

## CHAPTER 178

### APPRENTICE TRAINING

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#### 178.01 PURPOSES.

The purposes of this chapter are: to open to all people regardless of race, sex, creed, color or national origin, the opportunity to obtain training and on-the-job learning that will equip them for profitable employment and citizenship; to establish as a means to this end, a program of voluntary apprenticeship under approved apprenticeship agreements providing facilities for their training and guidance in the arts, skills, and crafts of industry and trade or occupation, with concurrent, supplementary instruction in related subjects; to promote apprenticeship opportunities under conditions providing adequate training and on-the-job learning and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an Apprenticeship Board and apprenticeship committees to assist in effectuating the purposes of this chapter; to provide for a Division of Labor Standards and Apprenticeship within the Department of Labor and Industry; to provide for reports to the legislature regarding the status of apprentice training in the state; to establish a procedure for the determination of apprenticeship agreement controversies; and to accomplish related ends.

**History:** (4260-31) 1939 c 363 s 1; 1974 c 144 s 1; 2003 c 128 art 11 s 4; 2007 c 135 art 7 s 1; 2007 c 140 art 11 s 1; 2010 c 280 s 2; 2012 c 295 art 1 s 1

#### 178.02 APPRENTICESHIP BOARD.

Subdivision 1. **Members.** The commissioner of labor and industry, hereinafter called the commissioner, shall appoint an Apprenticeship Board, hereinafter referred to as the board, composed of three representatives each from employer and employee organizations, and two representatives of the general public. The director of education responsible for career and technical education or designee shall be an ex officio member of the board and shall serve in an advisory capacity only.

Subd. 2. **Terms.** The board shall not expire. The terms, compensation, and removal of appointed members shall be as provided in section 15.059.

Subd. 3. [Repealed, 1976 c 149 s 63]

Subd. 4. **Duties.** The board shall meet at the call of the commissioner. It shall propose occupational classifications for apprenticeship programs; propose minimum standards for apprenticeship programs and agreements; and advise on the establishment of such policies, procedures, and rules as the board deems necessary in implementing the intent of this chapter.

**History:** (4260-32) 1939 c 363 s 2; 1951 c 333 s 1; Ex1967 c 1 s 6; 1974 c 144 s 2; 1976 c 149 s 34; 1979 c 130 s 1; 1986 c 444; 1993 c 132 s 3; 1Sp1995 c 3 art 16 s 13; 1997 c 192

*s 29; 2001 c 161 s 35; 1Sp2003 c 9 art 10 s 9; 2007 c 135 art 7 s 2; 2007 c 140 art 11 s 2; 2009 c 78 art 6 s 16*

### **178.03 DIVISION OF LABOR STANDARDS AND APPRENTICESHIP.**

Subdivision 1. **Establishment of division.** There is established a Division of Labor Standards and Apprenticeship in the Department of Labor and Industry. This division shall be administered by a director, and be under the supervision of the commissioner of labor and industry, hereinafter referred to as the commissioner.

Subd. 2. **Director of labor standards and apprenticeship.** The commissioner shall appoint a director of the Division of Labor Standards and Apprenticeship, hereinafter referred to as the director, and may appoint and employ such clerical, technical, and professional help as is necessary to accomplish the purposes of this chapter. The director and division staff shall be appointed and shall serve in the classified service pursuant to civil service law and rules.

