

CHAPTER 177

MINIMUM WAGES

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177.01 [Repealed, 1973 c 721 s 16]

177.02 Subdivision 1. [Repealed, 1973 c 721 s 16]

Subd. 2. [Repealed, 1973 c 721 s 16]

Subd. 3. [Repealed, 1973 c 721 s 16]

Subd. 4. [Repealed, 1973 c 721 s 16]

Subd. 5. [Repealed, 1973 c 721 s 16]

Subd. 6. [Repealed, 1973 c 721 s 16; 1976 c 2 s 166]

Subd. 7. [Repealed, 1973 c 721 s 16; 1976 c 2 s 166]

Subd. 8. [Repealed, 1971 c 874 s 5]

Subd. 9. [Repealed, 1973 c 721 s 16]

177.03 [Repealed, 1973 c 721 s 16]

177.04 [Repealed, 1973 c 721 s 16]

177.05 [Repealed, 1973 c 721 s 16]

177.06 [Repealed, 1973 c 721 s 16]

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177.075 [Repealed, 1973 c 721 s 16]

177.08 [Repealed, 1973 c 721 s 16]

177.09 [Repealed, 1973 c 721 s 16]

177.10 [Repealed, 1973 c 721 s 16]

177.11 [Repealed, 1973 c 721 s 16]

177.12 [Repealed, 1973 c 721 s 16]

177.121 [Repealed, 1973 c 721 s 16]

177.122 [Repealed, 1973 c 721 s 16]

177.13 [Repealed, 1973 c 721 s 16]

177.14 [Repealed, 1973 c 721 s 16]

177.15 [Repealed, 1973 c 721 s 16]

177.16 [Repealed, 1973 c 721 s 16]

177.17 [Repealed, 1973 c 721 s 16]

177.18 [Repealed, 1965 c 45 s 73]

177.19 [Repealed, 1973 c 721 s 16]

177.20 [Repealed, 1973 c 721 s 16]

177.21 CITATION; FAIR LABOR STANDARDS ACT.

Sections 177.21 to 177.35 may be cited as the Minnesota fair labor standards act.

History: 1973 c 721 s 1

177.22 STATEMENT OF POLICY.

It is declared to be the policy of the Minnesota fair labor standards act (1) to establish minimum wage and overtime compensation standards for workers at levels consistent with their health, efficiency, and general well-being; (2) to safeguard existing minimum wage and overtime compensation standards which are adequate to maintain the health, efficiency, and general well-being of workers against the unfair competition of wage and hour standards which do not provide such adequate standards of living; and (3) to sustain purchasing power and increase employment opportunities.

History: 1973 c 721 s 2

177.23 DEFINITIONS.

Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 177.21 to 177.35, shall have the meanings given to them in this section.

Subd. 2. "Department" means the Minnesota department of labor and industry.

Subd. 3. "Commissioner" means the commissioner of labor and industry of Minnesota or his authorized designee.

Subd. 4. "Wage" means compensation due to an employee by reason of his employment, payable in legal tender of the United States or check on banks convertible into cash on demand at full face value, subject to such allowances as may be permitted by rules of the department under section 177.28.

Subd. 5. "Employ" means to suffer or permit to work.

Subd. 6. "Employer" means any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

Subd. 7. "Employee" means any individual employed by an employer but shall not include

(1) any individual employed in agriculture on a farming unit or operation employing less than the equivalent of two full time workers and on any given day employing no more than four employees. For the purpose of this clause, equivalent of a full time worker means 40 weeks of employment in a calendar year;

(2) an individual who has not attained the age of 18 who is employed in agriculture on a farm to perform services other than corn detasseling;

(2a) for purposes of section 177.24, an individual who has not attained the age of 18 who is employed in agriculture as a corn detasseler;

(3) any staff member employed with an organized resident or day camp licensed with the state;

(4) any individual employed in a bona fide executive, administrative, or professional capacity, or a salesman who conducts no more than 20 percent of his sales on the premises of the employer, as those terms are defined and delimited by rules of the department;

(5) any individual who renders service gratuitously for a nonprofit organization as those terms are defined by rules of the department;

(6) any individual who serves as an elected official for a political subdivision or who serves on any governmental board, commission, committee or other similar body, or who renders service gratuitously for a political subdivision;

