

MAINE STATE LEGISLATURE

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Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 5
Titles 26 to 32



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes

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CHAPTER 7

EMPLOYMENT PRACTICES

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SUBCHAPTER I

CONDITIONS FOR EMPLOYMENT

Sec.
591. Medical examination; definitions.
592. —Charge by employer prohibited.
593. Textile piecework.

§ 591. Medical examination; definitions

As used in this section and section 592:

1. **Employee.** "Employee" shall mean and include every person who may be permitted, required or directed by any employer in consideration of direct or indirect gain or profit, to engage in any employment.

2. **Employer.** "Employer" shall mean and include an individual, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy and any common carrier by rail, motor, water, air or express company doing business in or operating within the State.

R.S.1954, c. 30, § 47.

§ 592. —Charge by employer prohibited

It shall be unlawful for any employer to require any employee or accepted applicant for employment to bear the medical expense of an examination when such examination is ordered or required by the employer. Any employer who violates this

section shall be liable to a penalty of not more than \$50 for each and every violation. It shall be the duty of the commissioner to enforce this section.

R.S.1954, c. 30, § 48.

§ 593. Textile piecework

The occupier or manager of every textile factory shall post in every room where any employees work by piece rate, in legible writing or printing, and in sufficient numbers to be easily accessible to such employees, specifications of the character of each kind of work to be done by them and the rate of compensation, whether paid by the pound or by the pick as registered by the pick clock on each loom. Such specifications in the case of weaving rooms shall state the intended and maximum length of a cut or piece, the count per inch of reed and the number of picks per inch, width of loom, width of cloth woven in the loom, and each warp shall bear a designating ticket or mark of identification. In mills operating looms engaged in the weaving of cloth or other textiles, where weavers are not paid on a per hour or day basis, pick clocks shall be placed on each loom in operation, and each weaver shall be paid according to the number of picks registered on said clock. This section shall not apply to so-called gang looms or the weaving of carpets or elastic webbing. Violation of any provision of this section shall for the first offense be punishable by a fine of not more than \$50; for the 2nd offense by a fine of not more than \$100; and for a subsequent offense by a fine of not more than \$200 or by imprisonment for not more than 30 days, or by both.

R.S.1954, c. 30, § 132.

SUBCHAPTER II

WAGES AND MEDIUM OF PAYMENT

Sec.

- 621. Time of payment.
- 622. Records.
- 623. Exemptions.
- 624. Penalties.
- 625. Notice of intention to quit.
- 626. Cessation of employment.
- 627. Assignment of wages.
- 628. Equal pay.
- 629. Unfair agreements.

§ 621. Time of payment

Every corporation, person or partnership engaged in a manufacturing, mechanical, mining, quarrying, mercantile, restaurant, hotel, summer camp, beauty parlor, amusement, telegraph or telephone business; in any of the building trades; in logging or lumbering operations; upon public works, or in the construction or repair of roads, bridges, sewers, gas, water or electric light works, pipes or lines; every incorporated express company or water company; and every steam railroad company or corporation shall pay weekly each employee engaged in his or its business the wages earned by him to within 8 days of the date of such payment; every county and city shall so pay every employee who is engaged in its business the wages or salary earned by him, unless such mechanic, workman, laborer or employee requests in writing to be paid in a different manner. Every town shall so pay each employee in its business if so required by him. An employee who is absent from his regular place of labor at a time fixed for payment shall be paid thereafter on demand.

R.S.1954, c. 30, § 50; 1957, c. 94, § 1; 1961, c. 395, § 20; c. 417, § 86.

§ 622. Records

A true record shall be kept showing the date and amount paid to each person engaged in any of the above occupations. There shall be kept a daily record of the time worked by such person, excepting such employees as are paid a fixed weekly salary regardless of the number of hours worked, the same to be accessible at any reasonable hour to any representative of the department. Nothing contained in sections 621 to 624 shall excuse any employer mentioned in section 702 from keeping the records required by said section 702.

R.S.1954, c. 30, § 50; 1955, c. 278.

