

## CHAPTER 177

## MINIMUM WAGES

177.21	Citation; Fair Labor Standards Act.	177.31	Posting of law and rules; penalty.
177.22	Statement of purpose.	177.32	Penalties.
177.23	Definitions.	177.33	Employees' remedies.
177.24	Payment of minimum wages.	177.34	Relation to other laws.
177.25	Overtime.	177.35	Right of collective bargaining.
177.251	Ridesharing not overtime.	177.41	State projects and state highway construction; public policy.
177.26	Division of labor standards.	177.42	Definitions.
177.27	<i>Powers and duties of the commissioner.</i>	177.43	Contracts for state projects; penalty.
177.28	Power to make rules.	177.44	Highway contracts; hours of labor; wage rates; penalty.
177.29	Judicial review.		
177.295	Credit for tipped employees.		
177.30	Keeping records; penalty.		

**177.01** [Repealed, 1973 c 721 s 16]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 [Repealed, 1973 c 721 s 16]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 [Repealed, 1973 c 721 s 16]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 [Repealed, 1973 c 721 s 16]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 [Repealed, 1973 c 721 s 16]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 [Repealed, 1973 c 721 s 16]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 [Repealed, 1973 c 721 s 16; 1976 c 2 s 166]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 [Repealed, 1973 c 721 s 16; 1976 c 2 s 166]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 [Repealed, 1971 c 874 s 5]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 [Repealed, 1973 c 721 s 16]

**177.03** [Repealed, 1973 c 721 s 16]

**177.04** [Repealed, 1973 c 721 s 16]

**177.05** [Repealed, 1973 c 721 s 16]

**177.06** [Repealed, 1973 c 721 s 16]

**177.07** [Repealed, 1973 c 721 s 16]

**177.075** [Repealed, 1973 c 721 s 16]

**177.08** [Repealed, 1973 c 721 s 16]

**177.09** [Repealed, 1973 c 721 s 16]

**177.10** [Repealed, 1973 c 721 s 16]

**177.11** [Repealed, 1973 c 721 s 16]

**177.12** [Repealed, 1973 c 721 s 16]

**177.121** [Repealed, 1973 c 721 s 16]

**177.122** [Repealed, 1973 c 721 s 16]

**177.13** [Repealed, 1973 c 721 s 16]

**177.14** [Repealed, 1973 c 721 s 16]

**177.15** [Repealed, 1973 c 721 s 16]

**177.16** [Repealed, 1973 c 721 s 16]

**177.17** [Repealed, 1973 c 721 s 16]

**177.18** [Repealed, 1965 c 45 s 73]

**177.19** [Repealed, 1973 c 721 s 16]

**177.20** [Repealed, 1973 c 721 s 16]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; 1984 c 628 art 4 s 1*

**177.22 STATEMENT OF PURPOSE.**

The purpose of the Minnesota Fair Labor Standards Act is: (1) to establish minimum wage and overtime compensation standards that maintain workers' health, efficiency, and general well-being; (2) to safeguard existing minimum wage and overtime compensation standards that maintain workers' health, efficiency, and general well-being against the unfair competition of wage and hour standards that do not; and (3) to sustain purchasing power and increase employment opportunities.

*History: 1973 c 721 s 2; 1984 c 628 art 4 s 1*

**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, have the meanings given to them in this section.

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

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

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

Subd. 5. "Employ" means to 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 does not include:

(1) two or fewer specified individuals employed at any given time in agriculture on a farming unit or operation who are paid a salary;

(2) any individual employed in agriculture on a farming unit or operation who is paid a salary greater than the individual would be paid if the individual worked 48 hours at the state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;

(3) an individual under 18 who is employed in agriculture on a farm to perform services other than corn detasseling or hand field work when one or both of that minor hand field worker's parents or physical custodians are also hand field workers;

(4) for purposes of section 177.24, an individual under 18 who is employed as a corn detasseler;

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

(6) 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;

(7) any individual who renders service gratuitously for a nonprofit organization;

# MINNESOTA STATUTES 1984

(8) 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;

