

CR 91-138

RULES CERTIFICATE

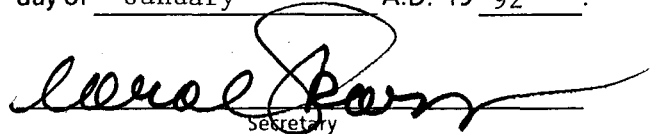
STATE OF WISCONSIN)
) SS
DEPT. OF INDUSTRY,)
LABOR & HUMAN RELATIONS)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carol Skornicka, Secretary of the Department of Industry,
Labor and Human Relation, and custodian of the official records of said department, do hereby certify the
the annexed rule(s) relating to Minimum Wage, Hours of Work and Overtime were duly
(Subject)
approved and adopted by this department on January 15, 1992.
(Date)

I further certify that said copy has been compared by me with the original on file in the department
and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set
my hand and affixed the official seal of the
department at 1:30 p.m.
in the city of Madison, this 15th
day of January A.D. 19 92.


Secretary

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2:45 pm
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ORDER OF ADOPTION

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s)

101.02(1), 103.02 and 104.04

Stats., the Department of Industry, Labor and Human Relations creates; amends;

repeals and recreates; repeals and adopts rules of Wisconsin Administrative Code chapter(s):

Ind 72 and Ind 74

(Number)

Minimum Wage, Hours of Work and Overtime

(Title)

The attached rules shall take effect on the first day of the month following

publication in the Wisconsin Admin. Register pursuant to section 227.22, Stats.

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Adopted at Madison, Wisconsin this

date: January 15, 1992

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN
RELATIONS


Secretary



State of Wisconsin \ Department of Industry, Labor and Human Relations

RULES in FINAL DRAFT FORM

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Rule No.: Ind 72 and Ind 74

Relating to: Minimum Wage, Hours of Work and Overtime

HEARING DRAFT OF PROPOSED RULES

Pursuant to the authority vested in the Department of Industry, Labor and Human Relations under ss. 101.02(1), 103.02 and 104.04, Wis. Stats., the department hereby repeals Ind 72.001(2) and Ind 72.01(6) and (7); rennumbers Ind 72.001(3); amends Ind 72.03(1), (2)(a) and (3), Ind 72.05, Ind 72.07(3)(a) and (b), Ind 72.08(1) and Ind 74.05; and creates Ind 72.001(3), Ind 72.04(1)(e), Ind 74.02(3) and Ind 74.045, relating to the minimum wage, hours of work and overtime.

The entire proposed rule will be effective upon the first day of the month following publication.

ANALYSIS

This proposal raises the amount of the probationary minimum wage to \$3.95 per hour for adults and \$3.60 per hour for minors. The regular non-probationary minimum wage is changed to \$4.25 per hour for adults and \$3.90 per hour for minors. The rates for agriculture would increase under the proposal to \$4.05 per hour for adults and \$3.70 per hour for minors. The rates for camp counselors will increase to \$140.00 per week for adults and \$123.00 per week for minors. The rates for caddies will increase to \$3.35 for 9 holes and to \$5.95 for 18 holes.

The rate for non-probationary tipped employes is set at \$2.33 per hour for adults and \$2.13 per hour for minors.

The rates for meal and lodging credit are established by using the formula contained in s. Ind 72.001(6) and (7).

The provision on the interpretation of hours worked in the minimum wage rules, s. Ind. 72.12, is made applicable also to the rules on hours of labor, in accordance with department practice.

Ind 74.02(3) Meal Periods is created to clarify meal periods under the Hours of Work and Overtime Administrative Code.

Ind 74.05 is amended to clarify that "labor and management" means there is a collectively bargained agreement in existence.

The "declaration of policy" section is revised and seven corrective changes are included in the rule.

SECTION 1. Ind 72.001(2) is repealed.

SECTION 2. Ind 72.001(3) is renumbered Ind 72.001(2).

SECTION 3. Ind 72.001(3) is created to read:

Ind 72.001(3) Except as provided in s. Ind 72.03(2), the minimum hourly rate for probationary employes shall be 30 cents per hour less than the minimum hourly rate for non-agricultural non-probationary employes.

SECTION 4. Ind 72.01(6) and (7) are repealed.