§ 623. Exemptions

Sections 621 to 624 shall not apply to an employee of a cooperative corporation or association if he is a stockholder therein unless he requests such corporation to pay him weekly. The provision for weekly payment of wages shall not apply to an employee engaged in cutting and hauling logs and lumber, nor the driving of the same until it reaches its place of destination for sale or manufacture. No corporation, contractor, person or part-

nership shall by a special contract with an employee or by any other means exempt himself or itself from the provisions of sections 621 to 624. Whenever the terms of employment include provisions for paid vacations, vacation pay on cessation of employment shall have the same status as wages earned.

R.S.1954, c. 30, § 50; 1957, c. 94, § 2.

§ 624. Penalties

Whoever violates any of the provisions of sections 621 to 623 shall be punished by a fine of not less than \$25 nor more than \$50.

R.S.1954, c. 30, § 50.

§ 625. Notice of intention to quit

Any person, firm or corporation engaged in any manufacturing or mechanical business may contract with adult or minor employees to give one week's notice of intention on such employee's part to quit such employment under a penalty of forfeiture of one week's wages. In such case, the employer shall be required to give a like notice of intention to discharge the employee, and on failure, shall pay to such employee a sum equal to one week's wages. No such forfeiture shall be enforced when the leaving or discharge of the employee is for a reasonable cause. The enforcement of the penalty shall not prevent either party from recovering damages for a breach of the contract of hire.

R.S.1954, c. 30, § 51.

§ 626. Cessation of employment

Any employee, leaving his or her employment, shall be paid in full within a reasonable time after demand at the office of the employer where payrolls are kept and wages are paid. Whoever violates any of the provisions of this section shall be punished by a fine of not less than \$25 nor more than \$50.

1961, c. 95.

§ 627. Assignment of wages

No assignment of wages is valid against any other person than the parties thereto unless such assignment is recorded by the clerk in the town where the assignor is employed while earning such wages. If said assignor is employed in an unorganized place while earning such wages, said assignment to be valid

against any other person than the parties thereto shall be recorded in the office of the register of deeds for the registry district in which said unincorporated place is located. No such assignment of wages shall be valid against the employer unless he has actual notice thereof.

R.S.1954, c. 119, § 10.

§ 628. Equal pay

No employer shall employ any female in any occupation within this State for salary or wage rates less than the salary or wage rates paid by that employer to male employees for equal work. Nothing in this section shall prohibit a variation in salary or wage rates based upon a difference in seniority, experience, training, skill, ability or difference in duties or services performed, either regularly or occasionally, or difference in the shift or time of the day worked, or difference in availability for other operation or other reasonable differentiation except difference in sex. Any individual, association or corporation who violates this section shall be punished by a fine of not more than \$200.

R.S.1954, c. 30, § 52.

§ 629. Unfair agreements

No person, firm or corporation shall require or permit any person as a condition of securing or retaining employment to work without monetary compensation or when having an agreement, verbal, written or implied that a part of such compensation should be returned to the person, firm or corporation for any reason other than for the payment of a loan, debt or advance made to the person, or for the payment of any merchandise purchased from the employer or for sick or accident benefits, or life or group insurance premiums, excluding compensation insurance, which an employee has agreed to pay, or for rent, light or water expense of a company-owned house or building. This section shall not apply to work performed in agriculture or in or about a private home.

Any person, firm or corporation violating any of the provisions of this section shall be punished by a fine of not more than \$50 for each such offense.

R.S.1954, c. 30, § 53; 1959, c. 62.

SUBCHAPTER III

MINIMUM WAGES

Sec.

- 661. Declaration of policy.
- 662. Coverage.
- 663. Definitions.
- 664. Compliance required.
- 665. Powers and duties of commissioner.
- 666. Handicapped workers.
- 667. Apprentice.
- 668. Posting of summary.
- 669. Enforcement.
- 670. Employees' remedies.
- 671. Penalties.

§ 661. 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.

1959, c. 362.

§ 662. Coverage

Employers employing 4 employees or more in any day of the week are subject to this subchapter 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 663, subsection 3.

1961, c. 277, § 1.

§ 663. Definitions

Terms used in this subchapter shall be construed as follows, unless a different meaning is clearly apparent from the language or context:

1. Commissioner. "Commissioner," the Commissioner of Labor and Industry;

2. Employ. "Employ," to suffer or permit to work;

1961, c. 277, § 2.

