1940 Supplement

To

Mason's Minnesota Statutes 1927

(1927 to 1940)

(Superseding Mason's 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

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4081-80. County may assume bonds.—Any county wherein any such project or portion thereof is located, may voluntarily assume in the manner hereinafter specified the obligation to pay that portion of the principal and interest of the bonds issued before the occurrence and acceptance of such project, of lands then acquired by the state pursuant to this Act in such school districts or townships bears to the total assessed valuation for the same year of such school district or township. Such assumption shall be evidenced by a resolution of the county board of said county, a copy of which shall be certified to the state auditor within one year after the acceptance of such project; and thereafter, if any of such bonds shall remain unpaid at maturity the county board shall upon demand of the governing body of such school district or township of the holder of any such bond provide for the payment of the portion thereof so assumed, and such county shall levy general taxes on all the taxable property of the county therefor, or shall issue its bonds to raise such sums as may be needed, conforming to the provisions of law respecting the issuance of county refunding bonds. The proceeds of such taxes or bonds shall be paid over by the county treasurer to the treasurer of the school district or township; provided, however, that no such payments shall be made by the county treasurer to such school district or township until such time as the moneys in the treasury of such school district or township together with the moneys so to be paid by said county may be sufficient to pay in full each of said bonds as each may become due.

In the event that any such county shall fail or neglect to adopt and certify said resolution, the state auditor shall withhold from the payments to be made to such county under the provisions of Section 3 of this Act, a sum equal to that portion of the principal and interest of such outstanding bonds which bears the same proportion to the whole thereof as the above determined assessed valuation of lands acquired by the state within such project bears to the total assessed valuation for the same year of such school district or township. Moneys so withheld from the county shall be set aside in the State Fund, which said fund is hereby created.

In the event that any such bonds remain unpaid at maturity, upon the demand of the governing body of such school district or township of the holder of any such bond, the state auditor shall issue to the Treasurer of the county the same amount as was paid to the county therefor, or shall issue its bonds to raise such sums as may be needed, conforming to the provisions of law respecting the issuance of county refunding bonds. The proceeds of such taxes or bonds shall be paid to the county treasurer to the treasurer of the school district or township; provided, however, that no such payments shall be made by the county treasurer to such school district or township until such time as the moneys in the treasury of such school district or township together with the moneys so to be paid by said county may be sufficient to pay in full each of said bonds as each may become due.

In the event that any such bonds remain unpaid at maturity, upon the demand of the governing body of such school district or township of the holder of any such bond, the state auditor shall issue to the Treasurer of the school district or township a warrant on the State Treasurer for that portion of such past due principal and interest computed as in the case of the county's liability hereinbefore authorized to be voluntarily assumed. All moneys received by any school district or township pursuant to this section shall be applied to the payment of such past due bonds and interest. (Act Apr. 22, 1933, c. 402, §13.)

4081-87. Violation of rules a misdemeanor.—Any person violating any rule or regulation of any such project shall willfully violate or fail to comply with any rule or regulation of the Department of Conservation adopted and promulgated in accordance with the provisions of this Act shall be deemed guilty of a misdemeanor. (Act Apr. 22, 1933, c. 402, §13.)

4081-88. Provisions separable.—This Act shall be held unconstitutional only in the event that some major provisions of the Act are found unconstitutional and invalid that would make the Act unworkable. If any minor provisions of this Act are held unconstitutional it shall in no way affect or invalidate any other provision or part thereof; and this Act shall be deemed workable if Section 5 thereof is constitutional. (Act Apr. 22, 1933, c. 402, §14.)

PUBLIC ASSISTANCE IN TREE PLANTING

4031-80. Assistance in tree planting.—The Agricultural Extension Department of the University of Minnesota is hereby authorized and directed to cooperate with the Secretary of Agriculture of the United States in providing assistance in tree planting to owners of land by the procurement of forest tree planting stock, not including fruit or ornamental trees, shrubs or plants, and in the distribution to planters of such forest tree planting stock at cost, plus transportation and administrative charges. Bonds only, as such planting stock so distributed shall be used for the purpose of establishing windbreaks, shelterbelts and farm woodlots upon denuded or nonforested lands and for protecting farm buildings, crops, and fields from wind erosion, and for furnishing forest cover beneficial to water conservation and bird life. (Act Apr. 21, 1939, c. 385, §1.)

4031-90. Number of trees.—Not less than 1000 trees shall be sold for an individual planting; no trees may be resold by the succeeding purchasers. The term "forest planting stock" shall be considered to mean one or two year old seedling stock of deciduous trees and 2-2 or 3-2 coniferous trees customarily used for the purposes mentioned above, and such other specifications as may be necessary to ensure successful growth. (Act Apr. 21, 1939, c. 385, §2.)

4031-91. Home grown trees given preference.—In all purchases of forest planting stock under the provisions of this Act, preference shall be given to trees grown in this state by duly inspected Minnesota nurseries, and such purchases shall be paid for out of the fund hereinafter created and accruals thereon, from sale of trees purchased. If suitable stock for this purpose cannot be obtained from Minnesota nurseries, it will be permissible to secure such nursery stock from nurseries outside this state. All funds received from the sale of trees purchased in the State Tree Fund, which said fund is hereby created. (Act Apr. 21, 1939, c. 385, §3.)

4031-92. Appropriation.—The sum of $2,500 for the fiscal year ending June 30, 1940, and the sum of $2,500 for the fiscal year ending June 30, 1941, is hereby appropriated for the payment of the expenses for the carrying out the provisions of this Act. Such funds, together with any funds received from the United States Government for tree planting aid, under the Clark-McNary Act or other acts, shall be placed in the State Tree Fund and shall be expended only as herein previously stated under the direction of the Extension Department of the University of Minnesota. (Act Apr. 21, 1939, c. 385, §4.)

4031-93. Secretary—Salary—Duties. (Act Apr. 21, 1939, c. 385, §5.)

4031-94. Time for reporting. (Act Apr. 21, 1939, c. 385, §6.)

4031-89. Assistance in tree planting.—The Agricultural Extension Department of the University of Minnesota is hereby authorized and directed to cooperate with the Secretary of Agriculture of the United States in providing assistance in tree planting to owners of land by the procurement of forest tree planting stock, not including fruit or ornamental trees, shrubs or plants, and in the distribution to planters of such forest tree planting stock at cost, plus transportation and administrative charges. Bonds only, as such planting stock so distributed shall be used for the purpose of establishing windbreaks, shelterbelts and farm woodlots upon denuded or nonforested lands and for protecting farm buildings, crops, and fields from wind erosion, and for furnishing forest cover beneficial to water conservation and bird life. (Act Apr. 21, 1939, c. 385, §1.)

CHAPTER 23

Department of Labor and Industries

INDUSTRIAL COMMISSION

4039. Hours public sessions—Proceedings. Any person having an interest present or prospective is entitled to inspect and make copies of orders, notices or reports of the Commissioner or his agents. (Act Apr. 21, 1939, c. 385, §7.)

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4041-1. Certain Industrial Commission records may be destroyed.—The Secretary of the Industrial Commission of the Department of Labor and Industry of the State of Minnesota hereby is authorized, with the consent and approval of the three commissioners composing the Industrial Commission, to destroy the following files and records of said commission at the times and under the conditions herein specified:

1. All files, records and correspondence in the office of the Industrial Commission, covering the period prior to June 1, 1921.

2. All files and records of said commission subsequent thereto, covering the period of one year on June first of each succeeding year. (Act Apr. 8, 1939, c. 149.)


Industrial commission has power without restriction or condition to employ or exhibit any child under fourteen (14) years of age in any business or service whatever, during any time, in or in connection with any factory, mill or workshop, or in any mine; or in the construction of any building, or about any engineering work; it shall be unlawful for any person, firm or corporation, to employ or exhibit a child under fourteen (14) years of age in any business or service whatever, during any part of the term during which the public schools of the district in which the child resides are in session. (07, c. 250; '12, c. 8, §1; G. S. '13, §3839; 270a-4, Apr. 15, 1935.)

4043. Terms defined. (1) "Elevator" means the device by which a load is raised to a higher floor and transported from one to another within a building.

4044. Powers of department of labor and industries transferred to commission. G. S. 1913, §§3940-3946 are still applicable under this section.

