CHAPTER 104
MINIMUM WAGE LAW

104.01 Definitions. (e) (4), as amended to April 15, 1986, to
(8), notes the department of industry, and to
trade; license to employ; student learners; sheltered workshops. (a)
student education; determination.

104.07 Rules; license to employ; student learners; sheltered workshops.

104.08 Apprentices.

104.09 Records.

104.10 Penalty for intimidating witness.

104.11 Definition of violation.

104.12 Complaints.

Cross-reference: See definitions in s. 103.001.

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

1. “Employer” means and includes 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. “Employer” includes the state, its political subdivisions and any office, department, independent agency, authority, institution, association, society or other body in state or local government created or authorized to be created by the constitution or any law, including the legislature and the courts.

3. “Student learner” means a student who is receiving instruction in an accredited school and who is employed on a part-time basis, pursuant to a bona fide school training program. A “bona fide school training program” means a program authorized and approved by the department of education in the technical college system board, or other recognized educational body, and provided for part-time employment training which may be scheduled for a part of the workday or workweek, supplemented by and integrated with, a definitely organized plan of instruction and where proper scholastic credit is given by the accredited school.

4. The term “wage” and the term “wages” shall each mean any compensation for labor measured by time, piece or otherwise.

5. The term “wage” shall mean compensation for labor paid, whether by time, piecework or otherwise, sufficient to enable the employee receiving it to maintain himself or herself under conditions consistent with his or her welfare.

6. “Sheltered workshop” means a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for handicapped workers and of providing such workers with remunerative employment or other occupational rehabilitative activity of an educational or therapeutic nature.

NOTE: Sub. (7) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in Thompson v. Craney, case no. 95–2160–OA. Prior to Act 27 it read: (7) “Student learner” means a student who is receiving instruction in an accredited school and who is employed on a part-time basis, pursuant to a bona fide school training program. A “bona fide school training program” means a program authorized and approved by the department of public instruction or the technical college system board, or other recognized educational body, and provided for part-time employment training which may be scheduled for a part of the workday or workweek, supplemented by and integrated with, a definitely organized plan of instruction and where proper scholastic credit is given by the accredited school.

7. The term “wage” and the term “wages” shall each mean any compensation for labor measured by time, piece or otherwise.

8. “Employer” includes the state, its political subdivisions and any office, department, independent agency, authority, institution, association, society or other body in state or local government created or authorized to be created by the constitution or any law, including the legislature and the courts.

9. The term “wage” shall mean compensation for labor paid, whether by time, piecework or otherwise, sufficient to enable the employee receiving it to maintain himself or herself under conditions consistent with his or her welfare.

Wisconsin Statutes Archive.
104.04 Tipped employes. The department shall by rule determine what amount of tips or similar gratuities may be counted toward fulfillment of the employer’s obligation under this chapter.

History: 1977 c. 179.

104.05 Complaints; investigation. The department shall, within 20 days after the filing of a verified complaint of any person setting forth that the wages paid to any employee in any occupation are not sufficient to enable the employee 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 employee is not a living-wage.

History: 1973 c. 94.

104.06 Wage council; determination. If, upon investigation, the department finds that there is reasonable cause to believe that the wages paid to any employee are not a living-wage, it shall appoint a wage council, selected so as to fairly represent employers, employees and the public, to assist in its investigations and determinations. The living-wage so determined upon shall be the living-wage for all employees within the same class as established by the classification of the department.

History: 1973 c. 94.

104.07 Rules; license to employ; student learners; sheltered workshops. (1) The department shall make rules and grant licenses, to any employer who employs any employee unable to earn the living-wage theretofore determined upon, permitting such person to work for a wage which shall be commensurate with ability and productivity. A license granted to a sheltered workshop, under this section, may be issued for the entire workshop or a department thereof.

(2) The department shall make rules and grant licenses to sheltered workshops to permit the employment of handicapped workers unable to earn the living-wage theretofore determined upon permitting such persons to work for a wage which shall be commensurate with his or her ability and productivity. A license granted to a sheltered workshop, under this section, may be issued for the entire workshop or a department thereof.

(3) No student learner or employee shall be employed at a wage less than the rate so established.

History: 1977 c. 29 s. 1651; 1977 c. 273.

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 department shall investigate, determine and declare what occupations and industries are included within the phrase a “trade” or a “trade industry”.

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

104.09 Records. Each employer shall keep a record of the names and addresses of all student learners and employees, the hours of employment and wages of each, and such other records pertaining to ability as the department requires.

History: 1977 c. 29 s. 1651; 1977 c. 273.

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 employee because the employee has testified or is about to testify, or because the employer believes that the employee 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 ss. 104.01 to 104.12.

104.12 Complaints. Any person may register with the department a complaint that the wages paid to employees for whom a living-wage has been established are less than that rate, and the department shall investigate the matter and take all proceedings necessary to enforce the payment of a wage not less than the living-wage. Section 111.322 (2m) applies to discharge and other discriminatory acts arising in connection with any proceeding under this section.

History: 1989 a. 228.