SECTION 5. Ind 72.03(1), (2)(a), and (3) are amended to read:

Ind 72.03 Minimum rates. (1) MINIMUM RATES. Except as provided in ss. Ind 72.05 to 72.09, no employer shall employ any employe in any occupation, trade, or industry at a lesser hourly rate than is indicated below:

	EFFECTIVE 4-1-90	EFFECTIVE 4-1-90
	PROBATIONARY EMPLOYES	NON-PROBATIONARY EMPLOYES
(a) Adult employes 18 years of age and over:	\$3-50 <u>\$3.95</u> per hr.	\$0.30 per hour more than the rate applicable to probationary employes
(b) Minors 17 years of age and under:	\$3-25 <u>\$3.60</u> per hr.	\$0-20 <u>\$0.30</u> per hr. more than the rate applicable to probationary employes

(2) TIPS. Where tips or gratuities are received by the employe from patrons or others, the employer may pay the minimum wage rate established by this subsection, providing the employer can establish by its payroll records that for each week where credit is taken, when adding the tips received to the wages paid, no less than the minimum rate prescribed in sub. (1), was received by the employe. The minimum rate shall be ~~either 55% of the rate prescribed in sub. (1) or~~ the rate established in par. (a), ~~whichever is higher.~~

(a) Minimum rates for tipped employes:

	EFFECTIVE 7-1-89	EFFECTIVE 7-1-89
	PROBATIONARY EMPLOYES	NON-PROBATIONARY EMPLOYES
1. Adult employes 18 years of age and over:	\$2-07 <u>\$2.20</u> per hr.	\$0-12 <u>\$0.13</u> per hour more than the rate applicable to probationary employes
2. Minors 17 years of age and under:	\$1-86 <u>\$2.00</u> per hr.	\$0-12 <u>\$0.13</u> per hour more than the rate applicable to probationary employes

SECTION 5. Continued

(3) ALLOWANCE FOR BOARD AND LODGING. Where board or lodging or both are furnished by the employer in accordance with s. Ind 72.04, and accepted and received by a particular employe, an allowance may be made not to exceed the following amounts:

	EFFECTIVE 4-1-90	EFFECTIVE 4-1-90
	PROBATIONARY EMPLOYES	NON-PROBATIONARY EMPLOYES
(a) Lodging--adults 18 years of age and over	\$28.00 <u>\$31.60</u> per week or \$4.00 <u>\$4.50</u> per day	\$2.40 per week or \$0.35 per day more than the applicable probationary employe rate
--minors 17 years of age and under	\$26.00 <u>\$28.80</u> per week or \$3.70 <u>\$4.10</u> per day	\$1.60 <u>\$2.40</u> per week or \$0.25 <u>\$0.35</u> per day more than the applicable probation- ary employe rate
	EFFECTIVE 4-1-90	EFFECTIVE 4-1-90
	PROBATIONARY EMPLOYES	NON-PROBATIONARY EMPLOYES
(b) Meals -- adults 18 years of age and over	\$42.00 <u>\$47.90</u> per week or \$2.00 <u>\$2.25</u> per meal	\$3.00 <u>\$3.10</u> per week or \$0.15 <u>\$0.20</u> per meal more than the applicable probation- ary employe rate
-- minors 17 years of age and under	\$39.00 <u>\$43.20</u> per week or \$1.85 <u>\$2.05</u> per meal	\$2.40 <u>\$3.60</u> per week or \$0.10 <u>\$0.20</u> per meal more than the applicable probation- ary employe rate

SECTION 6. Ind 72.04(1)(e) is created to read:

Ind 72.04(1)(e) Whenever a collective bargaining agreement exists, the department may consider the written application of labor and management for a waiver or modification to the requirements of par. (c) or (d), based upon practical difficulties or unnecessary hardship in compliance. If the department determines that compliance with par. (c) or (d) is unjust or unreasonable and that granting a waiver or modification will not be dangerous or prejudicial to the life, health, safety or welfare of the employes, the department may grant a waiver or modification.