3. Employee. "Employee," any individual employed or permitted to work by an employer but the following individuals shall be exempt from this subchapter except as provided in section 662:

A. Any individual employed in agriculture 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, not to include counter waiters or waitresses, or those whose tips are required to be divided with others; doorman or bell-hop, 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 employed as a taxicab driver;

E. 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;

F. Those employees who are counselors or junior counselors at summer camps for boys or girls; 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;

G. Any individual 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;

H. Any individual employed as a switchboard operator in a public telephone exchange which has less than 750 stations;

I. 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;

J. Members of the family of the employer who reside with and are dependent upon the employer;

K. Any individual employed in a bona fide executive, administrative, or professional capacity.

1961, c. 92; c. 277, § 3.

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

5. 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 includes the reasonable cost to the employer who furnishes such employee board, lodging or other services and benefits;

1961, c. 277, § 4.

6. 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. (1961, c. 277, § 5.)

1959, c. 362; 1961, c. 92; c. 277, §§ 2-5.

§ 664. Compliance required

By reason of the declaration of policy set forth in section 661 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 otherwise provided in this subchapter at the rate of less than \$1 per hour.

1959, c. 362; 1961, c. 277, § 6.

§ 665. Powers and duties of commissioner

1. Examination of records, books; copies. Every employer subject to this subchapter 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 664, shall have authority to enter the place of business or employment

of any employer or employees in the State, as defined in section 663, for the purpose of examining and inspecting such records; and copy any or all of such records as he or his authorized representative may deem necessary or appropriate. 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 this subchapter.

1961, c. 277, § 7.

2. Rules and regulations. The commissioner may make and promulgate from time to time such rules and regulations, not inconsistent with this subchapter, as he may deem appropriate or necessary for the proper administration and enforcement of this subchapter. Such rules and regulations affecting any particular class of employees and employers shall be made and promulgated only after a duly held public hearing with notice and opportunity to be heard to those employees and employers affected.

1959, c. 362; 1961, c. 277, § 7.

§ 666. Handicapped workers

For any employment in which the minimum wage is applicable, the commissioner may issue to any person physically handicapped by age, or otherwise, a special certificate authorizing the employment of such person for a period not to exceed one year at a wage less than the minimum wage established by this subchapter. The commissioner may hold such hearings and conduct such investigations as he shall deem necessary for the purpose of fixing the special minimum wage for the licensee. Such license may be renewed from time to time by the commissioner.

1959, c. 362.

§ 667. Apprentice

For any occupation within the scope of this subchapter, the commissioner may cause to be issued to an employer of any learner, or of an employee under an approved apprentice training program, a special certificate authorizing employment at such wages, less than the minimum wage established by this subchapter, and for such period of time as shall be fixed by the commissioner and stated in the certificate. The commissioner may

hold such hearings and conduct such investigations as he shall deem necessary before fixing a special wage for such apprentice or learner.

1959, c. 362.

§ 668. Posting of summary

Every employer subject to this subchapter shall keep a summary of this subchapter, furnished by the commissioner, without charge, posted in a conspicuous place, in or about the premises wherein any person subject to this subchapter is employed, or in a place accessible to his employees.

1959, c. 362.

§ 669. Enforcement

Whenever the commissioner has information that any employer is violating this subchapter, he shall notify such employer immediately by registered mail of such violation and order such employer to comply with this subchapter. If such employer fails or refuses to comply with this subchapter, the county attorney of the county where the violation occurs shall, upon notification by the commissioner or upon the sworn complaint of any other person, institute criminal action against such employer.

1959, c. 362.

§ 670. Employees' remedies

Any employer who continues in violation of any provision of section 664 after having received notice from the commissioner shall be liable to the employee or employees affected thereby for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of any employee or employees, in any action brought to recover unpaid wages under this subchapter, such judgment shall include, in addition to the unpaid wages adjudged to be due, an additional amount equal to such wages as liquidated damages, and costs of suit including a reasonable attorney's fee.

1959, c. 362.

§ 671. Penalties

Any employer who violates this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$200.

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 this subchapter, shall be punished by a fine of not less than \$50 nor more than \$200.

