

CHAPTER 104.

MINIMUM WAGE LAW.

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104.01 Definitions. The following terms as used in sections 104.01 to 104.12 shall be construed as follows:

(1) The term "employer" shall mean and include every person, firm or corporation, agent, manager, representative, contractor, subcontractor or principal, or other person having control or direction of any person employed at any labor or responsible directly or indirectly for the wages of another.

(2) "Employee" means every person who is in receipt of or is entitled to any compensation for labor performed for any employer. This chapter does not apply to any employe engaged in the house to house delivery of newspapers to the consumer or engaged in direct retail sale to the consumer.

(3) The term "wage" and the term "wages" shall each mean any compensation for labor measured by time, piece or otherwise.

(4) The term "welfare" shall mean and include reasonable comfort, reasonable physical well-being, decency, and moral well-being.

(5) The term "living-wage" shall mean compensation for labor paid, whether by time, piece-work or otherwise, sufficient to enable the employe receiving it to maintain himself or herself under conditions consistent with his or her welfare.

History: 1967 c. 343.

104.02 Living-wage prescribed. Every wage paid or agreed to be paid by any employer to any woman or minor employe, except as otherwise provided in section 104.07, shall be not less than a living-wage.

104.03 Definition of guilt. Any employer paying, offering to pay, or agreeing to pay any woman or minor employe a wage lower or less in value than a living-wage shall be deemed guilty of a violation of sections 104.01 to 104.12.

104.04 Classifications; authority conferred upon industrial commission. It shall be the duty of the industrial commission and it shall have power, jurisdiction and authority to investigate, ascertain, determine and fix such reasonable classifications, and to impose general or special orders, determining the living-wage, and to carry out the purposes of sections 104.01 to 104.12. Such investigations, classifications and orders shall be made pursuant to the proceeding in sections 101.01 to 101.28, which are hereby made a part hereof, so far as not inconsistent with the provisions of sections 104.01 to 104.12; and every order of the said commission shall have the same force and effect as the orders issued pursuant to said sections 101.01 to 101.28, and the penalties therein shall apply to and be imposed for any violation of sections 104.01 to 104.12. Said orders shall be subject to review in the manner provided in chapter 227.

A rule of the commission that tips may not be counted as part of the minimum wage may not be invoked where the agreement was that tips could be retained by the employe and where these tips plus the wage paid exceeded the minimum. *Sheaffer v. Industrial Comm.* 29 W (2d) 292, 139 NW (2d) 106, 140 NW (2d) 300.
An employer may not be required to post a notice of the disposition of tips. 55 Atty. Gen. 120.

104.05 Complaints; investigation. The industrial commission shall, within twenty days after the filing of a verified complaint of any person setting forth that the wages paid to any woman or minor employe in any occupation are not sufficient to enable such employe to maintain himself or herself under conditions consistent with his or her welfare, investigate and determine whether there is reasonable cause to believe that the wage paid to any woman or minor employe is not a living-wage.

104.06 Advisory wage board; determination. If, upon investigation, the commission finds that there is reasonable cause to believe that the wages paid to any woman or

minor employe are not a living-wage, it shall appoint an advisory wage board, selected so as fairly to represent employers, employes and the public, to assist in its investigations and determinations. The living-wage so determined upon shall be the living-wage for all women and minor employes, within the same class as established by the classification of the commission.

104.07 Regulations; license to work. The industrial commission shall make rules and regulations whereby any woman or minor 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.

104.08 Apprentices. (1) All persons working in an occupation for which a living-wage has been established for minors, and who shall have no trade, shall, if employed in an occupation which is a trade industry, be indentured under the provisions of s. 106.01.

(2) A "trade" or a "trade industry" within the meaning of ss. 104.01 to 104.12 shall be a trade or an industry involving physical labor and characterized by mechanical skill and training such as render a period of instruction reasonably necessary. The industrial commission shall investigate, determine and declare what occupations and industries are included within the phrase a "trade" or a "trade industry."

(3) The industrial commission may make exceptions to the operation of subs. (1) and (2) of this section where conditions make their application unreasonable.

104.09 Records. Each employer shall keep a record of the names and addresses of all women and minors employed by him, the hours of employment and wages of each, and such other records as the industrial commission requires.

History: 1965 c. 210.

104.10 Penalty for intimidating witness. Any employer who discharges or threatens to discharge, or in any way discriminates, or threatens to discriminate against any employe because the employe has testified or is about to testify, or because the employer believes that the employe may testify, in any investigation or proceeding relative to the enforcement of ss. 104.01 to 104.12, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of \$25 for each offense.

104.11 Definition of violation. Each day during which any employer shall employ a person for whom a living-wage has been fixed at a wage less than the living-wage fixed shall constitute a separate and distinct violation of sections 104.01 to 104.12, inclusive, of the statutes.

104.12 Complaints. Any person may register with the industrial commission a complaint that the wages paid to an employe for whom a living-wage has been established, are less than that rate, and the industrial commission shall investigate the matter and take all proceedings necessary to enforce the payment of a wage not less than the living-wage.