

CHAPTER 177

MINIMUM WAGES

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177.01 DUTIES OF MINIMUM WAGE COMMISSION TRANSFERRED. On and after the first day of June, 1921, the powers and duties then by law vested in and imposed upon the minimum wage commission shall be exercised and performed by the industrial commission and its subordinates, as a part of the functions of the division of women and children in the department of labor and industry.

[1921 c. 84 s. 1] (4210)

NOTE: See Section 175.001.

177.02 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Living wage, living wages, minimum wage, minimum wages.** "Living wage" or "living wages" mean wages sufficient to maintain the worker in health and supply him with the necessary comforts and conditions of reasonable life. Where the words "minimum wage" or "minimum wages" are used they shall have the same meaning as "living wage" or "living wages."

Subd. 3. **Rate or rates.** "Rate" or "rates" mean rate or rates of wages.

Subd. 4. **Department.** "Department" means the department of labor and industry.

Subd. 5. **Worker, employee.** "Worker" or "employee" may mean a person of any sex who is employed for wages, but shall not include any person engaged or employed in domestic service in a private home or employed in agriculture. The term includes any person who may also be classified as a minor, learner, or apprentice under the definitions of this chapter.

Subd. 6. **Minor.** "Minor" means any person under the age of 21 years.

Subd. 7. **Learner, apprentice.** "Learner" and "apprentice" may mean any minor or person over 21 years of age.

Subd. 8. [Repealed, 1971 c 874 s 5]

Subd. 9. **Occupation.** "Occupation" means any business, industry, trade, or branch of a trade or vocation which employs any employee.

[1913 c 547 s 2, 20; 1937 c 79 s 1; 1951 c 453 s 1, 2; Ex1967 c 1 s 6; 1971 c 874 s 1-4] (4214, 4232)

177.03 INVESTIGATION, WAGES OF EMPLOYEES. The department may at its discretion investigate the wages paid to employees in any occupation in this state. At the request of not less than 100 persons engaged in any occupation, the department shall forthwith make such investigation as herein provided.

[1913 c 547 s 2; 1937 c 79 s 1; Ex1967 c 1 s 6; 1971 c 382 s 1] (4214)

177.04 DUTIES OF EMPLOYERS; REGISTER. Every employer shall keep a register of the names and addresses of and wages paid to all persons employed by

him, together with the number of hours they are employed per day or per week; and every such employer shall on request permit the department, or any of its members or agents, to inspect such register.

[1913 c 547 s 3; Ex1967 c 1 s 6; 1971 c 875 s 1] (4215)

177.05 PUBLIC HEARINGS; WITNESSES. The department shall specify times to hold public hearings at which employers, employees, or other interested persons may appear and give testimony as to wages, profits, and other pertinent conditions of the occupation or industry. The commissioner of labor and industry, shall have power to subpoena witnesses, to administer oaths, and to compel the production of books, papers, and other evidence. Witnesses subpoenaed by the commissioner may be allowed such compensation for travel and attendance as it may deem reasonable, to an amount not exceeding the usual mileage and per diem allowed by our courts in civil cases.

[1913 c 547 s 4; Ex1967 c 1 s 6] (4216)

177.06 NOTICES OF PUBLIC HEARINGS. The department shall maintain a record of all persons or their representatives, who have filed notice with the department of their interest in orders affecting minimum wages and all such persons or their recorded representatives shall be notified by the department of the pending of any such proceeding in sufficient time to permit such person to become a party to the proceeding and to present evidence relative thereto. The department shall notify all such persons of any decision filed in such proceedings by written mailed notice within ten days after the filing of the order or decision.

[1913 c 547 s 5; 1951 c 453 s 3; Ex1967 c 1 s 6] (4217)

177.07 WAGES, ORDERS. Subdivision 1. **Minimum wages.** The commissioner shall determine the minimum wages sufficient for living wages for employees of ordinary ability and also the minimum wages sufficient for living wages for learners and apprentices; provided, however, that for purposes of this section the term "employee" does not include individuals employed as an outside salesman. Minimum wages referred to herein shall be fixed on an hourly basis. The commissioner shall consider the prevailing number of hours of work in various industries when making orders relating to minimum wages. The commissioner shall then issue an order, to be effective 30 days thereafter, making the wages thus determined the minimum wages in said occupation throughout the state, or within any area of the state if differences in the cost of living warrant this restriction. Those provisions of any order heretofore or hereafter issued by the commissioner with reference to the rate of pay for each hour of employment in excess of the minimum number of hours established by the commissioner, shall not apply to cases in which night telephone operators may be at their place of employment for no more than 12 hours and shall have an opportunity for at least 4 hours of sleep during the 12 hours of employment, and shall not apply to telephone operators employed in cities, towns, villages, boroughs, and towns of less than 1,500 inhabitants.