(7) any individual employed by a political subdivision to provide police or fire protection services or who is employed by an entity whose principal purpose is to provide police or fire protection services to a political subdivision;

(8) any individual employed by a political subdivision who is ineligible for membership in the public employees retirement association by reason of the provisions of section 353.01, subdivision 2b, clauses (a), (b), (d), and (i);

(9) any driver employed by an employer engaged in the business of operating taxicabs;

(10) any individual engaged in babysitting as a sole practitioner;

(11) any individual employed on a seasonal basis in a carnival, circus or fair;

(12) any individual under the age of 18 employed part-time by a municipality as part of a recreational program;

(13) any individual employed by the state as a natural resource manager 1, 2, or 3 (conservation officer);

(14) any individual in a position with respect to which the U.S. Department of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of 49 U.S. Code, Section 304;

(15) any individual employed as a seafarer; the term "seafarer" means a master of a vessel or any person subject to the authority, direction and control of the master including but not limited to pilots, sailors, engineers, radio operators, firefighters, watchmen, pursers, surgeons, cooks and stewards, who is exempt from federal overtime standards under 29 U.S.C. Section 213(b) (6).

Subd. 8. "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed.

Subd. 9. "Gratuities" means monetary contributions received directly or indirectly by an employee from a guest, patron, or customer for services rendered and includes an obligatory charge assessed to customers, guests or patrons which might reasonably be construed by the guest, customer, or patron as being a payment for personal services rendered by an employee and for which no clear and conspicuous notice is given by the employer to the customer, guest, or patron that the charge is not the property of the employee.

Subd. 10. With respect to any caretaker, manager or other on-site employee of a residential building or buildings whose principal place of residence is in the residential building or buildings, including a caretaker, manager or other on-site employee who receives a principal place of residence as full or partial compensation for duties performed for an employer, the term "hours worked", as contained in rules promulgated pursuant to section 177.28, shall include time during which the caretaker, manager or other on-site employee is performing any duties of employment, but shall not mean time during which the caretaker, manager or other on-site employee is on the premises and available to perform duties of employment and is not otherwise performing any duties of employment.

History: 1973 c 721 s 3; 1974 c 406 s 88; 1975 c 399 s 1; 1977 c 369 s 1; 1978 c 586 s 1; 1978 c 731 s 1; 1979 c 281 s 1; 1980 c 415 s 1; 1982 c 424 s 46-48; 1982 c 625 s 14

177.24 PAYMENT OF MINIMUM WAGES.

Subdivision 1. Except as may otherwise be provided in sections 177.21 to 177.35, or by rule issued pursuant thereto, every employer shall pay to each employee who is 18 years of age or older wages at a rate of not less than \$2.90 an hour beginning January 1, 1980, \$3.10 an hour beginning January 1, 1981, and \$3.35 an hour beginning January 1, 1982, and shall pay to each employee who is under the age of 18 wages at a rate of not less than \$2.61 an hour beginning January 1, 1980, \$2.79 an hour beginning January 1, 1981, and \$3.02 an hour beginning January 1, 1982.

Subd. 2. No employer shall directly or indirectly credit, apply or utilize gratuities towards payment of minimum wages except as provided for under section 177.28.

Subd. 3. For purposes of this chapter, any gratuity received by an employee or deposited in or about a place of business for personal services rendered by an employee is the sole property of the employee. No employer shall require an employee to contribute or share a gratuity received by the employee with the employer or other employees or to contribute any or all of the gratuity to a fund or pool operated for the benefit of the employer or his employees, provided that nothing in this section shall prevent an employee from voluntarily, and upon an individual basis, sharing his gratuities with other employees. The agreement to share gratuities shall be made by the employees free of any employer participation.

Subd. 4. Unreimbursed amounts which an employee is required to pay for the items listed below shall be subtracted from wages paid in calculating whether the wages meet the minimums set by subdivision 1:

(a) uniforms or specially designed clothing required by the employer or by statute as a condition of employment, which clothing is not generally appropriate for use except in the course of that employment;

(b) equipment used in the course of employment, except tools of a trade, a motor vehicle or any other equipment which may be used outside of the employment;

(c) travel expenses in the course of employment except those incurred in traveling to and from the employee's residence and place of employment.