4046. Powers and duties. * * * * * (4). [Repealed.]

Editorial note.—Power conferred on the industrial commission to transfer the director of employment and security by Act Apr. 22, 1939, c. 431, Art. 7, §2(11) (d), ante §3956.105(11)(d)

State regulations providing minimum wage in excess of that fixed under industry codes under the NRA are controlling. Op. Atty. Gen., Oct. 23, 1933.


4049. Torts defined. (1) "Workers' compensation" means the right of an employee to receive compensation for the injury or death of the employee and his dependents, on the theory of compensating the employee for the risk of injury or death in which the employer or his agents are at fault.

(2) "Worker" means a person engaged in the employ of an employer, whether for wages or salary, or both.


4050-1. Industrial commission to make study of conditions. (2) For the purpose of improving the State employment offices and other employment agencies under its supervision, and to enable it to more efficiently perform the duties imposed upon it, and in cooperation with the federal authorities in an intelligent, long-time employment program, the State Industrial Commission is hereby authorized to make a thorough, comprehensive, scientific and objective study of labor conditions, and to gather and record authentic and scientific data in relation thereto, and in this connection to operate a laboratory experiment or demonstration station or stations. (Act Jan. 29, 1931, c. 516, §1.)

4050-2. May receive gifts.—The industrial commission is hereby authorized to receive and accept gifts or contributions of funds to be used in carrying out the purposes of Section 1 [§4050-1] hereof, and to assist in the supervision and conduct of said studies in any way, in whole or in part, the cost of said work. (Act Jan. 29, 1931, c. 516, §2.)

4050-3. Supervision of funds.—Any funds or contributions so made shall be under the exclusive supervision and control of said industrial commission, may be deposited in such bank or banks as it may select, and may be disbursed in such manner and for such purposes as said industrial commission shall determine, consistent however, with the provisions of this act and with the conditions and purposes of any such gift or contribution. (Act Jan. 29, 1931, c. 516, §3.)

Sec. 4 provides that the act shall take effect from and after its passage.
Children under 16 years of age appearing in singing and dancing acts after 7 P. M., for which father is paid compensation, are engaged in a gainful occupation within the meaning of this section. Op. Atty. Gen. (270-a-5), Aug. 25, 1934.

4101. Penalties for violation.

Weber v. B., 182M486, 234NW682; note under 4101.

"Whoever or any person, including any family, who has under his control a child under 16 years of age and who permits such child to be employed without permit in violation of §4100. Op. Atty. Gen. (270-a-5), Aug. 25, 1934.

4103. Children under specified age—Prohibited employments—Penalties.—No person shall employ or permit any child under the age of sixteen (16) years to serve or work as an employee of such person in any of the following employments:

Sewing or adjusting belts used on machinery; oiling or assisting in oiling, wiping, or cleaning machinery; operating or assisting in operating circular or band saws, wood shapers, wood joiners, planers, sandpaper or wood-polishing machinery; operating sanding wheels used in polishing metal, wood turning or boring machinery, stamping machines in sheet metal and tin-ware manufacture, stamping machines in washer and nut factoriest; operating corrugating rolls used in operating a sanitary welding machine or steam machine, or other steam generating apparatus; setting pins in bowling alleys; operating or assisting in operating dough grates or cracker machinery; operating wire or iron straightening machinery; operating or assisting in operating rolling mill machinery; underassisting, grinding, pressing, rolling, cutting, or polishing acids are used; operating or assisting in operating any passenger or freight elevator; manufacturing or goods for immoral purposes; nor in any other employment or occupation dangerous to the life, limb, health or morals of such child.

No female under sixteen (16) years of age shall be employed where such employment requires such female to stand constantly during such employment.

No child under the age of eighteen (18) years shall be employed as a rope or wire walker, contortionist, or at flying rings, horizontal bars, trapeze or other aerial acts, pyramiding, weight lifting, balancing, or acrobatic performance nor any practice or exhibition of any nature or character of any composition in which dangerous or poisonous materials are used or in which dangerous or poisonous materials or substances are used and exhibited and advertised to be dangerous to the life, limb, health or morals of such child.

No child under the age of ten years, whether or not a resident of this state, may be employed or exhibited in any theatrical exhibition except with the written approval of the Industrial Commission; provided that under a permit hereinafter provided for one or more children under the age of 18 years may participate in legitimate dramatic performances by adults where some part or parts can only be portrayed by a child or children and where no singing, dancing, or acrobatic performance nor any practice or exhibition of any nature or character of any composition in which dangerous or poisonous materials are used or in which dangerous or poisonous materials or substances are used and exhibited and advertised to be dangerous to the life, limb, health or morals of such child or children.

In the event it is desired to employ or exhibit in any theatrical entertainment a child within the age limits permitted by law, during that portion of the year when such employment or exhibition is permitted, written application shall be made to the Industrial Commission, specifying the name of the child, its age, and the name and residence of its parent or guardian, the nature, and kind of such performances; the dates, duration and number of performances desired, together with the place and character of the exhibition.

Application for any permit under this act shall be made at least 72 hours before the first performance at which it is desired to exhibit such child.

The Industrial Commission shall, through its Division of Women and Children, investigate each application and shall have power to grant a permit for such employment or exhibition not prohibited by law and for any period during which such employment or exhibition is not prohibited by law after it shall first find that the health, education or school work, morals and welfare will not be detrimentally affected by such employment or exhibition or by the environment in which the same is rehearsed or given. Such permit shall specify the name and residence of the child and the nature and date of performances and the number and duration thereof permitted.

The Industrial Commission shall revoke any permit whenever, in its opinion the exhibition of any child in any performance is detrimental to its health, welfare or morals or is interfering with its education.

Nothing contained in this section or in Section 4094, General Statutes, 1933, prohibits the performance of any child in an entertainment given by one or more religious or educational organizations or by a neighborhood association of parents of the children who may perform before it or in any rectal connected with the teaching of the art or practice of music. Though the exhibition is put on by a neighborhood association of parents of the child as a "recital connected with the teaching of the art or practice of music." though the exhibition is put on by a neighborhood association of parents of the child as a "recital connected with the teaching of the art or practice of music."

Penalties.—No person shall employ or permit any child under the age of 16 years to serve or work as an employee of such person in any of the following employments:

Operating or assisting in the manufacture of clothing; cutting, sewing or adjusting belts used on machinery; oiling or assisting in oiling, wiping, or cleaning machinery; operating or assisting in operating circular or band saws, wood shapers, wood joiners, planers, sandpaper or wood-polishing machinery; operating sanding wheels used in polishing metal, wood turning or boring machinery, stamping machines in sheet metal and tin-ware manufacture, stamping machines in washer and nut factoriest; operating corrugating rolls used in operating a sanitary welding machine or steam machine, or other steam generating apparatus; setting pins in bowling alleys; operating or assisting in operating dough grates or cracker machinery; operating wire or iron straightening machinery; operating or assisting in operating rolling mill machinery; underassisting, grinding, pressing, rolling, cutting, or polishing acids are used; operating or assisting in operating any passenger or freight elevator; manufacturing or goods for immoral purposes; nor in any other employment or occupation dangerous to the life, limb, health or morals of such child.

Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (97, c. 329; '12, c. 8, §10; G. S.'13, §3848; '13, c.c. 120, 516, §2; '27, c. 288, §1; Apr. 18, 1929, c. 234, §2.)


As to the power company, the jury could find that the defendant contributed to the death of the plaintiff by its having the power company in stripping the wire too close to where employees in the packing corporation worked, and the latter employing a boy under 16 in an occupation dangerous to life and limb. Weber v. W., 182M486, 234NW682. See Dun. Dig. 299, 5863.


The use of children under the age of 16 as entertainment features at a night club would be a violation of the Child Labor Law, unless the children were engaged in a gainful occupation with-

Children under ten years of age cannot appear in a single musical number, with the exceptions of those of per- manent Park Board, though no admission fee is charged. Op. Atty. Gen., Aug. 21, 1931.

An ordnance is neither a religious nor education- al organization, and a child under ten years of age can only engage in a walking act under the auspices of a Saturday night at Renaud's. Op. Atty. Gen., Aug. 21, 1931.

