

Sec. 83. STATE; CONVEYANCE OF CERTAIN REAL PROPERTY. Subdivision 1. The commissioner of taxation shall convey and quit claim to Clarence R. Berthiaume, in such form as may be prescribed by the attorney general and for the consideration of \$40, the lands described in subdivision 2, such conveyance to be made without recourse.

Subd. 2. The lands to be conveyed pursuant to subdivision 1, being situated in the state of Minnesota, county of Hennepin, are further described as follows: the westerly four (4) feet of Lot 5, Block 2, in the village of Loretto.

Subd. 3. The provisions of this section shall take effect on the day following final enactment.

Sec. 84. There is hereby appropriated to the commissioner of natural resources the sum of \$1,658,000 from the game and fish fund for the remodeling and reconstruction of the French river and Lanesboro hatchery facilities. The department is authorized and directed to negotiate with the federal government, or any agency, bureau, or department thereof, for the purpose of securing or obtaining any grants of assistance in the completion of those projects. The department is authorized to implement a commissioner's order for a two dollar additional fee or license surcharge to take lake trout, brook trout, salmon, and other trout from the public waters of the state. This appropriation shall be available until expended or the projects are completed or abandoned. Any and all revenues which may be raised by the license surcharge herein authorized, shall be deposited to the game and fish fund.

Sec. 85. [190.081] PERSONNEL ASSIGNED TO ARMORIES, CLASSIFICATION. Notwithstanding the provisions of any other law to the contrary, all personnel employed by the adjutant general and assigned to an armory shall be in the unclassified service.

Approved May 24, 1973.

CHAPTER 721—H.F.No.9

[Coded]

An act relating to labor; creating a division of labor standards; providing for minimum wage and overtime standards; providing penalties for violations; repealing Minnesota Statutes 1971, Sections 175.38; 175.39; and 177.01 to 177.20.

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [177.21] **LABOR; MINIMUM WAGES; CITATION; FAIR LABOR STANDARDS ACT.** This act may be cited as the Minnesota fair labor standards act.

Sec. 2. [177.22] **STATEMENT OF POLICY.** It is declared to be the policy of the Minnesota fair labor standards act (1) to establish minimum wage and overtime compensation standards for workers at levels consistent with their health, efficiency, and general well-being; (2) to safeguard existing minimum wage and overtime compensation standards which are adequate to maintain the health, efficiency, and general well-being of workers against the unfair competition of wage and hour standards which do not provide such adequate standards of living; and (3) to sustain purchasing power and increase employment opportunities.

Sec. 3. [177.23] **DEFINITIONS.** Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this act, shall have the meanings given to them in this section.

Subd. 2. "Department" means the Minnesota department of labor and industry.

Subd. 3. "Commissioner" means the commissioner of labor and industry of Minnesota or his authorized designee.

Subd. 4. "Wage" means compensation due to an employee by reason of his employment, payable in legal tender of the United States or check on banks convertible into cash on demand at full face value, subject to such allowances as may be permitted by regulations of the department under section 8.

Subd. 5. "Employ" means to suffer or permit to work.

Subd. 6. "Employer" means any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

Subd. 7. "Employee" means any individual employed by an employer but shall not include

(1) any individual employed in agriculture on a farming unit or operation employing less than the equivalent of two full time workers and on any given day employing no more than four employees. For the purpose of this clause, equivalent of a full time worker means 40 weeks of employment in a calendar year;

(2) an individual who has not attained the age of 18 who is employed in agriculture on a farm;

Changes or additions indicated by underline, deletions by ~~strikeout~~.

(3) any individual employed as a counselor to work with programs and campers in an organized resident or day camp;

(4) any individual employed in a bona fide executive, administrative, or professional capacity, or a salesman who conducts no more than 20 percent of his sales on the premises of the employer, as such terms are defined and delimited by regulations of the department;

(5) any individual who renders service gratuitously for a nonprofit organization as such terms are defined by regulations of the department;

(6) any individual who serves as an elected official for a political subdivision or who serves on any governmental board, commission, committee or other similar body, or who renders service gratuitously for a political subdivision;

(7) any individual employed by a political subdivision to provide police or fire protection services or who is employed by an entity whose principal purpose is to provide police or fire protection services to a political subdivision;

(8) any individual employed by a political subdivision who is ineligible for membership in the public employees retirement association by reason of the provisions of Minnesota Statutes, Section 353.01, Subdivision 2, Paragraph (2), Clauses (a), (b), (d), and (h);

(9) any driver employed by an employer engaged in the business of operating taxicabs;

(10) any individual engaged in babysitting as a sole practitioner;

(11) any individual employed on a part-time basis in a carnival, circus or fair;

(12) any individual under the age of 18 employed part-time by a municipality as part of a recreational program.

