

LABOR AND EMPLOYMENT

CHAPTER 235

H. B. No. 918
(Hardmeyer, Coles)

AGE DISCRIMINATION PROHIBITED

AN ACT

To prohibit unjust discrimination in employment because of age, and providing for a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Unlawful to Discriminate Because of Age.) No person, persons, firm, association or corporation, carrying on or conducting within this state, any business requiring the employment of labor, shall refuse to hire, employ, or license, or bar or discharge from employment, any individual between the ages of forty and sixty-five years, solely and only upon the ground of age; when the reasonable demands of the position do not require such an age distinction; and, provided that such individual is well versed in the line of business carried on by such person, persons, firm, association or corporation, and is qualified physically, mentally and by training and experience to satisfactorily perform the labor assigned to him or for which he applies. Nothing herein shall affect the retirement policy or system of any employer where such policy or system is not merely a subterfuge to evade the purposes of that Act.

§ 2. Penalty.) Any person or corporation who violates any of the provisions of the preceding section shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed twenty-five dollars or by imprisonment in the county jail for not to exceed one day or by both such fine and imprisonment.

Approved March 15, 1965.

CHAPTER 236

H. B. No. 753

(Hertz, Jungroth, Sanstead, Meschke, Obie, Gengler, Gietzen,
(Meyer, Giffey, Shorma, Olson, Loerch, Schoenwald),
(Williamson, Montplaisir, Myhre, Hoffner)

DEPARTMENT OF LABOR

AN ACT

To create and enact sections 34-05-01.1, 34-05-01.2, and 34-05-01.3 of the North Dakota Century Code, providing for a North Dakota department of labor and to prescribe the duties and organization thereof; to amend and reenact section 34-05-01, 34-05-03, 34-05-04, subsection 1 of section 34-06-01, subsection 4 of section 34-07-03, sections 34-07-15, 34-07-18, 34-07-19, 34-07-20, 34-07-21, and subsection 7 of section 34-12-01 of the North Dakota Century Code, relating to the definition of commissioner; and to repeal section 34-05-02 and chapter 34-10 of the North Dakota Century Code, relating to the labor division of the department of agriculture and labor and the settlement of labor disputes, and providing an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 34-05-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-05-01. Statistics Relating to the Employment of Labor.) The commissioner of labor shall collect, systematize, and present in biennial reports as prescribed by section 54-06-04 to the governor and secretary of state statistical details relating to the employment of labor in the state. The statistics may be classified as the commissioner of labor deems best.

§ 2.) Section 34-05-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

34-05-01.1. Department of Labor.) There is hereby created the North Dakota Department of Labor. All records, materials, supplies, and equipment used by the deputy commissioner of agriculture and labor in his official capacity as administrator of the labor division of the department of agriculture and labor shall be transferred to the department of labor.

§ 3.) Section 34-05-01.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

34-05-01.2. Department of Labor To Be Administered by Commissioner of Labor.) The department of labor shall be administered by a Commissioner of Labor who shall be elected

for a four-year term on a no-party ballot in the year 1966 and every four years thereafter in the same manner as provided for no-party candidates pursuant to chapter 16-08. Following his election, the term of the commissioner of labor shall commence on the same day as the terms for other elected state officials. The commissioner of labor shall possess the same qualifications for office as the commissioner of agriculture and labor and he shall receive an annual salary to be determined by legislative appropriation.

§ 4.) Section 34-05-01.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

34-05-01.3. Duties of Commissioner of Labor.) The commissioner of labor shall:

1. Improve working conditions and living conditions of employees and advance their opportunities for profitable employment;
2. Foster, promote, and develop the welfare of both wage earners and industries in North Dakota;
3. Promote friendly and cooperative relations between employers and employees;
4. Cooperate with other state agencies to encourage the development of new industries and the expansion of existing industries;
5. Represent the state of North Dakota in dealings with the United States Department of Labor, with the Federal Mediation and Conciliation Service, and with the United States Veterans Administration with respect to job training programs;
6. Acquire and disseminate information on the subjects connected with labor, relations between employers and employees, hours of labor and working conditions;
7. Encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance;
8. Report biennially to the governor and to the legislative assembly concerning activities of the department of labor, including in such report recommendations for legislation deemed necessary or desirable to effectuate the purposes of this chapter;
9. Administer the provisions of chapter 34-06 relating to wages and hours, chapter 34-07 relating to child labor, and the provisions of chapter 34-12 relating to labor-management relations; and

10. Perform such other duties as may be required by law.

§ 5. **Amendment.)** Section 34-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-05-03. Officials and Employers to Furnish Certain Information—Penalty.) All public officers and all employers of labor shall furnish to the commissioner of labor such information as he may request relating to their respective offices or businesses. The information obtained shall be preserved, systematized, and tabulated by the commissioner. Information concerning the business or affairs of any individual, firm, company, or corporation shall not be divulged or made public by the commissioner or anyone in the employ of his office, and a violation of this provision shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment. Any officer, any employer of labor, and any operator or manager of any establishment wherein labor is employed, who shall fail or refuse to furnish the commissioner with the information asked for by him under the provisions of this section, shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not less than seven days nor more than thirty days, or by both such fine and imprisonment. No prosecution shall be commenced for a violation of the provisions of this section until a second blank has been mailed to the defaulting officer or employer and he has been given twenty days to complete and return the same.