Child selling papers on street without conviction violation as defined and regulated by Mason's Minnesota Statutes, 1927, 54126-5. Child selling papers to their regular subscribers, and not at times that they are on the street in their regular districts selling papers. Op. Atty. Gen., Nov. 25, 1931.

Fact that a minor is a child of the owner does not exempt her from this section. Id.

§4106. Certain employments forbidden—penalties.

—No boy under sixteen years of age and no girl under

eighteen years of age shall engage in or carry on or

be employed or permitted or suffered to be employed

any child in violation of this section, or any person who employs, causes or suffers to be employed,

or procures or consents to the employment, or to

such use or exhibition of such child, or who neglects or refuses to restrain such child from engaging or

setting in any occupation prohibited by this section,

shall be guilty of a misdemeanor. (Act Apr. 5, 1935,

c. 109, §2.)

§4111-2. Certain acts a misdemeanor.—Any person

engaging in music or other like occupation, or

who, having the care, custody or control of

such child as parent, relative or guardian,

shall be guilty of a misdemeanor. (Act Apr. 5,

1935, c. 109, §3.)

§4116 to 4126 [Repealed].

Repealed Apr. 26, 1933, c. 354, §7, post, §4126-8,

effective July 1, 1932.

The following sections have been declared unconstitutional by

the attorney general in opinions, abstracts of which are

set forth below:

In submitting to the governor for his approval the bill attempting to limit the hours of employment of

women, certain amendments in the bill as passed by the

senate and house were inadvertently omitted, with the

result that the bill as approved by the governor, filed

with the secretary of state, and published as Laws 1933,
c. 422 (Mason's Minn. Stat., 1927, secs. 4116-4126), was


25, 1936.

By Laws 1923, c. 422 (Mason's Minn. Stat., 1927, secs. 4116-
4126), never having been constitutionally enacted,

the hours of employment for women in cities of the first and

second class are governed by Laws 1923, c. 422, post as
§4126-½ to 4126-½h, and as to all other cities

Laws 1913, c. 459 (Mason's Minn. Stat., post as
§4126-½ to 4126-


4120-½h to 4120-½h. [Repealed].

Repealed Apr. 26, 1933, c. 354, §7, post, §4126-8, ef-

effective July 1, 1932.

The phrase "in cities of the first and second class," is

not limited to women employed in telephone or telegraph


Annotations under §4126-½h.

See notes under §4116 to 4126.

The only law regulating the hours of women working in

lunch rooms is Laws 1913, c. 581, which applies only
May 8, 1931.

The phrase "in cities of the first and second class," is

not limited to women employed in telephone or telegraph


Annotations under §4126-½h.

Sections 4 and 5 of Laws 1913, c. 581, were expressly

repealed by Laws 1919, c. 491, §20, set forth in Mason's
Minn. Stat. 1927, as 4116-½h.

Annotations under §4120-½h.

See notes under §4116 to 4126.

4120-6. Hours of female employees limited.—No

person shall be employed in any public housekeeping,

manufacturing, mechanical, mercantile, or laundry

occupation, or as a telephone operator for more than

fifty-four hours in any one week; provided that this

Act shall not apply to cases of emergency in which

the safety, health, morals, or welfare of the public

may otherwise be affected, or to cases in which night

employees may be at the place of employment for no

more than twelve hours and shall have opportunity
for at least four hours of sleep, or to employees engaged in the seasonal occupation of preserving perishable fruits, grains or vegetables, where such employees do not return to their places of employment on the day following the day such work is performed, or where such employment does not continue over a longer period than seventy-five days in any one year, or to telephone operators in municipalities of less than fifteen hundred inhabitants; provided, however, that upon application of any employer, the Industrial Commission may in its discretion, for cause shown exempt any employer or class of employers from the provisions of this Act.

Provided further, that during emergency periods of not to exceed four weeks in the aggregate in any calendar year, the Industrial Commission of Minnesota may, in its discretion, allow longer period of employment for such female employees under such general rules and regulations as the Commission may prescribe and adopt. (Act Apr. 20, 1933, c. 354, §1.)

General office employees and women executives in a mercantile establishment do not come within classification of a mercantile occupation and are not regulated by the provisions of this act. (Act Apr. 20, 1933, c. 354, §5.)

4126-3. Industrial commission to print schedule.—The Industrial Commission of Minnesota shall supply the abstract of the provisions of this act and the form for the schedules of hours of labor required for this act to all employers to whom this act shall apply upon application therefor. (Act Apr. 20, 1933, c. 354, §2.)

4126-4. Violations a misdemeanor.—Any employer or any agent acting for an employer who shall require or suffer any such employee to work at any business, establishments or company to which this act applies more than the number of hours provided in this act, or who shall fail, neglect or refuse to arrange the work of such employees in his employ so that they shall not work more than the number of hours provided for in this act during any one week; or who shall knowingly permit or suffer any overseer, superintendent, foreman or forelady, or other agent of any employer to violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine for each offense in the sum of not less than ten dollars ($10.00) nor more than twenty-five dollars ($25.00). (Act Apr. 20, 1933, c. 354, §4.)

Section does not require keeping of a time record where employees' occupation is not regulated by this act. (Art. 4126-5. Employer to keep record.—Every employer shall keep time book or record stating the number of hours worked by each female employee in his employment on each day of such employment, and the total hours of each week, and the hours of beginning and ending such work. Such time book or record shall be open to the inspection of the Industrial Commission of Minnesota, or any duly accredited representative of said commission, during any period of employment. Any employer who willfully fails to keep such time book or record and is found guilty by this section, or who makes any false statements therein or refuses to exhibit such time book or record, or makes any false statement to the Industrial Commission or any duly accredited representatives in reply to questions submitted for the purpose of carrying out the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine for each offense in the sum of not less than ten dollars ($10.00) nor more than twenty-five dollars ($25.00). (Act Apr. 20, 1933, c. 354, §4.)

4126-5. Employer to keep record.—Every employer having in his employ more than six female employees shall keep time book or record stating the number of hours worked by each female employee in his employment on each day of such employment, and the total hours of each week, and the hours of beginning and ending such work. Such time book or record shall be open to the inspection of the Industrial Commission of Minnesota, or any duly accredited representative of said commission, during any period of employment. Any employer who willfully fails to keep such time book or record and is found guilty by this section, or who makes any false statements therein or refuses to exhibit such time book or record, or makes any false statement to the Industrial Commission or any duly accredited representatives in reply to questions submitted for the purpose of carrying out the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine for each offense in the sum of not less than ten dollars ($10.00) nor more than twenty-five dollars ($25.00). (Act Apr. 20, 1933, c. 354, §4.)

4126-6. Industrial commission to enforce act.—The Industrial Commission of Minnesota shall be charged with the duty of enforcing the provisions of this act prosecute all violations thereof. (Act Apr. 20, 1933, c. 354, §5.)

4126-7. Provisions separable.—Each section of this Act in every part thereof is hereby declared to be an independent section or part of a section, and if any section, subsection, sentence, clause or phrase of this act shall for any reason be held unconstitutional the validity of the remaining phrases, clauses, sentences, subsections and sections of this act shall not be affected thereby. (Act Apr. 20, 1933, c. 354, §6.)

4126-8. Inconsistent acts repealed.—All Acts and parts of Acts in conflict with the provisions of this Act hereby are repealed, and Laws 1909, Chapter 499, Laws 1915, Chapter 581, Laws 1923, Chapter 422, hereby are repealed. (Act Apr. 20, 1933, c. 354, §7.)


4126-9. Definitions.—Throughout this Act the following words and phrases as used herein shall be considered to have the following meaning:

1. The term "laundry" shall mean processes connected with the receiving, marking, washing, cleaning, ironing, and distribution of washable or clean laundry materials.

2. The term "public housekeeping" shall mean the work of waitresses in restaurants, hotel dining rooms, boarding houses, and all attendants employed at ice cream and light lunch stands and steam table or counter work in cafeteria and delicatessens where freshly cooked foods are served, and the work of chambermaids in hotels and lodging houses and boarding houses and hospitals, and the work of janitresses and car cleaners and of kitchen workers in hotels and restaurants and hospitals and elevator operators.

3. The term "manufacturing" and "mechanical" shall mean processes in the production and distribution of commodities, and manual labor with the aid of machines and tools.

