

CHAPTER 7. LAWS OF 1967

AN ACT to amend 103.50 of the statutes, relating to hours and wages of labor on state highway construction.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

103.50 of the statutes is amended to read:

103.50 (1) No laborer or mechanic in the employ of the contractor, or of any subcontractor, agent, or other person doing or contracting to do all or a part of the work under a contract based on bids as provided in s. 84.06 (2) to which the state is a party for the construction or improvement of any highway, shall be permitted to work a longer number of hours per day or per calendar week than the prevailing hours of labor determined pursuant to this section; nor shall he be paid a lesser rate of wages than the prevailing rate of wages thus determined, for the area in which the work is to be done; except that any such laborer or mechanic may be permitted or required to work more than such prevailing number of hours per day and per calendar week if he is paid for all hours in excess of the prevailing hours at a

rate of at least 1½ times his hourly *basic* rate of pay. This section shall not apply to wage rates and hours of employment of laborers or mechanics engaged in the processing or manufacture of materials or products or to the delivery thereof by or for commercial establishments which have a fixed place of business from which they regularly supply such processed or manufactured materials or products; except that this section shall apply to laborers or mechanics who deliver mineral aggregate such as sand, gravel or stone which is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle.

(2) "Prevailing hours of labor" means the hours of labor per day and per week worked within the area by a larger number of workmen of the same class than are employed within the area for any other number of hours per day and per week. In no event shall the prevailing hours of labor be deemed to be more than 8 hours per day nor more than 40 hours per week. "Prevailing wage rate" means the *hourly basic rate of pay per hour plus the contribution for health and welfare benefits, vacation benefits, pension benefits and any other economic benefit, whether paid directly or indirectly*, paid to the largest number of workmen engaged in the same class of labor within such area, including rental rates for truck hire paid to those who own and operate the truck. In no event shall the prevailing wage rate for any class of labor be deemed to be less than a reasonable and living wage, nor shall truck rental rates established pursuant to this provision be subject to the provisions of sub. (1) relating to hours worked in excess of the prevailing hours when operated in excess of 8 hours in any one day or 40 hours in any one week. "*Hourly basic rate*" means the hourly wage paid to any employe, excluding any contributions or payments for health and welfare benefits, vacation benefits, pension benefits and any other economic benefits, whether paid directly or indirectly. "Area" means the locality from which labor for any project within such area would normally be secured.

(3) (a) The industrial commission shall conduct investigations and hold public hearings necessary to define classes of laborers and mechanics and to inform itself as to the hours of labor and wage rates prevailing in all areas of the state for all classes of labor and mechanics commonly employed in highway construction work, with a view to ascertaining and determining prevailing hours and rates of labor, prevailing wage rates and hourly basic rates of pay accordingly.

(b) The commission shall inform itself of the nature of the equipment furnished by truck drivers who own and operate trucks on such contract work, with a view to ascertaining and determining minimum rates for the ~~drivers and~~ equipment. In order to protect the ~~minimum~~ prevailing wage rates established by the commission from evasion through unrealistic rates paid truck drivers for equipment owned and operated by them, the commission shall establish minimum rates for the ~~drivers and~~ equipment owned and operated by them. It is the intent of this provision to prevent a truck driver who owns the equipment he operates from being required to accept less than the actual cost of operating his equipment, thereby reducing the ~~scale of wages~~ prevailing wage rates established by the commission.

(4) The industrial commission shall prior to May 1 of the current calendar year certify to the highway commission the prevailing hours of labor and, the prevailing wage rate and the hourly basic rate of pay for all such classes of laborers and mechanics in each area. *The certification shall in addition to the current prevailing hours of labor, the prevailing wage rates and the hourly basic rates of pay include future hours and rates when such hours and rates can be determined for any such classes of laborers and mechanics in any area and shall specifically set forth the effective dates thereof when future hours and rates are certified.* If a construction project extends into more than one area there shall be but one standard of hours of labor and wage rates for the entire project.

(5) ~~In the event that~~ *If* the highway commission ~~shall deem~~ *deems* any determination of the industrial commission as to the prevailing hours of labor ~~and~~, prevailing wage rates ~~and the hourly basic rates of pay~~ in an area to have been incorrect, it may appeal to the governor, whose determination shall be final.

(6) The prevailing hours of labor ~~and~~, the prevailing wage rates ~~and the hourly basic rates of pay~~ and classifications for all labor ~~as certified by the industrial commission~~ shall be specifically set forth in the proposals and contracts for each highway construction contract to which the state is a party, and shall, together with the provisions of sub. (7), be kept posted on the project by the employer in at least one conspicuous place for the information of employes working on the project.

(7) (a) Any contractor, subcontractor or agent thereof who ~~shall violate any of the provisions of~~ *violates* this section ~~shall be punished by a fine of~~ *may be fined* not less than \$50 nor more than \$200, ~~or by imprisonment for or imprisoned~~ not more than 18 months, ~~or by both such fine and imprisonment.~~ Each day that any such violation continues shall be deemed a separate ~~and distinct~~ offense.

(b) Whoever ~~shall induce~~ *induces* any individual who seeks to be or is employed on any project subject to this section, to give up or forego any part of the wages to which he is entitled under the contract governing such project, by threat not to employ ~~or~~, by threat of dismissal from such employment, or by other means ~~whatsoever~~, ~~shall upon conviction be punished by a fine~~ *may be fined* not exceeding \$1,000 or ~~by imprisonment for imprisoned~~ not more than one year, or ~~by both such fine and imprisonment.~~

(c) Any person employed on a project under a contract subject to this section who ~~shall knowingly permit~~ *permits* the contractor or subcontractor to pay him less than the *prevailing* wage rate set forth in such contract, or who ~~shall give~~ *gives* up any part of the compensation to which he is entitled thereunder, ~~shall be punished by a fine~~ *may be fined* not exceeding \$20, or ~~by imprisonment in the county jail for imprisoned~~ not more than 30 days, or ~~by both such fine and imprisonment.~~ Each day any violation of this paragraph continues shall be deemed a separate ~~and distinct~~ offense.

(8) ~~It shall be the duty of~~ The highway commission ~~to shall~~ require adherence to subs. (1) and (6). The highway commission may demand, and ~~it shall be the duty of~~ every contractor and subcontractor ~~to shall~~ furnish, copies of ~~any and all~~ payrolls and it may examine all records relating to hours of work and the wages paid laborers and mechanics on the work to which this section is applicable. Upon request of the highway commission or upon complaint of alleged violation, ~~it shall be the duty of~~ the district attorney of the county in which the work is located ~~to shall~~ make such investigation as necessary and ~~to~~ prosecute violations in a court of competent jurisdiction.

Approved March 21, 1967.