Subd. 3. **Duties and functions.** The director, under the supervision of the commissioner, and with the advice and consultation of the Apprenticeship Board, is authorized: to administer the provisions of this chapter; to promote apprenticeship and other forms of on-the-job learning; to establish, in cooperation and consultation with the Apprenticeship Board and with the apprenticeship committees, conditions, training, and learning standards for the approval of apprenticeship programs and agreements, which conditions and standards shall in no case be lower than those (1) prescribed by this chapter, and (2) established under Code of Federal Regulations, title 29, part 29; to promote equal employment opportunity in apprenticeship and other on-the-job learning and to establish a Minnesota plan for equal employment opportunity in apprenticeship which shall be consistent with standards established under Code of Federal Regulations, title 29, part 30, as amended; to issue certificates of registration to sponsors of approved apprenticeship programs; to act as secretary of the Apprenticeship Board; to approve, if of the opinion that approval is for the best interest of the apprentice, any apprenticeship agreement which meets the standards established hereunder; to terminate any apprenticeship agreement in accordance with the provisions of such agreement; to keep a record of apprenticeship agreements and their disposition; to issue certificates of completion of apprenticeship; and to perform such other duties as the commissioner deems necessary to carry out the intent of this chapter; provided, that the administration and supervision of supplementary instruction in related subjects for apprentices; coordination of instruction on a concurrent basis with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the function of state and local boards responsible for vocational education. The director shall have the authority to make wage determinations applicable to the graduated schedule of wages and journeyworker wage rate for apprenticeship agreements, giving consideration to the existing wage rates prevailing throughout the state, except that no wage determination by the director shall alter an existing wage provision for apprentices or journeyworkers that is contained in a bargaining agreement in effect between an employer and an organization of employees, nor shall the director make any determination for the beginning rate for an apprentice that is below the wage minimum established by federal or state law.

Subd. 4. **Reciprocity approval.** The director, if requested by a sponsoring entity, shall grant reciprocity approval to apprenticeship programs of employers and unions who jointly form a sponsoring entity on a multistate basis in other than the building construction industry if such programs are in conformity with this chapter and have been registered in compliance with Code of Federal Regulations, title 29, part 29, by a state apprenticeship council recognized by

or registered with the United States Department of Labor, Office of Apprenticeship, when such approval is necessary for federal purposes under Code of Federal Regulations, title 29, section 29.13(a) or 29.13(b)(7).

Subd. 5. [Repealed, 1987 c 403 art 2 s 164]

**History:** (4260-33) 1939 c 363 s 3; Ex1967 c 1 s 6; 1974 c 144 s 3; 1979 c 130 s 2,3; 1985 c 248 s 70; 1Sp1985 c 14 art 9 s 10; 1986 c 444; 2003 c 128 art 11 s 5,6; 2007 c 135 art 7 s 3; 2007 c 140 art 11 s 3; 2010 c 280 s 3,4; 2012 c 295 art 1 s 2,3

**178.04** [Repealed, 1974 c 144 s 10]

#### **178.041 RULEMAKING POWER.**

Subdivision 1. **Rules.** The commissioner may, upon receipt of the board's proposals, accept, adopt, and issue them by rule with any modifications or amendments the commissioner finds appropriate. The commissioner may refer them back to the board with recommendations for further study, consideration and revision. If the commissioner refuses to accept, adopt, and issue by rule or other appropriate action a board proposal, the commissioner must provide a written explanation of the reason for the refusal to the board within 30 days after the board submitted the proposal to the commissioner. Additional rules may be issued as the commissioner may deem necessary.

Subd. 2. **Chapter 14 applies.** Rules, modifications, amendments, and repeals thereof which may be issued by the commissioner under this section shall be adopted in accordance with chapter 14 and shall have the force and effect of law.

**History:** 1974 c 144 s 4; 1982 c 424 s 130; 1986 c 444; 2007 c 135 art 7 s 4; 2007 c 140 art 11 s 4

#### **178.05 APPRENTICESHIP COMMITTEES AND PROGRAMS.**

Subdivision 1. **Establishment of committees.** Apprenticeship committees may be established by the director to supervise the operation of apprenticeship programs. Establishment of a committee may be considered justified if either of the following conditions are met:

- (1) when the employers and employees in a trade or occupation or trades or occupations are parties to a collective bargaining agreement requiring joint participation in program operation; or
- (2) when five or more apprentices are enrolled under a program.

Subd. 2. **Members.** (a) The total number of members on a committee may range from four to twelve.

(b) In joint participation there shall be equal representation of employers and employees.

(c) Members shall be selected by the group or groups they represent subject to approval by the director.

Subd. 3. **Programs.** (a) A program operating under the supervision of a committee shall, in its standards, include the procedures to be followed in the administration of the program which in no case shall be inconsistent with the provisions of this chapter, and such rules as may be promulgated by the department under the authority of this chapter.