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

(10) any individual employed by a political subdivision who is ineligible for membership in the public employees retirement association under section 353.01, subdivision 2b, clause (a), (b), (d), or (i);

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

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

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

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

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

(16) any individual in a position for which the U.S. Department of Transportation has power to establish qualifications and maximum hours of service under United States Code, title 49, section 304;

(17) 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 who is exempt from federal overtime standards under United States Code, title 29, section 213(b)(6), including but not limited to pilots, sailors, engineers, radio operators, firefighters, watchmen, pursers, surgeons, cooks, and stewards; or

(18) any individual employed by a county in a single family residence owned by a county home school as authorized under section 260.094 if the residence is an extension facility of that county home school, and if the individual as part of his employment duties resides at the residence for the purpose of supervising children as defined by section 260.015, subdivision 2.

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, 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" includes time when the caretaker, manager, or other on-site employee is performing any duties of employment, but does not mean time when the caretaker, manager, or other on-site employee is on the premises and available to perform duties of employment and is not performing duties of employment.

Subd. 11. With respect to an individual who is: (1) employed to provide companionship services to individuals who, because of age or infirmity, are unable to care for their own needs; (2) employed to stay overnight in the home of such an aged or infirm individual; and (3) paid the minimum wage or more for at least four hours associated with the overnight stay, the term "hours" for the purposes of requiring the payment of minimum wages and overtime premiums under sections 177.24 and 177.25, shall not include nighttime hours, from 10:00 p.m. to 9:00 a.m., up to a total of eight hours per night, during which the employee is available to perform duties for the aged or infirm individual, but is not in fact performing such duties and is free to sleep and otherwise engage in normal private pursuits in the aged or infirm individual's home. For the purposes of this subdivision, the term "companionship services" is defined in Code of Federal Regulations, title 29, sections 552.6 and 552.106 as of March 1, 1984.

**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; 1983 c 60 s 1; 1983 c 122 s 1; 1984 c 614 s 1; 1984 c 628 art 4 s 1

### 177.24 PAYMENT OF MINIMUM WAGES.

Subdivision 1. **Amount.** Beginning January 1, 1982, except as otherwise provided in sections 177.21 to 177.35, every employer must pay each employee who is 18 years of age or older wages at a rate of at least \$3.35 an hour and must pay each employee under 18 wages at a rate of at least \$3.02 an hour.

Subd. 2. **Gratuities not applied.** No employer may directly or indirectly credit, apply, or utilize gratuities towards payment of minimum wages, except as provided under section 177.295.

Subd. 3. **Sharing of gratuities.** 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 may 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. This section does not prevent an employee from voluntarily and individually sharing his gratuities with other employees. The agreement to share gratuities must be made by the employees free of any employer participation.

Subd. 4. **Unreimbursed expenses deducted.** Unreimbursed amounts which an employee is required to pay for the items listed below are 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 is not generally appropriate for use except in that employment;

(b) equipment used in employment, except tools of a trade, a motor vehicle, or any other equipment which may be used outside 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. **Expense reimbursement.** An employer, at the termination of an employee's employment, must reimburse the full cost to the employee of any of the items listed in subdivision 4 which he had to buy during employment. When reimbursement is made, the employer may require the employee to surrender any existing items for which the employer provided reimbursement.

**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; 1984 c 628 art 4 s 1

**177.25 OVERTIME.**

Subdivision 1. **Compensation required.** No employer may employ an employee for a workweek longer than 48 hours, unless the employee receives compensation for employment in excess of 48 hours in a workweek at a rate of at least 1-1/2 times the regular rate at which he is employed. The state of Minnesota or a political subdivision may grant time off at the rate of 1-1/2 hours for each hour worked in excess of 48 hours in a week in lieu of monetary compensation. An employer does not violate the overtime pay provisions of this section by employing any employees for a workweek in excess of 48 hours without paying the compensation for overtime employment prescribed (1) 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 (2) 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 exceeds the applicable wage provided in section 177.24, subdivision 1 by at least 40 cents.