Subd. 8. "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed.

Subd. 9. "Gratuities" means voluntary monetary contributions received by an employee from a guest, patron, or customer for services rendered.

Sec. 4. [177.24] **PAYMENT OF MINIMUM WAGES.** Except as may otherwise be provided in this act, or by regulation issued pursuant thereto, every employer shall pay to each of his employees wages at a rate of not less than \$1.80 an hour.

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Sec. 5. [177.25] **OVERTIME.** Subdivision 1. No employer shall employ any of his employees for a workweek longer than 48 hours, unless such employee receives compensation for his employment in excess of 48 hours in a workweek at a rate of not less than one and one-half times the regular rate at which he is employed; provided, however, that an employer if it is the state of Minnesota or a political subdivision may grant time off at the rate of one and one half hours for each hour worked in excess of 48 hours in any week in lieu of monetary compensation; and, provided, however, that no employer shall be deemed to have violated the overtime pay provisions of this section by employing any employees for a workweek in excess of that specified in this section without paying the compensation for overtime employment prescribed herein if such employee is so employed under an agreement meeting the requirement of section 7 (b)(2) of the Fair Labor Standards Act of 1938, as amended.

Subd. 2. No employer engaged in the operation of a health care facility shall be deemed to have violated subdivision 1 if pursuant to an agreement or understanding arrived at between the employer and employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the work-week of 7 consecutive days for the purpose of overtime compensation and if for his employment in excess of 8 hours in any work day and in excess of 80 hours in such 14 day period the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed.

Subd. 3. The provisions of subdivision 1 shall not apply with respect to any salesman, parts man, or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, or farm implements and paid on a commission or incentive basis, if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers.

Sec. 6. [177.26] **DIVISION OF LABOR STANDARDS.** Subdivision 1. **CREATION.** A division of labor standards is hereby created in the department of labor and industry under the supervision and control of the commissioner of labor and industry.

Subd. 2. **POWERS AND DUTIES.** The powers, duties, and functions vested in, or imposed upon, the division of women and children of the department of labor and industry by Minnesota Statutes, Chapter 177, and other applicable laws relating to wages, hours, and working conditions, are transferred, vested in, and imposed upon the division of labor standards. In addition, the division of labor standards shall administer the provisions of this act and chapter 184.

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **EMPLOYEES; TRANSFER FROM DIVISION OF WOMEN AND CHILDREN.** All persons employed by the department of labor and industry in the division of women and children shall be transferred to the division of labor standards without loss to the person of any rights acquired by reason of his employment at the time of transfer.

Sec. 7. **[177.27] POWERS AND DUTIES OF THE COMMISSIONER.** Subdivision 1. The commissioner or his authorized representative may enter during reasonable office hours or upon request and inspect the place of business or employment of any employer of employees in any occupation in the state, 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; transcribe 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 for the purpose of ascertaining whether the provisions of this act and the regulations issued pursuant thereto have been and are being complied with.

Subd. 2. The commissioner or his authorized representative may require from any employer of employees in any occupation in the state full and correct statements in writing, including sworn statements, with respect to wages, hours, name, addresses, and such other information pertaining to his employees and their employment as the commissioner or his authorized representative may deem necessary or appropriate.

Subd. 3. The commissioner or his authorized representative may issue any order requiring an employer to comply with the provisions of this act or with any regulation promulgated under the provisions of section 8. Any order shall be served by the department upon the employer or his authorized representative in person or by certified mail at the employer's place of business. If an employer wishes to contest the order for any reason, he shall file written notice of his objection to the order with the commissioner within 10 days after service of said order upon said employer. Thereafter, a public hearing shall be held in accordance with the provisions of Minnesota Statutes, Sections 15.0418 to 15.0426, and such regulations consistent therewith as the commissioner may make.

Subd. 4. The commissioner may investigate, mediate, and settle wage claims by an employee against an employer if the failure to pay any such wage may violate Minnesota laws or any order or regulation of the department thereunder.

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Subd. 5. The commissioner may commence a civil action in any court of competent jurisdiction for the benefit of any employee for appropriate relief with respect to any wage claim which the commissioner deems to be valid, upon a written request being filed with the commissioner by such employee, provided: (1) the failure to pay such wage would constitute a violation of Minnesota laws or any order or regulation of the department thereunder, and (2) the wage claim does not exceed \$300. The employer shall pay all costs and disbursements as may be allowed by the court, and shall further pay an assessment of ten percent of the amount of any awarded wage claim to the treasurer of the state of Minnesota. In any action herein no security for payment of costs shall be required. Nothing herein shall be construed to prevent an employee from prosecuting his own claim for wages.