4. The term "mercantile" shall mean the sale of goods, wares, and merchandise. (Act Apr. 20, 1933, c. 354, §8.)

4126-10. Effective July 1, 1933.—This act shall take effect and be in force from and after July 1, 1933. (Act Apr. 20, 1933, c. 354, §9.)

4126-11. Employers to give written statement to employees in certain cases.—Whenever a contract of employment is consummated by an employer and an employee for work to be performed in this state, or for work to be performed in another state for an employer localized in this state, the employer shall give to the employee a written and signed agreement of hire, which shall clearly and plainly state:

(a) The date on which the agreement was entered into.

(b) The date on which the services of the employee are to begin.

(c) The rate of pay per unit of time, or of commission or by the piece, so that wages due may be readily computed.

(d) The number of hours a day which shall constitute a regular day's work, and whether or not additional hours the employee is required to work shall
constitute overtime and be paid for, and, if so, the rate of pay for overtime work.

(e) A statement of any special responsibility undertaken by the employee, not forbidden by law, which, if not properly performed by the employee, will entitle the employer to make deductions from the wages of the employee, and the terms upon which such deductions may be made. (Act Apr. 15, 1933, c. 250, §1.)

4126-12. Burden of proof on employer if no statement given.—Where no such written agreement is entered into, the burden of proof shall be upon the employer to establish the terms of the verbal agreement in case of a dispute with the employee as to its terms. (Act Apr. 15, 1933, c. 250, §2.)

4126-13. Application of act.—This Act shall not apply to farm labor. Nor shall it apply to casual employees, temporarily employed nor employees employing less than 10 employees. (Act Apr. 15, 1933, c. 250, §3.)

WAGES

Evidence held to sustain finding that failure to return to work at the time designated constitutes resignation or abandonment of employment, nor a surrender of seniority rights. George v. C., 183M610, 25NW673. See Dun. Dig. 5825, 5832.

Discharge of railroad fireman for failure to respond to train orders held not for cause. George v. C., 183M610, 25NW673. See Dun. Dig. 5822, 5832.

Discharge at mutual acceptance of reinstatement held without waiver of right to be employed which was illegally deprived. George v. C., 183M610, 25NW673. See Dun. Dig. 5822.

*4127. Penalty for failure to pay wages promptly.—Whenever any person, firm, company, association or corporation employing labor within this state discharges a servant or employee from his employment, the wages and/or commissions actually earned and unpaid at the time of such discharge shall become immediately due and payable upon demand of such employee, at the usual place of payment, and if not paid within twenty-four hours after such demand, whether such employment was by the day, hour, week, month or piece or by commissions, such discharged employee may charge and collect the amount of his average daily earnings at the rate agreed upon in the contract of employment, for every day (not however, exceeding fourteen days) as the employer is in default, until full payment or other settlement, satisfactory to said discharged employee, is made. (19, c. 175, §1; Apr. 8, 1933, c. 173, §1.)

Penalties for persons employed in transitory work must be paid at least every 15 days and within 24 hours upon termination of employment, etc. Laws 1933, c. 223.

Section does not apply to municipal corporations such as the village of Keewatin. Op. Atty. Gen. (358b-2), Aug. 29, 1938.

The Wagner Labor Act cases. 22MinnLawRevl044.

4128. Notice to be given—settlement of disputes.

—Whenever any such employee (not having a contract for a definite period of service), quits or resigns his employment, the wages and/or commissions earned and unpaid at the time of such quitting or resignation shall become due and payable within five days thereafter, at the place of payment, and any such employer failing or refusing to pay such wages and/or commissions, after they so become due, upon the demand of such employee at such place of payment, shall be liable to such employee from the date of such demand for an additional sum equal to the amount of his average daily earnings provided in said contract of employment, for every day (not however, exceeding fifteen days in all), until such payment or other settlement, satisfactory to said employee, is made, provided, that if any employee having such a contract as is above defined, given not less than five days' written notice to his employer of his intention to quit such employment, the wages and/or commissions of the employee giving such notice shall become due at the usual place of payment twenty-four hours after he so quits or resigns, and payment thereof may be demanded accordingly, and the penalty herein provided shall apply in such case from the date of such demand; provided further, that if the employer disputes the amount of wages and/or commissions claimed by such employee under the provisions of this, or the preceding section, and the employee in such case waives the amount at which he believes claims to be due, he shall not be liable for any sum greater than the amount so tendered and interest thereon at the legal rate, unless, in an action brought in a court having jurisdiction, such employee proves a greater sum than that so tendered, with interest therefore; and if it is found that said employee fails to recover a greater sum than that so tendered, with interest as aforesaid, he shall pay the cost of such suit; otherwise the cost thereof shall be paid by said employer; provided further, that in cases where such discharge or quitting employment was, during his employment intrusted with the collection, disbursement or handling of money or property, the employer shall have ten secular days after the termination of the employment, to audit and adjust the account of such employee, and if, upon such audit and adjustment, it is found that any money or property intrusted to him by his employer has not been properly accounted for or paid over to the employer, as provided by the terms of the contract of employment, such employee shall not be entitled to the benefit of this act, but the claim for earned and unpaid wages and/or commissions of such employee, if any, shall be disposed of as provided by existing law. (19, c. 175, §2.)

Ten-day time limit was only applicable provided employer had not done some act which relieved employee from making demand. Harris v. N., 193M480, 269NW16. See Dun. Dig. 5815.

4134. Payment of salary or wages earned by non-negotiable instruments unlawful, etc.

Payment of wages to employees with script, requiring placing of stamps thereon, held unjustified. George v. C., 183M610, 235NW673. See Dun. Dig. 5821, 5832.

4134-1. Certain acts relating to payment of wages a misdemeanor—right of person, firm, corporation or association who or which directly or indirectly and with intent to defraud causes any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered, or by any or all of the other acts provided in this act, to hold any rebate or refund from the wages to which the employee is entitled under his contract of employment with such employer, or in any manner makes or attempts to make it appear that the wages actually paid to the employee, shall be guilty of a misdemeanor. (Act Apr. 15, 1933, c. 249.)

4135. When assignment, sale or transfer of wage or salary is not to be effective.

Order for police power prerequisite may reasonably regulate assignment of unearned wages or salary. Murphy v. C., 187M65, 244NW335. See Dun. Dig. 5813 to 4137. apply to both wages and salaries.

4136. Unearned wages—Consent of employer—Collection fee—Penalty.

See §7774-57, post.

4137. Assignment of wages in certain cases—Payroll deductions. Every assignment, sale, or transfer, however made or attempted, of wages or salary to be earned or to become due in whole or in

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part more than sixty (60) days from and after the date of making such transfer, sale or assignment, shall be absolutely void. Provided, however, that a written contract may be entered into between an employer and employe wherein the employe authorizes the employer to make payroll deductions for the purpose of paying premiums on any life insurance group accident and health insurance, group term life insurance, group annuities or contributions to Credit Unions, a community chest fund, for periods longer than such

60 days. (As amended Mar. 24, 1937, c. 95, §1.)

The evidence supports the finding of the jury that

4141. Dangerous machinery, how guarded—defective machines, etc.

The evidence supports the finding of the jury that the negligence of both defendants caused the death of plaintiff's intestate, killed by contact with a wire carrying deadly electrical current—the power company in stringing the wire too close to where employees in the packing corporation worked, and the mere fact that a sliver thencefrom entered the employe's lung, causing infection, does not preclude contributory negligence of the employe. Hedrick v. H., 185M72, 239NW 856. See Dun. Dig. 5885.

An employer does not owe the duty of inspecting sewing tools and appliances—safety measures provided by H company. Wisconsin Statutes in leaving water on floors and in failing to remove wet soda bottles. Gilbert v. M., 192M495, 267NW73. See Dun. Dig. 5863.

The evidence supports the finding of the jury that

4146. Ventilation.

Risk of injury from violation of this section is not

A railroad corporation doing business within this state shall state clearly on each pay check, within thirty days after the time of the termination of employment, the wages or earnings of such employe in such employment shall be paid within 24 hours, and if not then paid the employer shall pay to the employe his reasonable expenses of remaining in the camp or elsewhere away from his home while awaiting the payment thereof shall not be made at the place of employment or in close proximity thereto. (Act Apr. 13, 1933, c. 223, §2.)