(b) Every apprenticeship program operating under a committee shall, in its standards, provide for a tie breaking procedure should the committee, by its voting, find itself unable to

reach a majority decision on any matter relative to the committee's supervision and operation of the program.

(c) When a committee is not established by the director, the operation of the program shall be according to the terms and conditions of the apprenticeship agreement as subscribed to by the named contracting parties and approved by the director.

**History:** (4260-35) 1939 c 363 s 5; 1974 c 144 s 5; 1979 c 130 s 4; 1986 c 444; 2012 c 295 art 1 s 4,5

### **178.06 APPRENTICE.**

The term "apprentice," as used herein, means a person at least 16 years of age who has entered into a written agreement, hereinafter called an apprenticeship agreement, with a committee, an employer, an association of employers, or an organization of employees, which provides for learning consistent with this chapter and Code of Federal Regulations, title 29, section 29.5(b)(1) and (b)(2):

(1) a time-based approach involving not less than 2,000 hours or one year of reasonably continuous employment for such person and for participation in an approved program of on-the-job learning through employment and through concurrent, supplementary education in related subjects;

(2) a competency-based approach involving successful demonstration of acquired skills and knowledge by an apprentice plus on-the-job learning; or

(3) a hybrid approach involving the completion of a specified minimum number of hours plus the successful demonstration of competency.

Whenever a minimum age exceeding 16 years is prescribed by federal or state law to apply to workers in certain hazardous occupations, the minimum age so prescribed shall be applicable to apprentices.

**History:** (4260-36) 1939 c 363 s 6; 1974 c 144 s 6; 1979 c 130 s 5; 1986 c 444; 2010 c 280 s 5; 2012 c 295 art 1 s 6

### **178.07 APPRENTICESHIP AGREEMENTS.**

Every apprenticeship agreement entered into under this chapter shall contain:

(1) the names of the contracting parties;

(2) the date of birth, and information as to the race and sex of the apprentice;

(3) a statement of the trade, craft, occupation, 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 concurrent, supplementary instruction in related subjects, which instruction shall be not less than 144 hours during each year of the apprenticeship term. The maximum number of hours of work per week not including time spent in related and supplemental instruction for any apprentice shall not exceed either the number prescribed by law or the customary regular number of hours per week for the employees of the company by which the apprentice is employed. An apprentice may be allowed to work overtime provided that the overtime work does not conflict with supplementary instruction course attendance. All time in excess of the number of hours of work per week as specified in the apprenticeship agreement shall be considered overtime. For overtime, the apprentice's rate of pay shall be increased by

the same percentage as the journeyworker's rate of pay for overtime is increased in the same industry or establishment;

(5) a statement setting forth a schedule of the processes in the trade, occupation, or industry divisions in which the apprentice is to be taught and the approximate time to be spent at each process;

(6) a statement of the graduated scale of wages to be paid the apprentice and whether the required school time shall be compensated;

(7) a statement providing for a period of probation of not more than 500 hours of employment and instruction extending over not more than four months, during which time the apprenticeship agreement shall be terminated by the director upon written request of either party, and providing that after such probationary period the apprenticeship agreement may be terminated by the director by mutual agreement of all parties thereto, or terminated by the director for good and sufficient reason;

(8) a provision that controversies or differences concerning the terms of the apprenticeship agreement which cannot be resolved by the parties thereto, or which are not covered by a collective bargaining agreement, may be submitted to the director for determination as provided for in section 178.09;

(9) a provision that an employer who is unable to fulfill an obligation under the apprenticeship agreement may, with the approval of the director, transfer such contract to any other employer, provided that the apprentice consents and that such other employer agrees to assume the obligations of the apprenticeship agreement; and

(10) such additional terms and conditions as may be prescribed or approved by the director not inconsistent with the provisions of this chapter.