1959, c. 362; 1961, c. 277, § 8.

SUBCHAPTER IV

EMPLOYMENT OF WOMEN AND CHILDREN

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ARTICLE 1. PROVISIONS COMMON TO FEMALES AND MINORS

§ 701. Posting of notice of hours of labor

Every employer, except those otherwise designated, shall post and keep posted in a conspicuous place in every room in any establishment or place of occupation named in sections 731 and 733 in which females or male minors under 16 years of age are employed, except in any telephone exchange employing less than 3 female operators, a printed notice stating the number of hours such females or male minors are required or permitted to work on each day of the week, the hours of beginning and ending and the recess allowed for meals. Every employer engaged in furnishing public service or in any other kind of business in respect to which the department shall find that public necessity or convenience requires the employment of women or male minors by shifts during different periods or parts of the day shall post in a conspicuous place in every room in which such persons are employed, a printed notice stating separately the hours of employment for each shift or tour of duty, and the amount of time allowed for meals. The printed form of such notice shall be furnished by the commissioner.

The employment of any such female or male minor for a longer time in any day than that stated in the printed notice, or, in case the hours named in such notice are less than as provided in sections 731 and 733, the employment of any such female or male minor for a longer time in any day than as provided in sections 731 and 733 shall be deemed a violation of this section except in cases of emergency or extraordinary public requirement as provided in section 733, and in such cases no employment in excess of the hours authorized under this Title shall be considered as legalized until a written report of the day and hour of its occurrence and its duration is sent to the commissioner. Whenever the nature of the business makes it impracticable to fix the recess allowed for meals at the same time for all females or male minors employed, the commissioner may issue a permit dispensing with the posting of the hours when the recess allowed for meals begins and ends, and requiring only the posting of the total number of hours which females or male minors are required or permitted to work on each day of the week, and the hours of beginning and stopping such work. Such permit shall be kept by such employer upon such premises and exhibited to the commissioner,

his deputy or any authorized agent of the department who is authorized to enforce this Title.

R.S.1954, c. 30, § 37.

§ 702. Record of work hours of females and minors under 16

Every employer shall keep a time book or record for every female and every male minor under 16 years of age employed in any establishment or occupation named in sections 731 and 733, stating the number of hours worked by each female and each male minor under 16 years of age on each day of the week. Such time book or record shall be open at all reasonable hours to the inspection of the commissioner, his deputy or any authorized agent of the department. Any employer who fails to keep the record required by this section or makes any false entry therein, or refuses to exhibit such time book or record or makes any false statement to the commissioner, his deputy or any authorized agent of the department in reply to any question put in carrying out sections 701 to 737 shall be liable for a violation thereof.

R.S.1954, c. 30, § 38.

§ 703. Exemptions for perishable goods

Nothing in sections 701, 702, 731 to 734, 736, 737 and 778 shall apply to any manufacturing establishment or business, the materials and products of which are perishable and require immediate labor thereon to prevent decay thereof or damage thereto.

R.S.1954, c. 30, § 39.

ARTICLE 2. FEMALES

§ 731. Hours of employment for females; 9 hours a day

No female shall knowingly be employed or accept employment in any of one or more workshops, factories, manufacturing, mechanical or mercantile establishments, nursing homes, beauty parlors, hotels, commercial places of amusement, restaurants, retail establishments where frozen dairy products are manufactured on the premises, dairies, bakeries, laundries, including automatic laundries, dry cleaning establishments, telegraph offices, in any telephone exchange which has more than 750 stations or by any of one or more express or transportation companies in the State more than a total of 9 hours in any one day; except when a dif-

ferent apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week. In no case shall the hours of labor exceed a total of 10 hours in any one day or a total of 54 hours in any one week.

R.S.1954, c. 30, § 30; 1955, c. 348, § 1; 1957, c. 29; 1961, c. 135, § 3; c. 162, § 3; c. 417, § 84; 1963, c. 91, § 1.