§ 6. **Amendment.)** Section 34-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-05-04. Employment of Assistants.) The commissioner of labor may employ necessary help and assistants for the purpose of administering and enforcing labor laws, rules, and regulations, and may fix their compensation and bonds. The total amount of compensation paid for such purposes, however, shall not exceed the amount appropriated therefor by the legislative assembly.

§ 7. **Amendment.)** Subsection 1 of section 34-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*1. "Commissioner" shall mean the commissioner of labor;

*Note: Subsection 1 of section 34-06-01 was also amended by section 1, chapter 237, 1965 S.L.

§ 8. **Amendment.)** Subsection 4 of section 34-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The commissioner of labor or his agent or representative:

§ 9. **Amendment.)** Section 34-07-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-15. Maximum Hours of Labor of Minors Under Sixteen Years of Age—Notice To Be Posted.) No minor under the age of sixteen years shall be employed or permitted to work at any occupation, except in domestic services and at farm labor, for more than forty-eight hours in any one week, nor for more than six days in any one week, nor for more than eight hours in any one day, nor before the hour of seven o'clock a.m. nor after the hour of seven o'clock p.m. Every employer shall post in a conspicuous place in every room where minors are employed, a printed notice stating the hours of work required of the minors each day of the week, the hours of commencing and stopping work, and the hours allowed for dinner or other meals. The printed form of such notice shall be furnished by the commissioner of labor. The employment of any minor for a longer period than that stated in the notice shall be a violation of this chapter.

§ 10. **Amendment.)** Section 34-07-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-18. Inspection of Factories and Establishments By Peace Officers—Report—Complaints.) Peace officers may visit mines, factories, workshops, and mercantile establishments within their several jurisdictions to ascertain whether any minors are employed therein contrary to the provisions of this chapter. The peace officers shall report all cases of illegal employment to the commissioner of labor. Such officers may require that the employment certificates and the lists of employees which an employer is required to keep under the provisions of this chapter be produced for inspection. Complaints for offenses under this chapter may be made by any peace officer or by any other person cognizant of the facts.

§ 11. **Amendment.)** Section 34-07-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-19. Duties of Commissioner of Labor — Prosecutions for Violations of Chapter.) The commissioner of labor shall prepare all blanks necessary in the administration of this chapter, shall distribute such blanks to the school officers and

authorities of this state, shall exercise general supervision over the administration of the provisions of this chapter, and shall enforce the same. He and his agents and representatives shall have full power of visitation and inspection of all factories, industries, and other establishments in which minors may be employed or permitted to work. All violations of this chapter brought to the attention of the commissioner shall be referred to the state's attorney of the proper county for prosecution.

§ 12. **Amendment.)** Section 34-07-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-20. Commissioner May Issue Orders with Reference to Employment of Minors.) In addition to the powers vested in the commissioner of labor by the provisions of chapter 34-06, he may issue general and special orders with reference to the employment of minors and may prohibit the employment of minors in any employment or place of employment which is dangerous or prejudicial to the life, health, safety, or welfare of such minors. Any such regulation or order shall be in addition to the regulations specified in this chapter.

§ 13. **Amendment.)** Section 34-07-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-07-21. Penalty—Violation of Chapter—Certifying Labor Statement.) Any person who shall employ any minor contrary to the provisions of this chapter or to any order or regulation issued by the commissioner of labor as provided in this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than fifty dollars for each separate offense. Any person authorized to sign a certificate as prescribed in this chapter who certifies to any material false statement therein shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than fifty dollars.

§ 14. **Amendment.)** Subsection 7 of section 34-12-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. "Commissioner" shall mean the North Dakota commissioner of labor, his successor or his duly authorized deputy.

*§ 15. **Repeal.)** Section 34-05-02 and chapter 34-10 of the North Dakota Century Code are hereby repealed.

***Note:** Chapter 34-10 was also repealed by chapter 239, 1965 S.L.

§ 16. **Effective Date.**) The provisions of this Act, other than those relating to the election of the commissioner of labor, shall become effective on January 1, 1967.

Approved March 19, 1965.