Whether an employee suffering from silicosis by reason of improper ventilation was guilty of contributory negligence. See Dun. Dig. 6016.

§ 4176. Heat and ventilation.

Whether creamery employee was guilty of contributory negligence in continuing to work in a cold room. Hector Const. Co. v. B., 194 M. 310, 261 NW. 370. See Dun. Dig. 5867.

Evidence that creamery violated statutes in leaving water on floors and in failing to heat office, and that there was causal connection between such violations and tuberculosis of employee. Id. See Dun. Dig. 5869.

Toilet facilities.

Evidence held to sustain finding that creamery violated statutes by leaving water on floors and in failing to heat office. Golden v. L., 283 M. 311, 281 NW. 249. See Dun. Dig. 5883.

Whether employer who failed to meet statutory requirements relating to ventilation of premises where employee was required to do his work and became ill from silicosis and tuberculosis was guilty of contributory negligence. O'Connor v. F., 172 M. 334, 267 NW. 607. See Dun. Dig. 10386.

Evidence justified finding liability against employers who failed to meet statutory requirements relating to ventilation of premises where employee was required to do his work and became ill from silicosis and tuberculosis. Golden v. L., 283 M. 311, 281 NW. 249. See Dun. Dig. 5883.


Duties of employers—Register.


Whether creamery employee was guilty of contributory negligence. Hector Const. Co. v. B., 194 M. 310, 261 NW. 370. See Dun. Dig. 5867.

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Evidence justified finding liability against employers who failed to meet statutory requirements relating to ventilation of premises where employee was required to do his work and became ill from silicosis and tuberculosis. Golden v. L., 283 M. 311, 281 NW. 249. See Dun. Dig. 5883.


Duties of employers—Register.

4224. Employment at less than minimum wage prohibited.


4222. Construction of terms.


(8).


Practice of medicine and surgery is a business or occupation coming within this section, and office kept in office of a physician are employees. Op. Atty. Gen. (846c), July 16, 1933.

EMPLOYMENT BUREAUS

4254. State to co-operate with federal government and municipalities in conduct of labor bureaus.

Editorial Note-That the Industrial commission is transferred to the director of employment agencies by Act Apr. 22, 1939, c. 451, Art. 7, §1123-162(11)(4).

EMPLOYMENT AGENCIES

4254-3. Applicant to file written application.-Every applicant for a license, shall file with the commission a written application stating the name and address of the applicant, the kind of license desired, the street and number of the building in which the employment agency is to be maintained, the name of the person who is to have the general management of the office, the name under which the business of the office is to be carried on, whether or not the applicant is pecuniarily interested in any other business of a like nature, and if so, where. Such application shall also state whether the applicant is the only person pecuniarily interested in the business to be carried on under the license and shall be signed by the applicant and sworn to before a notary public. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of said corporation and shall be signed and sworn to by the president and treasurer thereof. If the applicant is a partnership, the application shall state the names and addresses of all of the partners and shall be signed and sworn to by all of them. Said application shall also state whether or not said applicant is at the time of making application, or has at any previous time, been engaged or interested in, or employed by any one engaged in the business of conducting an employment agency, either in this state or any other, and if so, where and when. Said application shall also give as reference the names and addresses of at least three persons of reputable business or professional integrity located in the city or town where such applicant intends to conduct his business. Every applicant for a license to engage in the business of an employment agent shall, at the time of making application for said license, file with the commission a schedule of the fees or charges to be collected by such employment agent for any services rendered, with all rules and regulations, that may in any way affect the fees charged or to be charged for any service. Such fees and such rules or regulations may thereafter be changed by filing an amended or supplemental schedule showing such changes, with the commission. A license shall be unlawful for any employment agent to charge, demand, collect or receive a greater compensation for any service performed by him than is specified in such schedule filed with the commission.

It shall be the duty of the industrial commission, and they shall have power, jurisdiction and authority to issue licenses to employment agents, and to refuse to issue such license whenever, after due investigation, the commission finds that the character of the applicant makes him unfit to be an employment agent, or when the premises of the applicant are found to be unfit for such use, or whenever, upon investigation by the commission, it is found and determined, that the number of licensed employment agents or that the employment agency operated by the United States, the state or by the municipality or by two or more thereof jointly in the community in which the applicant for a permit proposes to operate is sufficient to supply the needs of employers and employees. Any such license granted by the commission may also be revoked by it upon due notice to the holder of said license, and upon due cause shown. Failure to comply with the duties, terms, conditions or provisions of Sections 1 to 18 [Mason's Minn. Stat., 1927, §§4254-1 to 4246-18], include, of this act, or with any lawful orders of the commission, shall be deemed due cause to revoke such license. Provided, however, that no employment agency duly licensed to do business at the time of the passage of this act shall be denied a renewal of his. license therefor by the commission on the ground that public necessity does not require such an agency. (25, c. 347, §3; Apr. 23, 1929, c. 283.)

The industrial commission must issue a license unless reasons for rejecting it, pointed out by the statute, are found to exist. The commission has power to limit the number of agencies. 173 Minn. 417, 216 NW 322.

Attempt to confer power upon Industrial commission to inquire into and exhume any employment agency upon ground that field is already sufficiently occupied, is a denial of due process of law and equal protection. Engberg v. D., 194 Minn. 294, 260 NW 625. See Dun. Dig. 1619 (4).

MINNESOTA LABOR RELATIONS ACT

4254-21. Definitions.—When used in this act the word or term:

(a) "Person" includes individuals, partnerships, associations, corporation, trustees, and receivers; the singular includes the plural, and the masculine includes the feminine.

(b) "Employer" includes all persons employing others and all persons acting in the interest of an employer, but does not include the state or any political or governmental subdivision thereof, nor any person subject to the Railway Labor Act, as amended from time to time.

(c) "Employee" includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice as defined in section 11 of this act on the part of the employer or because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does not include any individual employed in agricultural labor or by his parent or spouse or in domestic service of any person at his own home.

(d) "Representative of employees" means a labor organization or one or more individuals selected by a group of employees as provided in Section 15 of this act.

(e) "Labor organization" means any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment.

(f) "Labor dispute" includes, any controversy concerning employment, tenure or conditions or terms of employment or concerning the association or right to association of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms, tenure, or other conditions of employment, regardless of whether or not the relationship of employer and employee exists as to the disputants.
4254-22. Division of conciliation established—Conciliators—Salary.—There is hereby established in the department of labor and industries a division of conciliation, which shall be subject to the control of said department. Said division shall be under the supervision and control of a labor conciliator who shall be appointed by the governor and shall hold office for a term of four years. The term of the first labor conciliator hereunder shall expire March 1, 1945. The governor may from time to time appoint special conciliators to act in the settlement of particular labor disputes or controversies, and such special conciliators appointed shall have the same power and authority as the labor conciliator and such appointment shall be for the duration only of the particular dispute. Such special conciliators shall be paid a per diem of $15.00 per day while so engaged, and their necessary expenses. The labor conciliator shall prepare a roster of persons qualified to act as such special conciliators and keep the same revised at all times and available to the governor and the public.

The labor conciliator may employ and discharge clerks and other assistants, as needed, fix their compensation and assign to them their duties. (Act Apr. 22, 1939, c. 440, §1.)

4254-23. May be removed for political activities.—Any labor conciliator or employee under the provisions of this act, who exerts his influence, directly or indirectly to induce any other person to adopt his political views, or to favor any particular candidate for office, or to contribute funds for political purposes, shall forthwith be removed from his office or position by the authority appointing him; provided that before removal the labor conciliator shall be entitled to a hearing before the governor, and any other employee so enlisted shall be entitled to a hearing before the labor conciliator. (Act Apr. 22, 1939, c. 440, §3.)

4254-24. Expenses of Conciliator and employees.—The labor conciliator and his employees or any special conciliator shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties. Vouchers for such expenses shall be itemized and sworn to by the person incurring the expense. (Act Apr. 22, 1939, c. 440, §4.)

4254-25. Conciliator to adopt rules and regulations.—The labor conciliator shall adopt reasonable and proper rules and regulations relative to and regulating the conduct of the hearings. Such rules and regulations shall be printed and made available to the public and a copy delivered with each notice of hearing; provided that every such rule or regulation shall be filed with the secretary of state, and any change therein or additions thereto shall not take effect until 20 days after such filing. (Act Apr. 22, 1939, c. 440, §5.)