§ 732. —Six and one-half hours continuous maximum

No female shall, except in cases of emergency or extraordinary public requirement as provided in section 733, be employed or permitted to work for more than 6½ hours at one time in any establishment or occupation named in sections 731 and 733 in which 3 or more such females are employed, without a consecutive 30-minute rest period, but this shall not apply to any telephone exchange where the operator during the night is not required to operate at the switchboard continuously but is able to sleep the major part of the night. The commissioner may permit a shorter time to be fixed for rest periods in any manufacturing establishment, if it is proved to his satisfaction that it is necessary by reason of the continuous nature of the processes or of special circumstances affecting such manufacturing establishment and that such shorter time for rest periods will not be injurious to the health of the females affected thereby. The permit shall be in writing and copies shall be posted in a conspicuous place in every room in which females affected thereby are employed.

R.S.1954, c. 30, § 36; 1959, c. 61.

§ 733. —Fifty-four hours a week

No female shall knowingly be employed or accept employment in any of one or more mercantile establishments, nursing homes, beauty parlors, hotels, commercial places of amusement, restaurants, retail establishments where frozen dairy products are manufactured on the premises, dairies, bakeries, laundries, including automatic laundries, dry cleaning establishments, telegraph offices, in any telephone exchange which has more than 750 stations or by any of one or more express or transportation companies in the State more than a total of 54 hours in any one week.

This section shall not apply between the 17th day of December and the 24th day of December and shall not apply during the 8 days prior to Easter Sunday to persons employed in millinery

shops or stores. In cases of emergency, in which there is danger to property, life, public safety or public health and in cases of extraordinary public requirement, sections 701 to 703, 731 to 734, 736 and 737 shall not apply to employers engaged in public service.

R.S.1954, c. 30, § 32; 1955, c. 348, § 3; 1961, c. 135, § 4; c. 162, § 4; c. 417, § 85; 1963, c. 91, § 2.

§ 734. —Fifty hours a week in certain places

No female shall knowingly be employed or accept employment as a production worker in any of one or more workshops, factories, manufacturing or mechanical establishments more than a total of 50 hours in any one week.

R.S.1954, c. 30, § 31; 1955, c. 348, § 2.

§ 735. Seats for female employees

The proprietor, manager or person having charge of any mercantile establishment, store, shop, hotel, restaurant or other place where women or girls are employed as clerks or help therein in this State shall provide chairs, stools or other contrivances for the comfortable use of such female employees for the preservation of their health and for rest when not actively employed in the discharge of their respective duties. Whoever violates any of the provisions of this section shall be punished by a fine of not less than \$10 nor more than \$100.

R.S.1954, c. 30, § 46.

§ 736. Application of provisions

Sections 701, 702, 731 to 734, 736 and 737 shall not apply to any female working in an executive, administrative, professional or supervisory capacity, or to any female employed as personal office assistant to any person working in an executive, administrative, professional or supervisory capacity and who receives remuneration on an annual salary basis of more than \$1,560, or to any female employed in offices of common carriers which are subject to the Federal Railway Labor Act.

A relaxation of the application of sections 731, 733 and 734 shall be made under the following conditions. Such relaxation shall be by written agreement between an employer and employee or her authorized representative, subject to the approval of such agreement by the commissioner, and the relaxation shall

be for not more than 15 days, singularly or consecutively, during the calendar year. The commissioner shall not approve such relaxation except on proof of necessity, extraordinary requirements or emergencies.

R.S.1954, c. 30, §§ 33, 34; 1957, c. 70.

§ 737. —War and other emergencies

During the emergency of war or any national emergency declared by the President of the United States, sections 701, 731 to 734, 736 and 737 shall not prohibit the employment in any manufacturing plant of any female up to 10 hours in any one day. On agreement between any employer and such employee or her authorized representative reported to the commissioner within 48 hours thereafter, any female may be employed in excess of 10 hours in any one day in any manufacturing plant unless and until such agreement is acted upon unfavorably by the commissioner, subject in any case to the limitation of 56 hours in any one week. The commissioner may approve any such agreement in case of necessity, extraordinary business requirement, danger to property or life or emergency involving the public peace, health or safety.

R.S.1954, c. 30, § 35.

§ 738. Penalty for employers

Any person who violates any of the provisions of sections 701, 702, 731 to 734, 736 and 737 shall be punished by a fine of not less than \$25 nor more than \$50, for the first offense; for the 2nd offense by a fine of not less than \$50 nor more than \$200; for a 3rd offense and for every subsequent offense by a fine of not less than \$250 nor more than \$500.