Subd. 5. An employer, at the termination of an employee's employment, shall provide reimbursement of the full cost to the employee of any of the items listed in subdivision 4 which he was obliged to purchase during his employment. If such reimbursement is made the employer may at that time require the employee to surrender any items for which the employer provided reimbursement which are still extant.

History: 1973 c 721 s 4; 1976 c 165 s 1; 1977 c 183 s 1; 1977 c 369 s 2; 1979 c 281 s 2; 1981 c 87 s 1,2

177.25 OVERTIME.

Subdivision 1. No employer shall employ any of his employees for a workweek longer than 48 hours, unless such employee receives compensation for his employment in excess of 48 hours in a workweek at a rate of not less than one and one-half times the regular rate at which he is employed; (1) provided, however, that an employer if it is the State of Minnesota or a political subdivision may grant time off at the rate of one and one-half hours for each hour worked in excess of 48 hours in any week in lieu of monetary compensation; and, (2) provided, however, that no employer shall be deemed to have violated the overtime pay provisions of this section by employing any employees for a workweek in excess of that specified in this section without paying the compensation for overtime employment prescribed herein (a) if the employee is employed under an agreement meeting the requirement of section 7 (b) (2) of the Fair Labor Standards Act of 1938, as amended, or (b) if the employee is employed as a sugarbeet hand laborer on a piece rate basis, provided that the regular rate of pay received per hour of work pursuant to applicable rules exceeds the applicable wage provided in section 177.24, subdivision 1, by at least 40 cents.

Subd. 2. No employer engaged in the operation of a health care facility shall be deemed to have violated subdivision 1 if pursuant to an agreement or understanding arrived at between the employer and employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the work

week of seven consecutive days for the purpose of overtime compensation and if for his employment in excess of eight hours in any work day and in excess of 80 hours in such 14 day period the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed.

Subd. 3. The provisions of subdivision 1 shall not apply with respect to any salesman, parts man, or mechanic primarily engaged in selling or servicing automobiles, trailers, trucks, or farm implements and paid on a commission or incentive basis, if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers.

History: 1973 c 721 s 5; 1981 c 289 s 1; 1Sp1981 c 4 art 4 s 30

NOTE: The amendment to subdivision 1 by Laws 1981, Chapter 289, Section 1 is effective May 29, 1981, except that the portion of clause (2) (b) relating to the regular rate of pay received per hour of work by a sugar beet hand laborer shall only be effective until December 31, 1981. See Laws 1981, Chapter 289, Section 3.

177.26 DIVISION OF LABOR STANDARDS.

Subdivision 1. **Creation.** A division of labor standards is hereby created in the department of labor and industry under the supervision and control of the commissioner of labor and industry.

Subd. 2. **Powers and duties.** The powers, duties, and functions vested in, or imposed upon, the division of women and children of the department of labor and industry by this chapter, and other applicable laws relating to wages, hours, and working conditions, are transferred, vested in, and imposed upon the division of labor standards. In addition, the division of labor standards shall administer the provisions of sections 177.21 to 177.35 and chapter 184.

Subd. 3. **Employees; transfer from division of women and children.** All persons employed by the department of labor and industry in the division of women and children shall be transferred to the division of labor standards without loss to the person of any rights acquired by reason of his employment at the time of transfer.

History: 1973 c 721 s 6

177.27 POWERS AND DUTIES OF THE COMMISSIONER.

Subdivision 1. The commissioner or his authorized representative may enter during reasonable office hours or upon request and inspect the place of business or employment of any employer of employees in any occupation in the state, for the purpose of examining and inspecting any or all books, registers, payrolls, and other records of any employer that in any way relate to or have a bearing upon the question of wages, hours, and other conditions of employment of any employees; transcribe any or all of the books, registers, payrolls, and other records as he or his authorized representative may deem necessary or appropriate; and question the employees for the purpose of ascertaining whether the provisions of sections 177.21 to 177.35 and the rules issued pursuant thereto have been and are being complied with.

Subd. 2. The commissioner or his authorized representative may require from any employer of employees in any occupation in the state full and correct statements in writing, including sworn statements, with respect to wages, hours, name, addresses, and other information pertaining to his employees and their employment as the commissioner or his authorized representative may deem necessary or appropriate.