SECTION 7. Ind 72.05 is amended to read:

Ind 72.05 AGRICULTURE. (1) MINIMUM RATES. The minimum wage of employes employed in agriculture shall be as follows:

EFFECTIVE
4-1-90

- (a) Adult employes 18 years of age and over: ~~\$3.60~~ \$4.05 per hr.
- (b) Minors 17 years of age and under: ~~\$3.25~~ \$3.70 per hr.

(2) ALLOWANCE FOR BOARD AND LODGING. Where board or lodging or both are furnished by the employer in accordance with s. Ind 72.04, and accepted and received by the employe, an allowance may be made not to exceed the following amounts:

EFFECTIVE
4-1-90

- (a) Lodging--adult employes 18 years of age and over: ~~\$28.00~~ \$32.40 per week or ~~\$4.10~~ \$4.65 per day
- Minors 17 years of age and under: ~~\$26.00~~ \$29.60 per week or ~~\$3.70~~ \$4.25 per day

EFFECTIVE
4-1-90

- (b) Meals--adults 18 years of age and over: ~~\$43.20~~ \$48.60 per week or ~~\$2.05~~ \$2.30 per meal
- Minors 17 years of age and under: ~~\$39.00~~ \$44.40 per week or ~~\$1.85~~ \$2.10 per meal

SECTION 8. Ind 72.07(3)(a) and (b) are amended to read:

(3) COUNSELORS. The minimum wage of counselors employed in seasonal recreational or educational camps and day camps may be computed on a weekly basis as follows:

(a) Adult counselors 18 years of age and over:

	EFFECTIVE 3-1-80 PER-WEEK	EFFECTIVE 1-1-81 PER WEEK
1. If board and lodging are not furnished	\$115.00	\$125.00 <u>\$140.00</u>
2. If board only is furnished	88.00	98.00 <u>110.00</u>
3. If board and lodging are furnished	71.00	81.00 <u>91.00</u>

(b) Counselors 17 years of age and under:

	EFFECTIVE 3-1-80 PER-WEEK	EFFECTIVE 1-1-81 PER WEEK
1. If board and lodging are not furnished	\$100.00	\$110.00 <u>\$123.00</u>
2. If board only is furnished	73.00	82.00 <u>92.00</u>
3. If board and lodging are furnished	56.00	66.00 <u>74.00</u>

SECTION 9. Ind 72.08 is amended to read:

Ind 72.08 CADDIES. (1) the minimum wage of employes employed as caddies shall be:

EFFECTIVE 3-1-80	
\$3.00	<u>\$3.35</u> 9 holes
\$5.30	<u>\$5.95</u> 18 holes

SECTION 10. Ind 74.045 is created to read:

Ind 74.045 INTERPRETATION OF HOURS WORKED. The provisions of s. Ind 72.12 apply to the interpretation of hours worked under this chapter.

SECTION 11. Ind 74.02(3) is created to read:

Ind 74.02(3) MEAL PERIODS. The employer shall pay all employes for on-duty meal periods, which are to be counted as work time. An on-duty meal period is a meal period where the employer does not provide at least 30 minutes free from work. Any meal period where the employe is not free to leave the premises of the employer will also be considered an on-duty meal period.

SECTION 12. Ind 74.05 is amended to read:

Ind 74.05 Except as provided in s. 74.08, where a collectively bargained agreement exists, the department may consider the written application of labor and management for a waiver or modification to the requirements of this chapter, based upon practical difficulties or unnecessary hardship in complying therewith. If the department determines that in the circumstances existing compliance with this chapter is unjust or unreasonable and that granting a waiver or modification will not be dangerous or prejudicial to the life, health, safety or welfare of the employes, the department may grant a waiver or modification as may be appropriate to the case.

SECTION 13. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro), Stats.

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Tommy G. Thompson
Governor

Carol Skornicka
Secretary



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State of Wisconsin
Department of Industry, Labor and Human Relations

January 15, 1992

Gary Poulson
Assistant Revisor of Statutes
2nd Floor
119 Martin Luther King Blvd.
Madison, Wisconsin 53703

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 91.138
RULE NO. Ind 72 and Ind 74
RELATING TO: Minimum Wage, Hours of Work and Overtime

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is included for permanent rules. A fiscal estimate and fiscal estimate worksheet is included with an emergency rule.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Carol Skornicka'.

Carol Skornicka
Secretary

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