R.S.1954, c. 30, § 42.

ARTICLE 3. MINORS

§ 771. Minors under 15

No child under 14 years of age shall be employed, permitted or suffered to work in, about or in connection with any eating place, automatic laundries, retail establishment where frozen dairy products are manufactured on the premises, sporting or overnight camp or mercantile establishment, and no child between the ages of 14 and 16 years shall be so employed when the distance

between the work place and the home of the child, or any other factor, necessitates the child's remaining away from home overnight. Except as otherwise provided, no child under 15 years of age shall be employed, permitted or suffered to work at any business or service for hire, whatever, during the hours that the public schools of the town or city in which he resides are in session. This section shall not apply to any such child who is employed directly by, with or under the supervision of either or both of its parents; or to any such child employed in school lunch programs if limited to serving food and cleaning up dining rooms.

R.S.1954, c. 30, § 25; 1959, c. 273, § 2; 1961, c. 135, § 2; c. 162, § 2; c. 417, § 83; 1963, c. 422.

§ 772. Minors under 18

No minor under 18 years of age shall be employed in, about or in connection with any manufacturing or mechanical establishment, laundry, dry cleaning establishment or bakery in any capacity that the commissioner determines to be hazardous, dangerous to their lives or limbs, injurious to morals or where their health will be injured. This section shall not apply to minors in public and approved private schools wherein mechanical equipment is installed and operated primarily for purposes of instruction.

R.S.1954, c. 30, § 22.

§ 773. Minors under 16; prohibited in certain places

No minor under 16 years of age shall be employed, permitted or suffered to work in, about or in connection with any manufacturing or mechanical establishment, hotel, rooming house, laundry, except those commonly known as automatic laundries, dry cleaning establishments, bakery, bowling alley, poolroom, commercial places of amusement, including traveling shows and circuses, or in any theater or moving picture house. The provisions of this section pertaining to theaters shall not apply to minors under 16 years of age who are employed or in training as theatrical actors.

The provisions of this section pertaining to manufacturing establishments shall not apply to minors under 16 years of age who are employed in retail establishments where any frozen dairy product or frozen dairy product mix or related food product is manufactured on the premises, regardless of trade name or brand or coined name.

R.S.1954, c. 30, § 23; 1955, c. 335, § 1; 1961, c. 135, § 1; c. 162, § 1.

§ 774. —Hours of employment

No minor under 16 years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation for more than 8 hours in any one day, or for more than 48 hours in any one week, or for more than 6 consecutive days in any one week.

No minor under 16 years of age, enrolled in school, shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation for more than 4 hours on a school day, or for more than 28 hours in any one week, or for more than 6 consecutive days in any one week when the school is in session, except as provided.

No minor under 16 years of age shall be employed between the hours of 9 p. m. and 7 a. m.

Work performed in agriculture or any occupation that does not offer continuous, year-round employment shall be exempt from this section, provided a minor under 16 years of age has been excused by the local superintendent of schools in accordance with the policy established by the Commissioner of Education and the Commissioner of Labor and Industry.

R.S.1954, c. 30, § 24; 1959, c. 273, § 1.

§ 775. —Work permits

No minor under 16 years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation, subject to the prohibitions set forth in section 773, unless the person, firm or corporation employing such child procures and keeps on file accessible to any attendance officer, factory inspector or other authorized officer charged with the enforcement of this subchapter a work permit issued to such child by the superintendent of schools of the city or town in which the child resides, or by some person authorized by him in writing.

This section shall not apply to minors engaged in work performed in agriculture, household work or any occupation that does not offer continuous, year-round employment.