4254-26. Notice to employer.—Notice by employer of change in conditions—Notice of intent to strike—Requisites of notices—Conference.—Whenever any representative of employees or labor organization shall desire to negotiate a collective bargaining agreement, or any other agreement, or shall desire any changes in the rates of pay, rules or working conditions in any place of employment, it shall give written notice to the employer of its demand, and it shall thereupon be the duty of the employer and the representative of employee or labor organization to endeavor in good faith to reach an agreement respecting such demand. An employer shall give a like notice to his employees, representatives or labor organizations of any intended change in the labor relations unless the dispute is settled by mutual consent of the parties. (Act Apr. 22, 1939, c. 440, §6.)
amendatory thereof and supplementary thereto, and acts under the terms of Sections 9513 to 9519, inclusive, including, among other methods, the arbitration procedure on such terms as the parties may specify, includ-
ing, among other methods, the arbitration procedure under the terms of Sections 9513 to 9519, inclusive, of Mason's Minnesota Statutes of 1927, and acts.

4254-28. Commission to subpoena witnesses—Contem-plode employees.—It shall be an unfair labor practice:

(a) For any employe or labor organization to in-
tend to strike or lockout files a petition requesting
for the purpose of collective bargaining or other mu-
tual aid or protection; and such employes shall also
have the right to refrain from any and all of such
activities.

(b) Employers shall have the right to associate
together for the purpose of collective bargaining.

(c) The conciliator may take jurisdiction on request—
Lists of organizations.— (a) Employes shall have
the right to form, join or assist labor organizations, to bargain
together for the purpose of collective bargaining, or other mu-
tual aid or protection; and such employes shall also
have the right to refrain from any and all of such
activities.

(c) The conciliator may take jurisdiction on request—
Lists of organizations.— (a) Employes shall have
the right to form, join or assist labor organizations, to bargain
together for the purpose of collective bargaining, or other mu-
tual aid or protection; and such employes shall also
have the right to refrain from any and all of such
activities.

4254-29. Labor disputes may be submitted to arbi-
iration.—Whenever a labor dispute arises which is
not settled by conciliation, such dispute may, by writ-
ten agreement of the parties, be submitted to arbitra-
tion by an arbitrator or by an arbitral board, or
among other methods, the arbitration procedure under the terms of Sections 9513 to 9519, inclusive, of Mason's Minnesota Statutes of 1927, and acts amendatory thereof and supplementary thereto, and

arbitration under the Voluntary Industrial Arbitration
Tribunal of the American Arbitration Association. If
any such agreement so provides, the labor conciliator
may act as a member of any arbitration tribunal
created by any such agreement, and, if the agreement
so provides, the conciliator may appoint one or more
of such arbitrators. In case of failure to reach an agree-
ment, any arbitration tribunal created by any such agreement, or any arbitration tribunal
created under any such agreement, may apply to the
conciliator to have the said tribunal designated as a
temporary arbitration tribunal, and if so designated,
said temporary arbitration tribunal shall have power
arbitrator a copy of its report, duly certified by its chair-
man. (Act Apr. 22, 1939, c. 440, §9.)

4254-30. Employees to have right to join labor organi-
zation—Lists or organizations.— (a) Employes shall
have the right to form, join or assist labor organizations, to bargain
together for the purpose of collective bargaining, or other mu-
tual aid or protection; and such employes shall also
have the right to refrain from any and all of such
activities.

(b) Employers shall have the right to associate
together for the purpose of collective bargaining.

(c) The conciliator may take jurisdiction on request—
Lists of organizations.— (a) Employes shall have
the right to form, join or assist labor organizations, to bargain
together for the purpose of collective bargaining, or other mu-
tual aid or protection; and such employes shall also
have the right to refrain from any and all of such
activities.

(c) The conciliator may take jurisdiction on request—
Lists of organizations.— (a) Employes shall have
the right to form, join or assist labor organizations, to bargain
together for the purpose of collective bargaining, or other mu-
tual aid or protection; and such employes shall also
have the right to refrain from any and all of such
activities.

(d) Any party to or party affected by the dispute
may appear before the labor conciliator or the com-
missioner, or by any authorized officer, or by any
representative, and shall have the right to offer competent
evidence and to be heard on the issues before the re-
port is made.

(e) Any commissioner so appointed shall be paid a per
day of $15.00 per day and their necessary expenses
during the existence of a labor dispute.

(f) For any person to seize or occupy property
unlawfully during the existence of a labor dispute.

(g) For any person to picket or cause to be pick-
eted a place of employment of which place said person
stands in an employer's capacity, while a strike is in progress affec-
ting said place of employment, unless the majority of
persons engaged in picketing said place of employment
at said times are employees of said place of employment.
(e) For more than one person to picket or cause to be picketed a single entrance to any place of employment where no strike is in progress at the time.

(f) To employ or cause to be employed in any manner with the operation of a vehicle or the operator thereof when neither the owner nor operator of said vehicle is at said time a party to a strike.

(g) For any employer, labor organization or officer, agent or member thereof to compel or attempt to compel an employee or his agent or member thereof to any labor organization or any strike against his will by any threatened or actual unlawful interference with his person, immediate family or physical property, or to assault or unlawfully threaten any such person while in pursuit of lawful employment.

(h) The violation of subsections (b), (c), (d), (e), (f) and (g) of this section are hereby declared to be unlawful acts. (Act Apr. 22, 1939, c. 440, §11.)

(i) It makes no difference where owner or employee operator of vehicle resides or whether he is regularly or casually engaged in operating a motor vehicle. Op. Atty. Gen. (270d-7), August 11, 1939.

(j) If neither owner nor operator of a vehicle is a party to a strike, it is unlawful to interfere in any manner with operation of vehicle or operator thereof whether its use is for public streets or highways or premises of any business establishment or elsewhere, and such violation is a misdemeanor within meaning of §471 punished by §922.

4254-32. What are unfair labor practices by employers.—It shall be an unfair labor practice for an employer:

(a) To institute any lockout of his employees in violation of any valid collective bargaining agreement between the employer and his employees or labor organization if the employees at the time are in good faith complying with the provisions of the agreement.

(b) To institute any lockout of his employees in violation of sections 6 or 7 of this act.

(c) To encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any terms or conditions of employment; provided, however, that this subsection shall not apply to the provisions of collective bargaining agreements entered into voluntarily by an employer and his employees or a labor organization representing said employees as a bargaining agent as provided by section 16 of this act.

(d) To discharge or otherwise to discriminate against an employer because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this act.

(e) To sponsor or encourage membership in any labor organization or to interfere in any manner with the free and uninterrupted use of public roads, streets, highways or methods of transportation or conveyance for the purpose of collective bargaining or to collective bargaining, and otherwise to effectuate the purpose of this act, the conciliator or any person designated by him shall at the request of any of the parties, investigate such controversy and certify to the parties, in writing, the name or names of the representatives that have been designated or selected. The labor conciliator may provide for an appropriate hearing and may take a secret ballot of employees or representatives of their own choosing.

(f) To distribute or circulate any blacklist of individuals exercising any legal right or of members of a labor organization for the purpose of preventing individuals so blacklisted from obtaining or retaining employment.

(g) The violation of subsections (b), (d), (e) and (f) of this section are hereby declared to be unlawful acts. (Act Apr. 22, 1939, c. 440, §12.)

4254-33. What are unlawful practices.—It shall be unlawful for any person at any time to interfere with the free and uninterrupted use of public roads, streets, highways or methods of transportation or conveyance or to prevent or obstruct ingress or egress from any place of business or employment. (Act Apr. 22, 1939, c. 440, §13.)

Intereference with loading or unloading at place of business establishment does not constitute a violation unless it obstructs ingress to or egress from place of business or employment. Op. Atty. Gen. (270d-7), August 11, 1939.