Subd. 6. Upon the written request of the commissioner, the attorney general of the state of Minnesota shall commence a civil action for appropriate relief against the employer as provided in subdivision 5.

Sec. 8. [177.28] POWER TO MAKE REGULATIONS. Subdivision 1. The commissioner shall make and revise such regulations, including definitions of terms, as he shall deem appropriate to carry out the purposes of this act, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage and overtime rates established by sections 4 and 5.

Subd. 2. The commissioner shall appoint an advisory committee composed of an equal number of not more than three representatives each of employers and employees and of not more than three disinterested persons representing the public, which he shall consult concerning the making and revising of administrative regulations.

Subd. 3. The commissioner shall establish regulations which define and govern this act with respect to, salesmen who conduct no more than 20 percent of their sales on the premises of the employer; allowances as part of the wage rates for board, lodging and other facilities or services furnished by the employer and used by the employees. Regulations issued by the department pursuant to this section shall include, but are not limited to, bonuses; special rates for employees under the age of 18, which rate shall not be more than 90 percent of the minimum wage established in section 4; part-time rates; special pay for special or extra work; procedures in contested cases; other facilities or services furnished by employers and used by employees; and other special items usual in a particular employer-employee relationship. Regulations required by this subdivision shall be established by November 1, 1973.

Subd. 4. An employee who receives \$20 or more per month in gratuities is a tipped employee. His employer is entitled to a credit

Changes or additions indicated by underline, deletions by ~~strikeout~~.

in an amount up to 25 percent of the minimum wage which a tipped employee receives. Said credit against the wages due for gratuities received by a tipped employee may not be taken unless a signed statement from each tipped employee states that he did receive during the pay period an amount equal to or greater than the credit applied against the wages due by his employer. Such statements shall be maintained by the employer as a part of his business records.

Subd. 5. In order to prevent curtailment of opportunities for employment, avoid undue hardship, and safeguard the minimum wage rates under sections 4 and 5, the department shall also issue regulations providing for the employment of handicapped workers at wages lower than the wage rates applicable under sections 4 and 5, under permits and for such periods of time as specified therein; and providing for the employment of learners and apprentices at wages lower than the wage rates applicable under sections 4 and 5, under permits and subject to such limitations on number, proportion, length of learning period, occupations, and other conditions as the department may prescribe. The regulations issued by the department shall provide that where a handicapped person is now performing or is being considered for employment where he will perform work which is equal to work performed by a non-handicapped person, such handicapped person shall be paid the same wage as a non-handicapped person with similar experience and skill.

Subd. 6. Regulations shall be adopted by the department only after a public hearing held upon due publication of notice, at which any interested person may be heard and of which a record shall be made. Regulations shall be published by the department and shall take effect upon publication and filing with the secretary of state and the department of administration. Such regulations shall have the force and effect of law upon filing as provided herein.

Sec. 9. [177.29] **JUDICIAL REVIEW.** Subdivision 1. Any person who may be aggrieved by any administrative regulation issued pursuant to section 8 may obtain a review thereof in the district court for Ramsey county, by filing in such court a written petition for declaratory judgment praying that the regulation be modified or set aside. A copy of such petition shall be served upon the department. The department's findings of fact, if any, shall be conclusive upon the court if supported by substantial evidence. The court shall determine whether the regulation is in accordance with law.

If the court determines that such regulation is not in accordance with law, it shall remand the case to the department with directions to modify or revoke such regulation. If application is made to the court by any aggrieved party for leave to adduce

Changes or additions indicated by underline, deletions by ~~strikeout~~.

additional evidence, such party shall show to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for the failure to adduce such evidence before the department. If the court finds that such evidence is material and that reasonable grounds exist for the failure of the aggrieved party to adduce such evidence in prior proceedings, the court may remand the case to the department with directions that such additional evidence be taken by the department. The department may modify its findings and conclusions, in whole or in part, by reason of such additional evidence.

Subd. 2. Hearings in the district court on all appeals taken under subdivision 1 shall be privileged and take precedence over all matters, except matters of the same character. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final except that the same shall be subject to review on appeal to the supreme court.

Subd. 3. The commencement of proceedings under subdivision 1 shall not, unless specifically ordered by the court, operate as a stay of an administrative regulation issued pursuant to section 8. The court shall not grant any stay of an administrative regulation unless the person complaining of such regulation shall file in the court an undertaking with a surety or sureties satisfactory to the court for the payment to the employees affected by the regulation, in the event such regulation is affirmed, of the amount by which the compensation such employees are entitled to receive under the regulation exceeds the compensation they actually receive while such stay is in effect.