The person authorized to issue a work permit shall not issue such permit until such child has furnished such issuing officer a certificate signed by the principal of the school last attended showing that the child can read and write correctly simple sentences in the English language and that he has satisfactorily completed the studies covered in the grades of the elementary public schools or their equivalent; in case such certificate cannot be obtained,

then the officer issuing the work permit shall examine such child to determine whether he can meet the educational standard specified and shall file in his office a statement setting forth the result of such examination; nor until he has received, examined, approved and filed satisfactory evidence of age. Such evidence shall consist of a certified copy of the town clerk's record of the birth of such child, or a certified copy of his baptismal record, showing the date of his birth and place of baptism or a passport showing the date of birth. In the event of the minor being unable to produce the evidence mentioned, and the person authorized to issue the work permit being satisfied of that fact, the said work permit may be issued on other documentary evidence of age satisfactory to the person authorized to issue the work permit, provided such documentary evidence has been approved by the commissioner. The superintendent of schools, or the person authorized to issue such work permit may require, in doubtful cases, a certificate signed by a physician appointed by the school board, stating that such child has been examined by him and, in his opinion, has reached the normal development of a child of its age and is in sufficiently sound health and physically able to perform the work which he intends to do. A child between the ages of 15 and 16 years who, because of subnormal mental capacity, is unable to successfully pass the tests necessary to allow a regular work permit to be issued may, under conditions deemed proper, receive a work permit issued jointly by the Commissioner of Education and the Commissioner of Labor and Industry, such persons to be employed in nonhazardous occupations. The state factory inspector, his deputy or agent may require a similar certificate in doubtful cases of the minors employed under a work permit. No person shall issue such permit to any minor then in or about to enter his employment or the employment of the firm or corporation of which he is a member, stockholder, officer or employee.

R.S.1954, c. 30, § 26.

§ 776. —Part-time and vacation work

Part-time and vacation permits shall be issued by the local superintendent of schools, or by some person authorized by him in writing, to minors under 16 years of age for the same occupations and on satisfaction of the same requirements, with the exception of the educational qualifications, as for the regular work permits provided for in section 775 and shall entitle their holders to work in those occupations during hours when school is not in

session and during the summer school vacation. They shall be known as part-time and vacation permits, shall be of different color from the work permits and shall be issued only for work permissible for minors under 16 years of age under sections 771 to 774.

R.S.1954, c. 30, § 27; 1963, c. 132, § 2.

§ 777. Blanks furnished; filing of duplicate permits; surrender and cancellation of permits

The blank work permit and other papers required by sections 775 and 776 shall be formulated by the commissioner and furnished by him to the persons authorized to issue work permits. The forms of such permits and other papers shall be approved by the Attorney General. Every work permit and every vacation permit shall be made out in duplicate. All duplicates, accompanied by the original papers on which such permits were issued, shall be forwarded to the department by the officer issuing same, within 24 hours of the time that said permit was issued. Said department shall examine such papers and promptly return them to the officer who sent them. Such officer may thereupon return to the minor all papers with him filed in proof of age. Whenever there is reason to believe that a work permit was improperly issued, the commissioner, his deputy or agent shall notify the local superintendent of schools of the place in which such certificate was issued. The local superintendent shall cancel such permit when directed to do so by the commissioner.

R.S.1954, c. 30, § 28; 1959, c. 106.

§ 778. Blank employment certificates prepared; notice when employment terminated

Employment certificates, to be formulated by the commissioner, approved by the Attorney General and supplied by the department, shall be prepared by the employer of such child and mailed within 24 hours to the office of the commissioner to be kept on file by him. When such child leaves such employment, the employer shall return to the child the work permit by him filed, and immediately notify the commissioner that such child has left his employ.

R.S.1954, c. 30, § 29.

§ 779. Record of age received as evidence

Any record of age, as provided under section 775 to determine whether or not a work permit may be issued to any child,

shall be received as evidence of the age of such child in any prosecution under this subchapter.

R.S.1954, c. 30, § 40.

§ 780. Work permit conclusive for employer; documentary evidence of age

A work permit in regular form signed by a duly authorized officer, for all minors under 16 years of age, shall be conclusive evidence of age and educational attainment, in behalf of the employer of any child, upon any prosecution for violation of the law relating to the employment of children. An inspector of factories, attendance officer or other officer charged with the enforcement of this subchapter may make demand on any employer in or about whose place or establishment a minor apparently under the age of 16 years is employed, permitted or suffered to work, that such employer shall either furnish him within 10 days documentary evidence of age as specified in section 775, or shall cease to employ, permit or suffer such child to work in such place or establishment.

R.S.1954, c. 30, § 41.