4254-34. Suit to enjoin unfair labor practices.—Whenever any unfair labor practice is threatened or committed, a suit to enjoin such practice may be maintained forthwith in the courts of the state where such practice has occurred or is threatened. In any suit to enjoin any of the unfair labor practices set forth in Sections 11 and 12 of this act [§§4254-31, 4254-32], the provisions of Mason's Minnesota Statutes, Sections 4257 to 4260 and Mason's Minnesota Statutes, 1938 Supplement, Sections 4254-35 and 4254-36 shall not apply, provided, however, that no court of the state of Minnesota shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of the violation of Sections 11 and 12 of this act as herein defined, except after hearing the testimony from witnesses in open court with opportunity for cross examination, in support of the allegations made under oath, and testimony in opposition thereto if offered, and except after findings of fact by the court to the effect that the acts set forth in Sections 11 and 12 of this act have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, provided, however, that no temporary restraining order may be issued under the provisions of this act except upon the testimony of witnesses produced by the applicant in open court and upon a record being kept of such testimony. (Act Apr. 22, 1939, c. 440, §14.)

4254-35. Not to be entitled to benefit of act in certain cases.—Any employer, employee or labor organization who has violated any of the provisions of this act with respect to any labor dispute shall not be entitled to any of the benefits of this act respecting such labor dispute and such employer, employees, or labor organization shall not be entitled to maintain in any court of this state an action for injunctive relief with respect to any matters growing out of the labor dispute until he shall have in good faith made use of all means available under the laws of the state of Minnesota for the peaceable settlement of the dispute. (Act Apr. 22, 1939, c. 440, §15.)
representatives, but the labor conciliator shall not certify any labor organization which is dominated, controlled or maintained by an employer. If the labor conciliator has certified the representatives as herein provided, he shall not be required to again consider the matter of one year unless it appears to him that such reason exists. (Act Apr. 22, 1939, c. 440, §16.)

Where there is a conflict as to certification of bargaining representatives, the National Labor Board and any labor conciliator, state board must yield. Op. Atty. Gen. (279), July 20, 1939.

4254-37. Appropriation.—The sum of $25,000 is herewith appropriated to be immediately available and may be used for the fiscal year ending June 30, 1940 and the sum of $15,000 is hereby appropriated for the fiscal year ending June 30, 1941, for the purpose of carrying out the provisions of this act. (Act Apr. 22, 1939, c. 440, §17.)

4254-38. Provisions severable.—If any provision of this act, or the application of such provision to any person, place or thing, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (Act Apr. 22, 1939, c. 440, §18.)

4254-39. Citation of act.—This act may be cited as the "Minnesota Labor Relations Act". (Act Apr. 22, 1939, c. 440, §19.)

4254-40. Laws repealed.—Subsection (4) of Section 4046, Mason's Minnesota Statutes of 1927 and all acts or portions of acts inconsistent herewith are hereby repealed. (Act Apr. 22, 1939, c. 441, §20.)

INJUNCTIONS AND RESTRAINING ORDERS


Study of judicial attitude toward trade unions and labor legislation. 33MichLawRev255.

4256. When restraining order or injunction not to be issued.—Any restraining order or injunction shall be granted by any court of this state, or any judge thereof, in any case between employer and employes or between employer and employees or between employers and employees or between persons employed and persons employing or between any employer or employee, or group or group of employers or employees, or any court, including specifically the following: Every undertaking or promise hereafter made, whether written or oral, or any contract or agreement of hiring or employment between any individual firm, company, association, or corporation, and any employee or prospective employee of the same, whereby either party to such contract or agreement undertakes or promises not to join, become, or re-
main a member of any labor organization or of any employer organization; or
(b) Either party to such contract or agreement undertakes or promises that he will withdraw from an employment relation in the event that he joins, becomes, or remains a member of any labor organization or of any employer organization. (Act Apr. 22, 1933, c. 416, §3.)

4260-4. Court may not issue restraining orders in certain cases.—No court of the State of Minnesota shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person participating in or interested in such dispute (as these terms are herein defined) from doing, whether singly or in concert, any of the following acts:
(a) Ceasing or refusing to perform any work or to remain in any relation of employment;
(b) Becoming or remaining a member of any organization or of any employer organization, regardless of any such undertaking or promise as is described in section 3 of this Act;
(c) Paying or giving to, or withholding from any person participating or interested in such labor dispute, any strike or unemployment benefits or insurance, or other moneys or things of value;
(d) By all lawful means aiding any person participating or interested in any labor dispute to commit any unlawful act involving or growing out of any labor dispute to prohibit any person participating or interested in such dispute from doing, whether singly or in concert, any of the following acts:
(e) Giving publicity to the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling, or in any other manner not involving fraud or violence;
(f) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute;
(g) Advising or notifying to—person of an intention to do any of the acts heretofore specified;
(h) Agreeing with other persons to do or not to do any of the acts heretofore specified; and
(i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts heretofore specified, regardless of any such undertaking or promise as is described in section 3 of this Act.

A claim for damages for past breach of contract is not sufficient to recompense those enjoined for any loss, expense, or damage caused by the issuance of a temporary restraining order unless demanded and will be continued unless restrained, but will be committed unless restrained or have been committed.

No temporary restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person participating or interested in such dispute from doing, whether singly or in concert, any of the following acts:
(a) That unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act for actually authorizing or ratifying the same after actual knowledge thereof;
(b) That substantial and irreparable injury to complainant's property will follow;
(c) That substantial and irreparable injury to complainant's property will follow;
(d) That an unlawful act has been threatened and will be committed unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act for actually authorizing or ratifying the same after actual knowledge thereof;
(e) That public officers, charged with the duty to protect complainant's property have failed to furnish adequate protection.

Such hearing shall be held after due and personal notice thereof has been given in such manner as the court shall direct, to all known persons from whom relief is sought, and also to the chief of those public officials of the county and city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant's property. Provided, however, that, unless a temporary restraining order shall be issued without notice, a substantial and irreparable injury to complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, if sustained, to justify the court in issuing a temporary injunction upon a hearing after notice. Such a temporary restraining order shall be effective until hearing and decision on the petition for a temporary injunction unless thereupon further restrained by the court, which hearing shall be held within ten days after issuance of a temporary restraining order unless defendants ask for additional time, provided that any temporary restraining order so issued shall become void at the expiration of said period of 10 days, unless renewed.

No temporary restraining order or temporary injunction shall be issued except on condition that complainant shall first file an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense, or damage caused by the issuance of a temporary restraining order unless demanded.
**5260-8. Same.—No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of findings of fact made and filed by the court in the record of the case prior to the issuance of such restraining order or injunction; and every restraining order or injunction granted in which interfering directly or indirectly with the conduct of the labor dispute shall include only a prohibition of such specific act or acts as may be expressly complained of in the bill of complainant or petition filed in such case and as shall be expressly included in said findings of fact made and filed by the court as provided herein. (Act Apr. 22, 1933, c. 416, §8.)**

**4260-9. Court to certify proceedings to Supreme Court.—Whenever any court of the State of Minnesota shall issue or deny any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon application to the parties and on his filing the usual bond for costs, forthwith certify as in ordinary cases the record of the case to the Supreme Court for its review. Upon the filing of such record in the Supreme Court, the appeal shall be heard on the temporary or permanent order made, modified, or set aside with the greatest possible expedition, giving the proceedings precedence over all other matters except older matters of the same character. (Act Apr. 22, 1933, c. 416, §9.)**

In coramini to review conviction for contempt in violation of temporary injunction, latter must be incurred in the presence of the court or so near thereto as to interfere directly with the administration of justice or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writ, orders, or process of the court. (Act Apr. 22, 1933, c. 416, §10.)

**4260-11. Provisions in contempt cases.—The defendant in the contempt proceeding for the contempt of any court, file with the court a demand for the retirement of the judge sitting in the proceeding, if the contempt arises from an attack upon the character or conduct of such judge and if the attack occurred elsewhere than in the presence of the court or so near thereto as to interfere directly with the administration of justice. Upon the filing of any such demand the judge shall thereupon proceed no further, but another judge shall be designated in the same manner as is provided by law. The demand shall be filed prior to the hearing in the contempt proceeding. (Act Apr. 22, 1933, c. 416, §11.)**

**4260-12. Definitions.—When used in this Act and for the purposes of this Act—**

(a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft or occupation; or have direct or indirect interests therein; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees; or who are engaged in the same industry, trade, craft, or occupation in which disputes have been growing out of or part of employers or employees engaged in such industry, trade, craft, or occupation.