Subd. 2. **Publishing orders.** Such order shall be published in one issue of a daily newspaper of general circulation published in each city of the first class, at least 20 days before the same takes effect, and proof of such publication as required in the publication of legal notices, together with the original order, shall be filed with the department. A copy of such order and of the proofs of publication, duly certified by the commissioner, shall be prima facie evidence of the existence of such order and the contents thereof, and of the facts of publication as contained in such certified copies, and the certificate of the commissioner shall be prima facie evidence of the filing and of other acts required by law in relation to the order.

Subd. 3. **Copies mailed and posted.** The department shall mail to each employer affected by the order, whose name and address is known to it, copies of the order, with such general or particular directions for posting the same as it may determine, and such employer shall post such order and keep the same posted in his factory or place where persons are employed as required by it. Failure to mail such orders to any employer affected thereby shall not relieve

such employer from the duty to comply with such order in relation to the payment of a wage not less than the minimum prescribed in such order.

[1913 c 547 s 6; 1923 c 153 s 1; 1939 c 186 s 1; 1951 c 453 s 4; Ex1967 c 1 s 6; 1971 c 714 s 1, 2] (4218)

177.075 EXISTING WAGE ORDERS. All wage orders adopted by the department of labor and industry and effective prior to July 1, 1971, shall apply to male and female employees, minors and apprentices; provided, however, that for purposes of this section the term "employee" does not include individuals employed as an outside salesman.

[1971 c 919 s 1]

177.08 ADVISORY BOARDS. Whenever an order or decision of the commissioner affecting minimum wages is contemplated, the commissioner shall establish an advisory board, which shall serve without pay, consisting of not less than three, nor more than ten, persons representing employers, and an equal number of persons representing the workers in the occupation, and of one or more disinterested persons appointed by the commissioner to represent the public; but the number of representatives of the public shall not exceed the number of representatives of either of the other parties. The commissioner shall make rules and regulations governing the selection of members and the modes of procedure of the advisory boards and exercise exclusive jurisdiction over all questions arising with reference to the validity of the procedure and determination of these boards. The selection of members representing employers and employees shall be so far as practicable from names submitted by employers and employees, respectively. Recommendations of the advisory board shall be advisory only, and not binding upon the commissioner.

[1913 c 547 s 7; 1951 c 453 s 5; Ex1967 c 1 s 6; 1971 c 873 s 1] (4219)

177.09 POWERS AND DUTIES OF BOARDS; ESTIMATES OF WAGES. Each advisory board shall have the same power as the commissioner to subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. Witnesses subpoenaed by an advisory board shall be allowed the same compensation as when subpoenaed by the commissioner. Each advisory board shall recommend to the commissioner an estimate of the minimum wages, whether by time rate or by price rate, sufficient for living wages for employees of ordinary ability, and an estimate of the minimum wages sufficient for living wages for learners and apprentices. A majority of the entire membership of an advisory board shall be necessary and sufficient to recommend wage estimates to the commissioner.

[1913 c 547 s 8; Ex1967 c 1 s 6; 1971 c 870 s 1] (4220)

177.10 REVIEW; DETERMINATION OF WAGES. Upon receipt of estimates of wages from an advisory board, the commissioner shall review the same and, if it approves them, shall make them the minimum wages in that occupation, as provided in section 177.07. Such wages shall be regarded as determined by the commissioner himself and the order of the commissioner putting them into effect shall have the same force and authority as though the wages were determined without the assistance of an advisory board.

[1913 c 547 s 9; Ex1967 c 1 s 6] (4221)

177.11 RECONSIDERATION; NEW RATES. All rates of wages ordered by the commissioner shall remain in force until new rates are determined and established by the commissioner. At the request of approximately one-tenth of the employers or employees in an occupation, the commissioner must reconsider the rates already established therein and may, if he sees fit, order new rates of minimum wages for the occupation. He may likewise reconsider old rates and order new minimum rates on his own initiative.