Subd. 3. The commissioner or his authorized representative may issue any order requiring an employer to comply with the provisions of sections 177.21 to 177.35 or with any rule promulgated under the provisions of section 177.28. Any order shall be served by the department upon the employer or his authorized

representative in person or by certified mail at the employer's place of business. If an employer wishes to contest the order for any reason, he shall file written notice of his objection to the order with the commissioner within 10 days after service of the order upon the employer. Thereafter, a public hearing shall be held in accordance with the provisions of sections 14.57 to 14.70, and rules consistent therewith as the commissioner may make.

Subd. 4. The commissioner may investigate, mediate, and settle wage claims by an employee against an employer if the failure to pay any wage may violate Minnesota laws or any order or rule of the department thereunder.

Subd. 5. The commissioner may commence a civil action in any court of competent jurisdiction for the benefit of any employee for appropriate relief with respect to any wage claim which the commissioner deems to be valid, upon a written request being filed with the commissioner by the employee, provided: (1) the failure to pay the wage would constitute a violation of Minnesota laws or any order or rule of the department thereunder, and (2) the wage claim does not exceed \$300. The employer shall pay all costs and disbursements as may be allowed by the court, and shall further pay an assessment of ten percent of the amount of any awarded wage claim to the treasurer of the state of Minnesota. In any action herein no security for payment of costs shall be required. Nothing herein shall be construed to prevent an employee from prosecuting his own claim for wages.

Subd. 6. Upon the written request of the commissioner, the attorney general of the state of Minnesota shall commence a civil action for appropriate relief against the employer as provided in subdivision 5.

History: 1973 c 721 s 7; 1982 c 424 s 49,130

177.28 POWER TO MAKE RULES.

Subdivision 1. The commissioner shall make and revise rules, including definitions of terms, as he shall deem appropriate to carry out the purposes of sections 177.21 to 177.35, to prevent the circumvention or evasion thereof, and to safeguard the minimum wage and overtime rates established by sections 177.24 and 177.25.

Subd. 2. The commissioner shall appoint an advisory committee composed of an equal number of not more than three representatives each of employers and employees and of not more than three disinterested persons representing the public, which he shall consult concerning the making and revising of administrative rules.

Subd. 3. The commissioner shall establish rules which define and govern sections 177.21 to 177.35 with respect to, salesmen who conduct no more than 20 percent of their sales on the premises of the employer; allowances as part of the wage rates for board, lodging and other facilities or services furnished by the employer and used by the employees. Rules issued by the department pursuant to this section shall include, but are not limited to, bonuses; part-time rates; special pay for special or extra work; procedures in contested cases; other facilities or services furnished by employers and used by employees; and other special items usual in a particular employer-employee relationship. Rules required by this subdivision shall be established by November 1, 1973.

Subd. 4. An employee who receives \$35 or more per month in gratuities is a tipped employee. An employer is entitled to a credit in an amount up to 20 percent of the minimum wage which a tipped employee receives. The credit against the wages due may not be taken unless at the time the credit is taken the employer has received a signed statement for that pay period from the tipped employee stating that he did receive and retain during that pay period all gratuities

received by him in an amount equal to or greater than the credit applied against the wages due by his employer. The statements shall be maintained by the employer as a part of his business records.

Subd. 5. In order to prevent curtailment of opportunities for employment, avoid undue hardship, and safeguard the minimum wage rates under sections 177.24 and 177.25, the department shall also issue rules providing for the employment of handicapped workers at wages lower than the wage rates applicable under sections 177.24 and 177.25, under permits and for periods of time as specified therein; and providing for the employment of learners and apprentices at wages lower than the wage rates applicable under sections 177.24 and 177.25, under permits and subject to limitations on number, proportion, length of learning period, occupations, and other conditions as the department may prescribe. The rules issued by the department shall provide that where a handicapped person is now performing or is being considered for employment where he will perform work which is equal to work performed by a non-handicapped person, the handicapped person shall be paid the same wage as a non-handicapped person with similar experience and skill.

Subd. 6. Rules shall be adopted by the department only after a public hearing held upon due publication of notice, at which any interested person may be heard and of which a record shall be made. Rules shall be published by the department and shall take effect upon publication and filing with the secretary of state and the department of administration. The rules shall have the force and effect of law upon filing as provided herein.