(b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft, or occupation in which disputes are growing out of or part of employers or employees engaged in such industry, trade, craft, or occupation.

(c) The term 'labor dispute' includes any controversy concerning terms or conditions of employment, or concerning association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(d) A labor dispute is presented in action of employer against labor union which threatens to resort to picketing because of employer's proposal to reduce prices charged his customers and thereby lessen compensation of numerous employees working on commission, though issue is not between employer and his own employees. Lichtman v. L., 241 N.W. 1259, 1930, 1 Ind. App. 141. See Dun. Dig. 2137a. (Act Apr. 22, 1933, c. 416, §12.)

What constitutes a labor dispute is a mixed question of law and fact. Held v. I., 210 N.W. 298, 1926. See Dun. Dig. 2176.

(e) A claim for damages for past breach of contract is not a 'labor dispute,' and an injunction to prohibit picketing to force a settlement is not forbidden. Jensen v. S., 194 M. 8, 205 N.W. 81. See Dun. Dig. 2176.

(f) If any provision of this Act or the application thereof to any person or circumstance is held unconstitutional or otherwise invalid, the remaining provisions of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby. (Act Apr. 22, 1933, c. 416, §14.)

What constitutes a labor dispute is a mixed question of law and fact. Held v. I., 210 N.W. 298, 1926. See Dun. Dig. 2176.

**4260-13. Inconsistent acts repealed.—All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed. (Act Apr. 22, 1933, c. 416, §14.)**

**4260-15. Application.—This Act shall not be held to apply to policemen or firemen or any other public officials charged with duties relating to public safety. (Act Apr. 22, 1933, c. 416, §15.)**

**4260-21. Injunctions between employers in labor disputes.—Whenever any group of employers of labor, residing or operating in this state, have, by written agreement between themselves, agreed upon certain minimum wages to be paid to their employees, hours of labor, and other conditions of employment, and such agreement is wilfully violated, then, in that event, any one or more of such employers, parties to the agreement, may, by an appropriate notice in a district court or a court of general jurisdiction to which the suit is referred, obtain an injunction restraining such employer or employers from violating the terms of such agreement, and other terms of such agreement, and proof of willful violation of said agreement in respect to any or either thereof, shall be sufficient grounds for the issuance of such restraining orders or associations of employers; or (3) between one or more employers or associations of employees and one or more employees or associations of employers or employees or when the case involves any conflicting or competitive interests in a "labor dispute" (as hereinafter defined) of "persons participating or interested" therein (as hereinafter defined). **
APPRENTICES

4260-31. Purpose of act.—The purposes of this act are: to open to young people the opportunity to obtain training that will equip them for profitable employment and citizenship; to set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and supplementary education; to promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprenticeship training; to establish an apprenticeship council and local and state joint apprenticeship committees to assist in effectuating the purposes of this act; to provide for a director of apprenticeship within the department of labor and industry to give reports to the legislature and to the public regarding the status of apprentice training in the state; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends. (Act Apr. 20, 1939, c. 363, §3.)

4260-32. Industrial commission to appoint apprenticeship council.—Members.—Duties.—Meetings.—Standards.—Reports.—Subdivision 1. The Industrial Commission of Minnesota, hereinafter called the commission, shall appoint an apprenticeship council, composed of three representatives each from employer and employee organizations respectively, and of two representatives of the general public. The state official who has been designated by the state board for vocational education as being in charge of trade and industrial education shall ex officio be a member of said council. The terms of office of the members of the apprenticeship council first appointed by the commission is to be designated by the commission at the time of making the appointment: One representative each of employers, employees, and the public being appointed for one year, one representative each of employers, employees, and the public being appointed for two years, and one representative each of employers and employees for three years. Thereafter, each member shall be appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of said term.

Subdivision 2. The apprenticeship council shall meet at the call of the commission and shall aid it in formulating policies for the effective administration of this act. Subject to the approval of the commission, the apprenticeship council shall establish standards for apprentice agreements which in no case shall be lower than those prescribed by this act, shall issue such rules and regulations as may be necessary to carry out the intent and purposes of said act, and shall perform such other functions as the commission may direct. Not to exceed two years from its appointment, the apprenticeship council shall make a report through the commission of labor and industry of its activities and findings to the legislature and to the public. (Act Apr. 20, 1939, c. 363, §2.)

4260-33. Commission to appoint director of apprenticeships and assistants.—The commission is hereby directed to appoint a director of apprenticeships, which appointment shall be subject to the confirmation of the state apprenticeship council by a majority vote. The commission is further authorized to appoint and employ such clerical, technical, and professional help as shall be necessary to carry out the purposes of this act. (Act Apr. 20, 1939, c. 363, §3.)

4260-34. Director and council to administer act.—The director, under the supervision of the commission and with the advice and guidance of the apprenticeship council, is authorized to administer the provisions of this act; in cooperation with the apprenticeship council and local and state joint apprenticeship committees, to set up conditions and training standards for apprentice agreements, which conditions or standards shall in no case be lower than those prescribed by this act; to act as secretary of the apprenticeship council and of such state joint apprenticeship committees; to approve, if in his opinion approval is for the best interest of the apprentice, any apprentice agreement which meets the standards established under this act; to terminate or cancel any apprentice agreement in accordance with the provisions of such agreement; to keep a record of apprentice agreements and their dispositions; to issue certificates of completion of apprenticeship; and to perform such other duties as are necessary to carry out the intent of this act; provided, that the administration and supervision of related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of state and local boards responsible for vocational education. (Act Apr. 20, 1939, c. 363, §4.)

4260-35. Local and state committees to be appointed.—Local and state joint apprenticeship committees shall be appointed in any trade by the apprenticeship council, whenever the apprentice training needs of such trade justify such establishment. (Act Apr. 20, 1939, c. 363, §5.)

4260-36. Who are apprentices.—The term "apprentice," as used herein, shall mean a person at least 16 years of age who has entered into a written agreement, hereinafter called an apprentice agreement, with an employer, an association of employers, or an organization of employees, which apprentice agreement provides for not less than 450 hours of reasonably continuous employment for such person and for his participation in an approved program of training through employment and through education in related and supplementary subjects. (Act Apr. 20, 1939, c. 363, §6.)

4260-37. Apprentice agreements—Contents.—Every apprentice agreement entered into under this act shall contain:

1. The names of the contracting parties.
2. The date of birth of the apprentice.
3. A statement of the trade, craft, or business which the apprentice is to be taught, and the time at which the apprenticeship will begin and end.
4. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction shall be not less than 134 hours per year. Provided, that in no case shall the combined hours of work and of required related and supplementary instruction of the apprentice exceed the maximum number of hours of work prescribed by law for a person of the age and sex of the apprentice.
5. A statement setting forth a schedule of the processes in the trade or industry divisions in which the apprentice is to be taught and the approximate time to be spent at each process.

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§4260-42

1. Rank and seniority.

A rule, which provides that a fireman who falls in his third examination for promotion to the position of engineer "shall be assigned and rank as the oldest extra fireman on the seniority list," is held valid. Fireman v. Minneapolis Board of Education has no legal right to compel the Minneapolis Board of Education to confer with a labor union to make proposals of adjustment. Op. Atty. Gen. (270d-9), March 23, 1939.

2. Remedies of members.

Provisions of the constitution of a voluntary nonprofit labor organization, requiring as a condition precedent to a resort to the courts, in any matter in which a member thereof feels aggrieved by the action of the organization or its officers, that such member first exhaust all remedies open to him within the organization, are valid, if the remedies so provided are reasonable. Skrivanek v. D., 1935M141, 269NW111. See Dun. Dig. 4874.

3. Public employees.

An enterprise not conducted as a means of livelihood, or for profit, does not come within the ordinary meaning of such terms as "business," "trade," or "industry." (Divided court.) Id. See Dun. Dig. 4574.

4. Picketing.

"Prime" is not an industrial or a business enterprise which may be picketed by a discharged employee; nor is it acquired or maintained for pecuniary gain or profit; but rather, an occupation used and maintained as a place of abode (Divided court.) State v. Cooper, 285 NW963. See Dun. Dig. 4574.

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COMMON LAW

DECISIONS RELATING TO TRADE UNIONS

IN GENERAL

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