Subd. 2. **Health care exception.** An employer who operates a health care facility does not violate subdivision 1 if the employer and employee agree before performance of the work to accept a work period of 14 consecutive days in lieu of the workweek of seven consecutive days for the purpose of overtime compensation and if for the employment in excess of eight hours in any work day and in excess of 80 hours in the 14-day period the employee receives compensation at a rate not less than 1-1/2 times the regular rate at which he is employed.

Subd. 3. **Motor vehicle salespersons; mechanics.** Subdivision 1 does not apply 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 selling the vehicles to ultimate purchasers.

Subd. 4. **Constructors of on-farm silos.** Subdivision 1 does not apply if the employee is employed in the construction of on-farm silos or the installation of appurtenant equipment on a unit or piece rate basis, if the regular rate of pay received per hour of work exceeds the applicable wage provided in section 177.24, subdivision 1.

**History:** 1973 c 721 s 5; 1981 c 289 s 1,3; 1Sp1981 c 4 art 4 s 30; 1983 c 60 s 2,3; 1983 c 95 s 1; 1984 c 628 art 4 s 1

**177.251 RIDESHARING NOT OVERTIME.**

The provisions of this chapter relating to compensation for overtime and payment of a minimum wage do not apply to employees' time spent in ridesharing arrangements as defined in section 169.01, subdivision 63.

**History:** 1983 c 311 s 10; 1984 c 628 art 4 s 1

**177.26 DIVISION OF LABOR STANDARDS.**

Subdivision 1. **Creation.** The division of labor standards in the department of labor and industry is supervised and controlled by the commissioner of labor and industry.

Subd. 2. **Powers and duties.** The powers, duties, and functions given to the department's division of women and children by this chapter, and other applicable laws relating to wages, hours, and working conditions, are transferred to the division of labor standards. The division of labor standards shall administer 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 in the division of women and children are

transferred to the division of labor standards. A transferred person does not lose rights acquired by reason of his employment at the time of transfer.

**History:** 1973 c 721 s 6; 1984 c 628 art 4 s 1

### 177.27 POWERS AND DUTIES OF THE COMMISSIONER.

**Subdivision 1. Examination of records.** The commissioner may enter during reasonable office hours or upon request and inspect the place of business or employment of any employer of employees working in the state, to examine and inspect books, registers, payrolls, and other records of any employer that in any way relate to wages, hours, and other conditions of employment of any employees. The commissioner may transcribe any or all of the books, registers, payrolls, and other records as he deems necessary or appropriate and may question the employees to ascertain compliance with sections 177.21 to 177.35.

**Subd. 2. Submission of records; penalty.** The commissioner may require the employer of employees working in the state to submit to the commissioner photocopies, certified copies, or, if necessary, the originals of employment records which the commissioner deems necessary or appropriate. The records which may be required include full and correct statements in writing, including sworn statements by the employer, containing information relating to wages, hours, names, addresses, and any other information pertaining to the employer's employees and the conditions of their employment as the commissioner deems necessary or appropriate.

The commissioner may require the records to be submitted by certified mail delivery or, if necessary, by personal delivery by the employer or a representative of the employer, as authorized by the employer in writing.

The commissioner may fine the employer up to \$100 for each failure to submit or deliver records as required by this section. This penalty is in addition to any penalties provided under section 177.32, subdivision 1.

**Subd. 3. Compliance orders.** The commissioner may issue an order requiring an employer to comply with sections 177.21 to 177.35 or with any rule promulgated under section 177.28. The department shall serve the order upon the employer or his authorized representative in person or by certified mail at the employer's place of business. An employer who wishes to contest the order must file written notice of his objection to the order with the commissioner within ten days after being served with the order. A public hearing must then be held in accordance with sections 14.57 to 14.70.

**Subd. 4. Mediation.** 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, rules, or department orders.

**Subd. 5. Civil actions.** When an employee files a written request with the commissioner, the commissioner may commence a civil action in any court of competent jurisdiction for the benefit of the employee for appropriate relief with respect to a wage claim which the commissioner finds valid provided: (1) the failure to pay the wage would constitute a violation of Minnesota laws, rules, or department orders, and (2) the wage claim does not exceed \$300. The employer shall pay all costs and disbursements allowed by the court and shall 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 under this subdivision, no security for payment of costs may be required. This section does not prevent an employee from prosecuting his own claim for wages.