History: 1973 c 721 s 8; 1976 c 165 s 2; 1977 c 369 s 3; 1982 c 424 s 50

177.29 JUDICIAL REVIEW.

Subdivision 1. Any person who may be aggrieved by any administrative rule issued pursuant to section 177.28 may obtain a review thereof in the district court for Ramsey county, by filing in the court a written petition for declaratory judgment praying that the rule be modified or set aside. A copy of the petition shall be served upon the department. The department's findings of fact, if any, shall be conclusive upon the court if supported by substantial evidence. The court shall determine whether the rule is in accordance with law.

If the court determines that the rule is not in accordance with law, it shall remand the case to the department with directions to modify or revoke the rule. If application is made to the court by any aggrieved party for leave to adduce additional evidence, the party shall show to the satisfaction of the court that the additional evidence is material, and that there were reasonable grounds for the failure to adduce the evidence before the department. If the court finds that the evidence is material and that reasonable grounds exist for the failure of the aggrieved party to adduce the evidence in prior proceedings, the court may remand the case to the department with directions that the additional evidence be taken by the department. The department may modify its findings and conclusions, in whole or in part, by reason of the additional evidence.

Subd. 2. Hearings in the district court on all appeals taken under subdivision 1 shall be privileged and take precedence over all matters, except matters of the same character. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final except that the same shall be subject to review on appeal to the supreme court.

Subd. 3. The commencement of proceedings under subdivision 1 shall not, unless specifically ordered by the court, operate as a stay of an administrative rule issued pursuant to section 177.28. The court shall not grant any stay of an administrative rule unless the person complaining of the rule shall file in the court

an undertaking with a surety or sureties satisfactory to the court for the payment to the employees affected by the rule, in the event the rule is affirmed, of the amount by which the compensation the employees are entitled to receive under the rule exceeds the compensation they actually receive while the stay is in effect.

History: 1973 c 721 s 9; 1982 c 424 s 51

177.30 KEEPING RECORDS.

Every employer subject to any provision of sections 177.21 to 177.35 or of any rule issued pursuant thereto shall make and keep, for a period of not less than three years in or about the premises wherein any employee is employed, a record of the name, address and occupation of each of his employees, the rate of pay, and the amount paid each pay period to each employee, the hours worked each day and each workweek by the employee, and other information as the department shall prescribe by rule as necessary or appropriate for the enforcement of the provisions of sections 177.21 to 177.35 or of the rules issued pursuant thereto.

History: 1973 c 721 s 10; 1982 c 424 s 52

177.31 POSTING OF LAW AND RULES.

Every employer subject to any provision of sections 177.21 to 177.35 shall keep a summary thereof, approved by the department, and copies of any applicable rules issued pursuant thereto, or a summary of the rules, posted in a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed. The department shall furnish copies of the summaries and rules to employers without charge.

History: 1973 c 721 s 11; 1982 c 424 s 53

177.32 PENALTIES.

Subdivision 1. Any employer who hinders or delays the department or its authorized representative in the performance of its duties under sections 177.21 to 177.35 or refuses to admit the commissioner or his authorized representative to any place of employment as required by section 177.27, subdivision 1; or fails to make, keep, and preserve records as required by section 177.30; or falsifies any record; or refuses to make any record accessible, or to furnish a sworn statement of the record or any other information as required by section 177.27; or fails to post a summary of sections 177.21 to 177.35 or a copy of any applicable rule as required by section 177.31; or pays or agrees to pay wages at a rate less than the rate applicable under or pursuant to sections 177.21 to 177.35; or otherwise violates any provision of sections 177.21 to 177.35 or of any rule issued pursuant thereto; is guilty of a misdemeanor.

Subd. 2. Any employer who discharges or in any other manner discriminates against any employee because such employee has complained to his employer, to the department, or to an authorized representative of the department that he has not been paid wages in accordance with sections 177.21 to 177.35 or rules issued pursuant thereto or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to sections 177.21 to 177.35, or because the employee has testified or is about to testify in any proceeding shall, upon conviction therefor, be fined not less than \$500 nor more than \$1000.