**History:** (4260-37) 1939 c 363 s 7; 1941 c 85; 1974 c 144 s 7; 1986 c 444; 2012 c 295 art 1 s 7

#### **178.08 DIRECTOR TO APPROVE APPRENTICESHIP AGREEMENTS.**

Every apprenticeship agreement is subject to approval by the director and shall be signed by the committee, the employer, an association of employers, or an organization of employees, and by the apprentice, and if the apprentice is a minor, by a parent or legal guardian. When a minor enters into an apprenticeship agreement under this chapter for a period of learning extending into majority the apprenticeship agreement shall likewise be binding for such a period as may be covered during the apprentice's majority.

**History:** (4260-38) 1939 c 363 s 8; 1974 c 144 s 8; 1986 c 444; 2010 c 280 s 6; 2012 c 295 art 1 s 8

#### **178.09 INVESTIGATIONS BY DIRECTOR.**

Subdivision 1. **Complaint.** Upon the complaint of any interested person or upon the director's own initiative the director may investigate to determine if there has been a violation of the terms of an apprenticeship agreement made under this chapter. The director may conduct such proceedings as are necessary for that investigation and determination. All such proceedings shall be on a fair and impartial basis and shall be conducted according to rules promulgated under section 178.041.

Subd. 2. **Determination; appeal.** The determination of the director shall be filed with the commissioner and written notice shall be served on all parties affected by it. Any person aggrieved

by any determination or action of the director may appeal to the commissioner. If no appeal is filed with the commissioner within ten days of the date of service, the director's determination shall become the order of the commissioner. If an appeal is filed, the commissioner shall appoint and convene a hearing board to be composed of three members of the Apprenticeship Board appointed under section 178.02, one member being a representative of an employer organization, one representative being a member of an employee organization, and one member representing the general public. The board shall hold a hearing on the appeal after due notice to the interested parties and shall submit to the commissioner findings of fact and a recommended decision accompanied by a memorandum of the reasons for it. Within 30 days after submission, the commissioner may adopt the recommended decision of the board, or disregard the recommended decision of the board and prepare a decision based on the findings of fact and accompanied by a memorandum of reasons for that decision. Written notice of the commissioner's determination and order shall be served on all parties affected by it. Any person aggrieved or affected by any determination or order of the commissioner may appeal from it to the district court having jurisdiction at any time within 30 days after the date of the order by service of a written notice of appeal on the commissioner. Upon service of the notice of appeal, the commissioner shall file with the court administrator of the district court to which the appeal is taken a certified copy of the order appealed from, together with findings of fact on which it is based. The person serving a notice of appeal shall, within five days after its service, file it, with proof of service, with the court administrator of the court to which the appeal is taken. The district court shall then have jurisdiction over the appeal and it shall be entered in the records of the district court and tried de novo according to the applicable rules. Any person aggrieved or affected by any determination, order, or decision of the district court may appeal as in other civil cases.

**History:** (4260-39) 1939 c 363 s 9; Ex1967 c 1 s 6; 1974 c 144 s 9; 1983 c 247 s 76; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 2012 c 295 art 1 s 9,10

#### **178.10 LIMITATION.**

The provisions of this chapter shall have no application to those infants who are apprenticed by the commissioner of corrections pursuant to sections 242.43 and 242.44.

**History:** (4260-41) 1939 c 363 s 11; 1965 c 51 s 36; 1973 c 654 s 15; 1975 c 271 s 6; 1983 c 274 s 18

#### **178.11 LABOR EDUCATION ADVANCEMENT GRANT PROGRAM.**

The commissioner shall establish the labor education advancement grant program for the purpose of facilitating the participation of minorities and women in apprenticeable trades and occupations. The commissioner shall award grants to community-based organizations serving the targeted populations on a competitive request-for-proposal basis. Interested organizations shall apply for the grants in a form prescribed by the commissioner. As part of the application process, applicants must provide a statement of need for the grant, a description of the targeted population and apprenticeship opportunities, a description of activities to be funded by the grant, evidence supporting the ability to deliver services, information related to coordinating grant activities with other employment and learning programs, identification of matching funds, a budget, and performance objectives. Each submitted application shall be evaluated for completeness and effectiveness of the proposed grant activity.

**History:** 1995 c 224 s 72; 2010 c 280 s 7

#### **178.12 [Repealed, 1Sp2005 c 1 art 4 s 124]**