Subd. 6. **Attorney general to commence action.** Upon the written request of the commissioner, the attorney general 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; 1983 c 209 s 1; 1984 c 628 art 4 s 1

### 177.28 POWER TO MAKE RULES.

Subdivision 1. **General authority.** The commissioner may adopt rules, including definitions of terms, to carry out the purposes of sections 177.21 to 177.35, to prevent the circumvention or evasion of those sections, and to safeguard the minimum wage and overtime rates established by sections 177.24 and 177.25.

Subd. 2. **Advisory committee.** The commissioner shall appoint an advisory committee which he shall consult about administrative rules. The committee must be 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.

Subd. 3. **Rules required.** The commissioner shall adopt rules under sections 177.21 to 177.35 defining and governing:

(1) salesmen who conduct no more than 20 percent of their sales on the premises of the employer;

(2) allowances as part of the wage rates for board, lodging, and other facilities or services furnished by the employer and used by the employees;

(3) bonuses;

(4) part-time rates;

(5) special pay for special or extra work;

(6) procedures in contested cases;

(7) other facilities or services furnished by employers and used by employees; and

(8) other special items usual in a particular employer-employee relationship.

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; except that effective January 1, 1985, the credit is reduced to 15 percent; effective January 1, 1986, the credit is reduced to 10 percent; effective January 1, 1987, the credit is reduced to 5 percent; and effective January 1, 1988, the credit is eliminated. 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. **Rules regarding handicapped.** 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. The rules must provide 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 must provide that where a handicapped person is performing

or is being considered for employment where he will perform work which is equal to work performed by a nonhandicapped person, the handicapped person must be paid the same wage as a nonhandicapped person with similar experience and skill.

Subd. 6. **Administrative Procedure Act to apply.** The rules are subject to the provisions of chapter 14.

**History:** 1973 c 721 s 8; 1976 c 165 s 2; 1977 c 369 s 3; 1982 c 424 s 50; 1984 c 628 art 4 s 1; 1984 c 636 s 1

### 177.29 JUDICIAL REVIEW.

Subdivision 1. **Appeal.** A person aggrieved by an administrative rule issued under section 177.28 may appeal in accordance with chapter 14.

Subd. 2. [Repealed, 1983 c 247 s 219]

Subd. 3. [Repealed, 1983 c 247 s 219]

**History:** 1973 c 721 s 9; 1982 c 424 s 51; 1983 c 247 s 75; 1984 c 628 art 4 s 1

### 177.295 CREDIT FOR TIPPED EMPLOYEES.

An employee who receives \$35 or more per month in gratuities is a tipped employee. An employer is entitled to a credit of up to 20 percent of the minimum wage which a tipped employee receives. The credit against the wages due may not be taken until 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 employer shall maintain the statements as part of his business records.

**History:** 1984 c 628 art 4 s 1

### 177.30 KEEPING RECORDS; PENALTY.

Every employer subject to sections 177.21 to 177.35 must make and keep a record of:

- (1) the name, address, and occupation of each employee;
- (2) the rate of pay, and the amount paid each pay period to each employee;
- (3) the hours worked each day and each workweek by the employee; and
- (4) other information the commissioner finds necessary and appropriate to enforce sections 177.21 to 177.35. The records must be kept for three years in or near the premises where an employee works.

The commissioner may fine an employer up to \$100 for each failure to maintain records as required by this section. This penalty is in addition to any penalties provided under section 177.32, subdivision 1.

**History:** 1973 c 721 s 10; 1982 c 424 s 52; 1983 c 209 s 2; 1984 c 628 art 4 s 1

### 177.31 POSTING OF LAW AND RULES; PENALTY.

Every employer subject to sections 177.21 to 177.35 must obtain and keep a summary of those sections, approved by the department, and copies of any applicable rules adopted under those sections, or a summary of the rules. The employer must post the summaries in a conspicuous and accessible place in or about the premises in which any person covered by sections 177.21 to 177.35 is employed. The department shall furnish copies of the summaries and rules to employers without charge.