[1913 c 547 s 10; 1951 c 453 s 6; Ex1967 c 1 s 6] (4222)

177.12 EMPLOYMENT AT LESSER WAGE; SPECIAL LICENSE. For any occupation in which a minimum time rate of wages only has been ordered the commissioner may issue to an employee physically disabled a special license authorizing employment at a wage less than the general minimum ordered in the occupation, and may fix a special wage for such person. The number of persons holding

such special licenses shall not exceed one-tenth of the number of workers in any establishment.

[1913 c 547 s 11; Ex1967 c 1 s 6; 1971 c 871 s 1] (4223)

177.121 SPECIAL WAGE RATES; EMPLOYMENT, LICENSE. The department of labor and industry shall make rules and regulations whereby any employee, including any minor, apprentice or handicapped person unable to earn the living wage theretofore determined upon, shall be granted a license to work for a wage which shall be commensurate with his or her ability. Each license so granted shall establish a wage for the licensee, and no licensee shall be employed at a wage less than the rate so established.

[1951 c 453 s 7; Ex1967 c 1 s 6; 1971 c 872 s 1]

177.122 CERTIORARI. Decisions and orders of the commissioner made under the provisions of this section shall be subject to review by certiorari to the district court of Ramsey County or to the district court of any county wherein the complaining party resides. Any person affected by the decision or order of the commissioner may appeal therefrom within 60 days from the date of the entry of the order in the docket of the department.

[1951 c 453 s 8; Ex1967 c 1 s 6]

177.13 NOT TO EMPLOY AT LESS THAN MINIMUM WAGE, EXCEPTIONS. Every employer in any occupation is hereby prohibited from employing any worker at less than the living wage or minimum wage as determined in an order of the commissioner; and it shall be unlawful for any employer to employ any worker at less than living or minimum wage, except as follows: (1) a minor not exceeding one in number employed by an employer in connection with the publication of any weekly or semi-weekly newspaper who is employed as a learner or student of the printing trade shall be paid a wage not less than the following for not more than 20 hours in any week in which the learner's or student's school is in session and not more than 33 hours in any other week and for a period of not to exceed three years; 75 percent of the prevailing minimum wage for the first year, 85 percent of the prevailing minimum wage for the second year, and 95 percent of the prevailing minimum wage for the third year, and (2) during a learning or apprenticeship period for which a learner's or apprenticeship certificate has been issued by the United States department of labor in accordance with the provisions of the Fair Labor Standards Act, employees covered by a said certificate in the apparel and garment industries shall receive the wages set forth therein.

[1913 c 547 s 12; 1963 c 708 s 1; 1965 c 370 s 1; Ex1967 c 1 s 6] (4224)

177.14 DISCRIMINATION AGAINST EMPLOYEES. It shall be unlawful for any employer to discharge or in any manner discriminate against any employee because such employee has testified, or is about to testify, or because such employer believes that the employee is about to testify, in any investigation or proceeding relative to the enforcement of this chapter.

[1913 c. 547 s. 13] (4225)

177.15 ACTIONS TO RECOVER FULL WAGES. Any worker who receives less than the minimum wage ordered by the commissioner shall be entitled to recover in civil action the full amount due as measured by the order of the commissioner, together with costs and attorney's fees to be fixed by the court, notwithstanding any agreement to work for a lesser wage.

[1913 c 547 s 14; Ex1967 c 1 s 6] (4226)

177.16 ENFORCEMENT. The department shall enforce the provisions of this chapter and determine all questions arising thereunder, except as otherwise provided in this chapter.

[1913 c 547 s 15; Ex1967 c 1 s 6] (4227)

177.17 BIENNIAL REPORT. The department shall biennially make a report of its work to the governor and the legislature and such reports shall be printed and distributed as in the case of other executive documents.

[1913 c 547 s 16; Ex1967 c 1 s 6] (4228)

177.18 [Repealed, 1965 c 45 s 73]

177.19 VIOLATION BY EMPLOYER. Any employer violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor; and, upon con-

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viction thereof, punished for each offense by a fine of not less than \$10, nor more than \$50, or by imprisonment for not less than ten nor more than 60 days.

[1913 c. 547 s. 19] (4231)

177.20 SCHOOL HOT LUNCH PROGRAM, EXCEPTION. Minnesota Statutes, Chapter 177, shall not apply to a minor engaged as a part time employee of any school district in the district's hot lunch program, while such minor is a full time student enrolled in such school.

[1963 c 241 s 1]