§ 781. Penalties; employers

Any person, firm or corporation, agent or manager of any firm or corporation, who, either for himself or for some firm or corporation, or by himself, or through his agents, servants or foremen, employs, permits or suffers any child to be employed, or to work in violation of any of the provisions of sections 771 to 780, or otherwise fails to comply with any of the provisions of said sections, shall be punished by a fine of not less than \$25 nor more than \$200.

R.S.1954, c. 30, § 42; 1955, c. 335, § 2.

§ 782. —Parent, guardian or custodian

Whoever, having any child under his control as parent, guardian, custodian or otherwise, permits or suffers such child to be employed or to work in violation of any of the provisions of this subchapter, or whoever presents, or permits or allows any child under his control to present, to any employer, owner or superintendent, overseer or agent as required under section 775 any work permit containing any false statement as to the date of

birth or age of such child, knowing it to be false, shall be punished by a fine of not less than \$10 nor more than \$50, for each offense.

R.S.1954, c. 30, § 43.

§ 783. —Failure to perform duties of office

Whoever, being authorized to issue a work permit, knowingly fails to perform the duties of his office as required by this subchapter shall be punished by a fine of not less than \$25 nor more than \$50, for each offense.

R.S.1954, c. 30, § 44.

§ 784. —Certification of false statements

Whoever, being authorized to sign the work permit, or whoever, signing any certified copy of a town clerk's record of birth, or certified copy of a child's baptismal record or a physician's certificate, knowingly certifies to any false statement therein shall be punished by a fine of not less than \$25 nor more than \$50, for each offense.

R.S.1954, c. 30, § 45.

SUBCHAPTER V

LEAVE FOR RESERVE TRAINING

Sec.

- 811. Preservation of status.
- 812. Right to benefits retained.
- 813. Remedies.

§ 811. Preservation of status

Any member of an organized unit or control group of the ready reserve of the armed forces, who, in order to receive military training with the Armed Forces of the United States not exceeding 17 days in any one calendar year, leaves a position other than a temporary position in the employ of any employer, and who shall give notice to his employer of the date of departure and date of return for the purposes of military training, and of the satisfactory completion of such training immediately thereafter, and who is still qualified to perform the duties of such position, shall be entitled to be restored to his previous, or a similar, position with the same status, pay and seniority, and such period of absence for military training shall be construed as an absence.

with leave and, within the discretion of the employer, said leave may be with or without pay.

1957, c. 205.

§ 812. Right to benefits retained

Such absence for military training shall not affect the employee's right to receive normal vacation, sick leave, bonus, advancement and other advantages of his employment normally to be anticipated in his particular position.

1957, c. 205.

§ 813. Remedies

If any employer fails to comply with any of the provisions of sections 811 and 812, the employee may, at his election, bring a civil action for damages for such noncompliance or apply to the courts for such equitable relief as may be just and proper under the circumstances.

1957, c. 205; 1961, c. 317, § 60.

SUBCHAPTER VI

EMPLOYEE TRUSTS

Sec.

841. Not subject to rule against perpetuities.

§ 841. Not subject to rule against perpetuities

A trust of real or personal property, or real and personal property combined, created by an employer as part of a stock bonus, pension, disability, death benefit or profit sharing plan for the benefit of some or all of his employees, to which contributions are made by the employer or employees, or both, for the purpose of distributing to the employees the earnings or the principal, or both earnings and principal, of the fund held in trust, may continue in perpetuity or for such time as may be necessary to accomplish the purpose for which it is created, and shall not be invalid as violating any rule of law against perpetuities or suspension of the power of alienation of the title to property.

No rule of law against perpetuities or suspension of the power of alienation of the title to property shall operate to invalidate any trust created or attempted to be created, prior to August 20, 1951, by an employer as a part of a stock bonus, pension, disability, death benefit or profit sharing plan for the benefit of some or all of his employees to which contributions are made by the employer or employees, or both, for the purpose of distributing to the employees earnings or principal, or both earnings and principal, of the fund held in trust, unless the trust is terminated by a court of competent jurisdiction in a civil action instituted within 3 years after August 20, 1951.

R.S.1954, c. 160, § 22; 1961, c. 317, § 523.