# MINNESOTA STATUTES 1984

## 177.31 MINIMUM WAGES

4248

The commissioner may fine an employer up to \$100 for each failure to comply with this section. This penalty is in addition to any penalties provided by section 177.32, subdivision 1.

**History:** 1973 c 721 s 11; 1982 c 424 s 53; 1983 c 209 s 3; 1984 c 628 art 4 s 1

## 177.32 PENALTIES.

Subdivision 1. **Misdemeanors.** An employer who does any of the following is guilty of a misdemeanor:

(1) hinders or delays the commissioner in the performance of duties required under sections 177.21 to 177.35;

(2) refuses to admit the commissioner to the place of business or employment of the employer, as required by section 177.27, subdivision 1;

(3) consistently and repeatedly fails to make, keep, and preserve records as required by section 177.30;

(4) falsifies any record;

(5) refuses to make any record available, or to furnish a sworn statement of the record or any other information as required by section 177.27;

(6) consistently and repeatedly fails to post a summary of sections 177.21 to 177.35 or a copy or summary of the applicable rules as required by section 177.31;

(7) pays or agrees to pay wages at a rate less than the rate required under sections 177.21 to 177.35; or

(8) otherwise violates any provision of sections 177.21 to 177.35.

Subd. 2. **Fine.** An employer shall be fined not less than \$700 nor more than \$3,000 if convicted of discharging or otherwise discriminating against any employee because:

(1) the employee has complained to his employer or to the department that he has not been paid wages in accordance with sections 177.21 to 177.35;

(2) the employee has instituted or will institute a proceeding under or related to sections 177.21 to 177.35; or

(3) the employee has testified or will testify in any proceeding.

**History:** 1973 c 721 s 12; 1982 c 424 s 54; 1983 c 209 s 4; 1984 c 628 art 3 s 11; art 4 s 1

## 177.33 EMPLOYEES' REMEDIES.

An employer who pays an employee less than the wages and overtime compensation to which the employee is entitled under sections 177.21 to 177.35 is 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 allowed by the court. An agreement between the employee and the employer to work for less than the applicable wage rate is not a defense to the action. The action may be maintained in any court of competent jurisdiction by one or more employees for himself or themselves.

**History:** 1973 c 721 s 13; 1982 c 424 s 55; 1984 c 628 art 4 s 1

## 177.34 RELATION TO OTHER LAWS.

Sections 177.21 to 177.35 do not affect 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 the wages, hours, compensation, and other conditions in those sections.

*History: 1973 c 721 s 14; 1982 c 424 s 56; 1984 c 628 art 4 s 1*

### **177.35 RIGHT OF COLLECTIVE BARGAINING.**

Nothing in sections 177.21 to 177.35 limits the right of employees to bargain collectively with their employers through representatives of their own choosing to establish wages or other conditions of work more favorable to the employees than those required by sections 177.21 to 177.35.

*History: 1973 c 721 s 15; 1982 c 424 s 57; 1984 c 628 art 4 s 1*

### **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 the policy of this state that wages of laborers, workers, and mechanics on 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; 1984 c 628 art 4 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 a 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 is normally 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 workers of the same class than are employed within the area for any other number of hours per day and per week. The prevailing hours of labor may not 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 workers 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. The prevailing wage rate may not be less than a reasonable and living wage.

*History: 1973 c 724 s 2; 1975 c 191 s 2; 1984 c 628 art 4 s 1*

### **177.43 CONTRACTS FOR STATE PROJECTS; PENALTY.**

Subdivision 1. **Hours of labor.** Any contract which provides for a project must state that:

(1) no laborer or mechanic employed directly on 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, is permitted or required to work more hours

than the prevailing hours of labor unless paid for all hours in excess of the prevailing hours at a rate of at least 1-1/2 times the hourly basic rate of pay; and

(2) a laborer or mechanic may not 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. Exceptions.** This section does not apply to wage rates and hours of employment of laborers or mechanics who process or manufacture materials or products or to the delivery of materials or products by or for commercial establishments which have a fixed place of business from which they regularly supply processed or manufactured materials or products. This section applies 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. Contract requirements.** The contract must specifically state the prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay.