History: 1973 c 721 s 12; 1982 c 424 s 54

177.33 EMPLOYEES' REMEDIES.

Any employer who pays any employee less than the wages and overtime compensation to which the employee is entitled under sections 177.21 to 177.35 and rules issued pursuant thereto shall be liable to the employee for the full amount of the wages and overtime compensation, less any amount actually paid to the employee by the employer, for an additional equal amount as liquidated damages, and for costs and reasonable attorney's fees as may be allowed by the court. Any agreement between the employee and the employer to work for less than the applicable wage rate shall be no defense to the action. The action may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves.

History: 1973 c 721 s 13; 1982 c 424 s 55

177.34 RELATION TO OTHER LAWS.

Any standards relating to minimum wages, maximum hours, overtime compensation, or other working conditions in effect under any other law of this state on January 1, 1974 which are more favorable to employees than those applicable hereunder shall not be deemed to be amended, rescinded, or otherwise affected by sections 177.21 to 177.35 but shall continue in full force and effect until they are specifically superseded by standards more favorable to those employees by operation of or in accordance with sections 177.21 to 177.35 or rules issued pursuant thereto.

History: 1973 c 721 s 14; 1982 c 424 s 56

177.35 RIGHT OF COLLECTIVE BARGAINING.

Nothing in sections 177.21 to 177.35 shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work more favorable to the employees than those required by sections 177.21 to 177.35 and rules issued pursuant thereto.

History: 1973 c 721 s 15; 1982 c 424 s 57

177.41 STATE PROJECTS AND STATE HIGHWAY CONSTRUCTION; PUBLIC POLICY.

It is in the public interest that public buildings and other public works be constructed and maintained by the best means and highest quality of labor reasonably available, and that persons working on public works be compensated according to the real value of the services they perform. It is therefore declared to be the public policy of this state that wages of laborers, workmen and mechanics engaged in state projects financed in whole or part by state funds should be comparable to wages paid for similar work in the community as a whole.

History: 1973 c 724 s 1; 1975 c 191 s 1

177.42 DEFINITIONS.

Subdivision 1. As used in sections 177.41 to 177.44 the terms defined in this section have the meanings given them except where the context indicates otherwise.

Subd. 2. "Project" means erection, construction, remodeling or repairing of any public building or other public work financed in whole or part by state funds.

Subd. 3. "Area" means the county or other locality from which labor for any project would normally be secured.

Subd. 4. "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; provided, that in no event shall the prevailing hours of labor be deemed to be more than eight hours per day or more than 40 hours per week.

Subd. 5. "Hourly basic rate" means the hourly wage paid to any employee.

Subd. 6. "Prevailing wage rate" means the hourly basic rate of pay plus the contribution for health and welfare benefits, vacation benefits, pension benefits and any other economic benefit paid to the largest number of workmen engaged in the same class of labor within the area, and includes for the purposes of section 177.44, rental rates for truck hire paid to those who own and operate the truck. In no event shall the prevailing wage rate be deemed to be less than a reasonable and living wage.

History: 1973 c 724 s 2; 1975 c 191 s 2

177.43 CONTRACTS FOR STATE PROJECTS; PENALTY.

Subdivision 1. Any contract which provides for a project within the meaning of section 177.42, shall contain a stipulation that no laborer or mechanic employed directly upon the project work site by the contractor or any subcontractor, agent or other person doing or contracting to do all or a part of the work of the project, shall be permitted or required to work more hours than the prevailing hours of labor unless such laborer or mechanic is paid for all hours in excess of the prevailing hours at a rate of at least one and one-half times his hourly basic rate of pay; nor shall he be paid a lesser rate of wages than the prevailing wage rate in the same or most similar trade or occupation in the area.

Subd. 2. 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.

Subd. 3. The prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay shall be set forth specifically in the contract.

Subd. 4. The prevailing wage rates, prevailing hours of labor and hourly basic rates of pay for all trades and occupations required in any contemplated project shall be ascertained before the state asks for bids. The commissioner of labor and industry shall make such investigations as may be necessary to enable him to ascertain such information. The commissioner shall keep the information posted on the project in at least one conspicuous place for the information of the employees working on the project. A person aggrieved by a final determination of the commissioner may petition the commissioner for reconsideration of his findings. A person aggrieved by a decision of the commissioner after reconsideration may within 20 days after the decision petition the commissioner for a public hearing in the manner of a contested case under the administrative procedures act, sections 14.57 to 14.61.