Sec. 10. [177.30] **KEEPING RECORDS.** Every employer subject to any provision of this act or of any regulation issued pursuant thereto shall make and keep, for a period of not less than three years in or about the premises wherein any employee is employed, a record of the name, address and occupation of each of his employees, the rate of pay, and the amount paid each pay period to each such employee, the hours worked each day and each workweek by such employee, and such other information as the department shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this act or of the regulations issued pursuant thereto.

Sec. 11. [177.31] **POSTING OF LAW AND REGULATIONS.** Every employer subject to any provision of this act shall keep a summary thereof, approved by the department, and copies of any applicable regulations issued pursuant thereto, or a summary of such regulations, posted in a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed. The department shall furnish copies of such summaries and regulations to employers without charge.

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Sec. 12. [177.32] **PENALTIES.** Subdivision 1. Any employer who hinders or delays the department or its authorized representative in the performance of its duties under this act or refuses to admit the commissioner or his authorized representative to any place of employment as required by section 7, subdivision 1; or fails to make, keep, and preserve records as required by section 10; or falsifies any such record; or refuses to make any such record accessible, or to furnish a sworn statement of such record or any other information as required by section 7; or fails to post a summary of this act or a copy of any applicable regulation as required by section 11; or pays or agrees to pay wages at a rate less than the rate applicable under or pursuant to this act; or otherwise violates any provision of this act or of any regulation issued pursuant thereto; is guilty of a misdemeanor.

Subd. 2. Any employer who discharges or in any other manner discriminates against any employee because such employee has complained to his employer, to the department, or to an authorized representative of the department that he has not been paid wages in accordance with this act or regulations issued pursuant thereto or because such employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this act, or because such employee has testified or is about to testify in any such proceeding shall, upon conviction therefor, be fined not less than \$500 nor more than \$1000.

Sec. 13. [177.33] **EMPLOYEES' REMEDIES.** Any employer who pays any employee less than the wages and overtime compensation to which such employee is entitled under this act and regulations issued pursuant thereto shall be liable to such employee for the full amount of such wages and overtime compensation, less any amount actually paid to such employee by the employer, for an additional equal amount as liquidated damages, and for costs and such reasonable attorney's fees as may be allowed by the court. Any agreement between such employee and the employer to work for less than the applicable wage rate shall be no defense to such action. Such action may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves.

Sec. 14. [177.34] **RELATION TO OTHER LAWS.** Any standards relating to minimum wages, maximum hours, overtime compensation, or other working conditions in effect under any other law of this state on the effective date of this act which are more favorable to employees than those applicable hereunder shall not be deemed to be amended, rescinded, or otherwise affected by this act but shall continue in full force and effect until they are specifically superseded by standards more favorable to such employees by operation of or in accordance with this act or regulations issued pursuant thereto.

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Sec. 15. [177.35] **RIGHT OF COLLECTIVE BARGAINING.** Nothing in this act shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work more favorable to the employees than those required by this act and regulations issued pursuant thereto.

Sec. 16. Minnesota Statutes 1971, Sections 175.38, 175.39, 177.01, 177.02, 177.03, 177.04, 177.05, 177.06, 177.07, 177.075, 177.08, 177.09, 177.10, 177.11, 177.12, 177.121, 177.122, 177.13, 177.14, 177.15, 177.16, 177.17, 177.19, and 177.20, are repealed.

Sec. 17. **EFFECTIVE DATE.** This act shall become effective January 1, 1974.

Approved May 24, 1973.

CHAPTER 722—H.F.No.23

[Coded]

An act relating to pharmacists; restricting the content of such advertisements and requiring certain disclosure of prices; amending Minnesota Statutes 1971, Section 151.06, by adding a subdivision.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Chapter 151, is amended by adding a section to read:

[151.061] PHARMACISTS; UNFAIR PRICE DISCRIMINATION. Subdivision 1. Any person doing business in this state and engaged in the distribution (other than at retail) of any prescription drugs, who shall discriminate between purchasers by selling prescription drugs at a lower price or rate to one purchaser or association of purchasers than offered to another purchaser or association of purchasers within this state (other than at retail) after making allowance for the difference, if any, in the grade, quality, or quantity, and after equalizing the distance from the point of distribution and freight costs therefrom, shall be guilty of unfair discrimination. Unfair discrimination occurs when quantity discounts are not reasonably based on actual cost savings to all like purchasers. Unfair discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature which in substance violates the provisions of this subdivision.

Changes or additions indicated by underline, deletions by ~~strikeout~~.