**Subd. 4. Determination by commissioner.** The prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay for all trades and occupations required in any project must be ascertained before the state asks for bids. The commissioner of labor and industry shall investigate as necessary to ascertain the 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 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 sections 14.57 to 14.61.

**Subd. 5. Penalty.** It is a misdemeanor for an officer or employee of the state to execute a contract for a project without complying with this section, or for a contractor, subcontractor, or agent to pay any laborer, worker, or mechanic employed directly on the project site a lesser wage for work done under the contract than the prevailing wage rate as stated in the contract. This misdemeanor is punishable by a fine of not more than \$300, or imprisonment for not more than 90 days, or both. Each agent or subcontractor shall furnish to the contractor evidence of compliance with this section. Each day a violation of this section continues is a separate offense.

**Subd. 6. Examination of records.** The department of labor and industry shall enforce this section. The department may demand, and the contractor and subcontractor shall furnish to the department, copies of any or all payrolls. The department may examine all records relating to wages paid laborers or mechanics on work to which sections 177.41 to 177.44 apply.

**Subd. 7. Applicability.** This section does not apply to a contract, or work under a contract, under which:

(1) 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

(2) 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; 1984 c 628 art 4 s 1

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

**Subdivision 1. Hours, wages permitted.** A laborer or mechanic employed by a contractor, subcontractor, agent, or other person doing or contracting to do all or

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 a highway, may not be permitted or required to work longer than the prevailing hours of labor unless the laborer or mechanic is paid for all hours in excess of the prevailing hours at a rate of at least 1-1/2 times his hourly basic rate of pay. He must be paid at least the prevailing wage rate in the same or most similar trade or occupation in the area.

**Subd. 2. Applicability.** This section does 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 of materials or products by or for commercial establishments which have a fixed place of business from which they regularly supply the processed or manufactured materials or products. This section applies 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. Investigations by department of labor and industry.** The department of labor and industry shall conduct investigations and hold public hearings necessary to define classes of laborers and mechanics and to determine 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, so as to determine prevailing hours of labor, prevailing wage rates, and hourly basic rates of pay.

The department shall determine the nature of the equipment furnished by truck drivers who own and operate trucks on contract work to determine minimum rates for the equipment, and shall establish by rule minimum rates to be computed into the prevailing wage rate.

**Subd. 4. Certification of hours and rate.** 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 must also include future hours and rates when they can be determined for classes of laborers and mechanics in an area. The certification must specifically state the effective dates of future hours and rates when they are certified. If a construction project extends into more than one area there shall be only 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 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 as in a contested case under sections 14.57 to 14.61. If the commissioner finds that a change in the certified prevailing hours of labor, prevailing wage rate, and the hourly basic rate of pay for a class of laborers or mechanics in any area is required, the commissioner may at any time certify that change.

**Subd. 5. Hours and rates to be posted.** The prevailing hours of labor, the prevailing wage rates, the hourly basic rates of pay, and classifications for all labor as certified by the commissioner must be specifically stated in the proposals and contracts for each highway construction contract to which the state is a party. These hours, rates, and classifications, together with the provisions of subdivision 6, must 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. Penalties.** A contractor, subcontractor, or agent 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 the violation continues is a separate offense.

Whoever induces a job applicant or employee 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 the project by threat not to employ, by threat of dismissal from employment, or by any other means may be fined not exceeding \$1,000 or imprisoned not more than one year or both.

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

**Subd. 7. Department of transportation to enforce.** The department of transportation shall require adherence to this section. The commissioner of transportation may demand and every contractor and subcontractor shall furnish copies of payrolls. The commissioner of transportation may examine all records relating to hours of work and the wages paid laborers and mechanics on work to which this section applies. 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 investigate 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; 1984 c 628 art 4 s 1