Subd. 5. Any officer or employee of the state who executes any contract for a project as defined in section 177.41 without complying with this section, and any contractor, subcontractor or agent thereof who, after executing a contract in compliance with this section, pays to any laborer, workman or mechanic employed directly upon the project site a lesser wage for work done under such contract than

the prevailing wage rate as set forth in the contract shall be guilty of a misdemeanor and may be fined not more than \$300, or imprisoned for not more than 90 days, or both. Such agent or subcontractor shall furnish to the contractor evidence of compliance with this section. Each day any violation of this section continues shall be deemed a separate offense.

Subd. 6. It is the duty of the department of labor and industry to enforce this section. To this end it may demand, and it shall be the duty of every contractor and subcontractor to furnish to the department, copies of any or all payrolls, and the department may examine all records relating to wages paid laborers or mechanics on work to which sections 177.41 to 177.44 are applicable.

Subd. 7. This section shall not apply to a contract, or work under a contract, under which (a) the estimated total cost of completing the project is less than \$2,500 and only one trade or occupation is required to complete it, or (b) the estimated total cost of completing the project is less than \$25,000 and more than one trade or occupation is required to complete it.

History: 1973 c 724 s 3; 1975 c 191 s 3,4; 1976 c 331 s 37; 1982 c 424 s 130

177.44 HIGHWAY CONTRACTS; HOURS OF LABOR; WAGE RATES; PENALTY.

Subdivision 1. No laborer or mechanic employed by any contractor, 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 Minnesota Statutes 1971, Section 161.32, to which the state is a party, for the construction or maintenance of any highway, shall be permitted or required to work more hours than the prevailing hours of labor unless such laborer or mechanic is paid for all hours in excess of the prevailing hours at a rate of at least one and one-half times his hourly basic rate of pay; nor shall he be paid a lesser rate of wages than the prevailing wage rate in the same or most similar trade or occupation in the area.

Subd. 2. 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.

Subd. 3. The department of labor and industry 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 of labor, prevailing wage rates and hourly basic rates of pay accordingly.

The department 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 equipment, and shall establish by regulation such minimum rates to be computed into the prevailing wage rate in accordance with the definition thereof in section 177.42.

Subd. 4. The commissioner of labor and industry shall at least once a year certify the prevailing hours of labor, the prevailing wage rate and the hourly basic rate of pay for all classes of laborers and mechanics referred to in subdivision 3 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. A person aggrieved by a final determination of the commissioner may petition the commissioner for reconsideration of his findings. A person aggrieved by a decision of the commissioner after reconsideration may within 20 days after the decision petition the commissioner for a public hearing in the manner of a contested case under the administrative procedures act, sections 14.57 to 14.61. If, in the opinion of the commissioner, a change in the certified prevailing hours of labor, prevailing wage rate and the hourly basic rate of pay for any class of laborers or mechanics in any area is required, the commissioner may at any time certify that change.

Subd. 5. The prevailing hours of labor, the prevailing wage rates and the hourly basic rates of pay and classifications for all labor as certified by the commissioner 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 subdivision 6 be kept posted on the project by the employer in at least one conspicuous place for the information of employees working on the project.

Subd. 6. Any contractor, subcontractor or agent thereof who violates this section is guilty of a misdemeanor and may be fined not more than \$300 or imprisoned not more than 90 days or both. Each day that any such violation continues shall be deemed a separate offense.

Whoever 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, by threat of dismissal from such employment or by any other means may be fined not exceeding \$1,000 or imprisoned not more than one year or both.

Any person employed on a project under a contract subject to this section who knowingly permits the contractor or subcontractor to pay him less than the prevailing wage rate set forth in such contract, or who gives up any part of the compensation to which he is entitled thereunder, may be fined not exceeding \$40 or imprisoned not more than 30 days or both. Each day any violation of this paragraph continues shall be deemed a separate offense.

Subd. 7. The department of transportation shall require adherence to this section. The transportation commissioner may demand, and every contractor and subcontractor shall furnish, copies of 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 department of transportation or upon complaint of alleged violation, the county attorney of the county in which the work is located shall make such investigation as is necessary and prosecute violations in a court of competent jurisdiction.

History: 1973 c 724 s 4; 1975 c 191 s 5.6; 1976 c 166 s 7; 1976 c 331 s 38; 1982 c 424 s 130