commissioner shall file in the office of the clerk of the Superior Court for Kennebec county the record of hearing before the Wage 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 minimum fair-wage rates stated in the report, findings and determinations of the Wage Board, but he shall not disaffirm such minimum fair-wage rates unless he shall find from the record, or after hearing before the court if such hearing be granted, that the same were fixed and determined by the Wage Board without any substantial evidence in justification thereof. Appeal may be had from the decision of the Superior Court only on questions of law.

Sec. 132-L. Employers' records. Every employer, subject to the provisions of sections 132-A to 132-N, inclusive, or of any regulation or order issued under the provisions of sections 132-A to 132-N, inclusive, shall keep true and accurate record of the hours worked by each employee and of the wages paid by him to them respectively, 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, his deputy or any authorized agent of the Department at any reasonable time. Every employer subject to the provisions of sections 132-A

to 132-N, inclusive, or of any regulation or order issued under the provisions of said sections shall keep a copy of such posted in a conspicuous place in every room in which employees are employed in the said industry or business. Employers shall be furnished by the Commissioner copies of such orders and regulations without charge therefor.

Sec. 132-M. 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 132-A to 132-N, inclusive, shall be punished by a fine of not less than \$50, nor more than \$200, for each offense.

II. Any employer subject to any provision of sections 132-A to 132-N, inclusive, or any regulations or orders issued under said sections, 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 employee engaged in any industry or occupation as set forth in section 132-D, less than the applicable rate to which such employee is entitled under or by virtue of sections 132-A to 132-N, inclusive, 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 the provisions of sections 132-A to 132-N, inclusive, or any regulation or order issued under said sections 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 132-A to 132-N, 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. 132-N. Civil actions. If any employee employed or occupied in any industry or occupation as set forth in section 132-D is paid by an employer less than the applicable wage rate to which such employee is entitled under or by virtue of the provisions of sections 132-A to 132-N, inclusive, such employee 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 such wage rates shall be no defense to such action.

Sec. 2. R. S., c. 30, §§ 133 — 147, repealed. Sections 133 to 147, inclusive, of chapter 30 of the revised statutes are hereby repealed.