CHAPTER 237

S. B. No. 300

(Trenbeath, Lips, Morgan, Becker, Forkner, Kelly, Beck, Mutch,
(Strinden, Robinson, Ringsak)

MINIMUM WAGES

AN ACT

To amend and reenact sections 34-06-01, 34-06-02, 34-06-03, 34-06-05, 34-06-07, 34-06-09, 34-06-10, 34-06-12, 34-06-15, and 34-06-16 of the North Dakota Century Code, providing minimum wages for all employees, under regulations affecting minimum wages; providing for exceptions to the minimum wage in regard to employees who are incapacitated or who have limited ability due to age, physical or mental condition, or experience and training; and making an appropriation therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 34-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-01. Definitions.) In this chapter, unless context or subject matter otherwise requires:

- *1. "Commissioner" shall mean the commissioner of agriculture and labor;
2. "Minor" shall mean a person of either sex under the age of eighteen years;
3. "Employee" includes any individual employed by an employer;
4. "Employer" includes any individual, partnership, association, corporation, or any person or group of persons acting in the interest of an employer in relation to an employee;

***Note:** Subsection 1 of section 34-06-01 was also amended by section 7, chapter 236, 1965 S.L.

5. "Occupation" shall mean a business or industry, or a trade or branch thereof, but it shall not include outside salesmen who are compensated on a commission basis.

§ 2. **Amendment.)** Section 34-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-02. Power to Investigate Conditions of Labor and Wages and Hours of Employees.) The commissioner shall have the power to:

1. Investigate and ascertain the wages and the hours and conditions of labor of employees in the different occupations in which they are employed within this state;
2. Inspect and examine, either in person or through authorized representative, all books, payrolls, and other records of any employer of employees appertaining to or bearing on the questions of hours or conditions of labor of any employee employed by such employer;
3. Require from any employer of employees a full and true statement of the wages paid to, and the hours and conditions of labor of, all employees in his employ.

§ 3. **Amendment.)** Section 34-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-03. Commissioner May Adopt Standards.) The commissioner, in the manner prescribed in this chapter, may ascertain and prescribe:

1. Standards of hours of employment for employees and what are unreasonably long hours for employees in any occupation within this state;
2. Standards of conditions of labor for employees in any occupation within this state and what surroundings or conditions, sanitary or otherwise, are detrimental to the health or morals of employees in any such occupation;
3. Standards of minimum wages for employees in any occupation in this state and what wages are inadequate to supply the necessary cost of living to any such employees and to maintain them in good health; and
4. Standards of minimum wages for minors in any occupation within this state and what wages are unreasonably low for any such minor workers.

§ 4. **Amendment.)** Section 34-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-05. Employment of Employees Under Certain Conditions Illegal.) It shall be unlawful to employ in any occupation within this state:

1. Employees for unreasonably long hours;
2. Employees under surroundings or conditions, sanitary or otherwise, which may be detrimental to their health or morals;
3. Employees for wages which are inadequate to supply the necessary cost of living and to maintain them in good health; and
4. Minors for unreasonably low wages.

§ 5. **Amendment.)** Section 34-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-07. Employer to Keep Register of Employees Employed—Inspection and Examination of Register.) Every employer shall keep a register of the names of all employees employed by him, and on request shall permit the commissioner or any of his authorized representatives to inspect and examine such register.

§ 6. **Amendment.)** Section 34-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-09. Conference to Consider Investigation by Commissioner—Members, Quorum, Report.) If, after he has investigated the matter, the commissioner is of the opinion that any substantial number of employees in any occupation are working for unreasonably long hours, are working under surroundings or conditions detrimental to their health or morals, or are receiving wages inadequate to supply them with the necessary cost of living and to maintain them in good health he may call a conference for the purpose of considering and reporting on such subject as may be submitted to it. The conference shall be composed of not more than three representatives of the employers in said occupation, of an equal number of the representatives of the employees in said occupation, of not more than three disinterested persons representing the public, and of the commissioner or his representative. The commissioner shall name and appoint all the members of such conference and shall designate

the chairman thereof. Two thirds of the members of any such conference shall constitute a quorum. The commissioner shall present to such conference all information and evidence in his possession or under the control of his department which relates to the subject of the inquiry and shall cause to be brought before such conference any witness whose testimony he deems material thereto. After completing its consideration of any inquiry submitted to it by the commissioner, such conference shall make and transmit to the commissioner a report containing its findings and recommendations on the subject.

§ 7. **Amendment.)** Section 34-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-10. Recommendations Contained in Report of Conference.) In the report required under the provisions of section 34-06-09, the conference shall make recommendations on any or all of the following questions concerning the particular occupation under inquiry:

1. Standards of hours of employment for employees and what are unreasonably long hours of employment for employees;
2. Standards of conditions of labor for employees and what surroundings or conditions, sanitary or otherwise, are detrimental to the health or morals of employees; and
3. Standards of minimum wages for employees and what wages are inadequate to supply the necessary cost of living to employees and maintain them in health. In its recommendations on a question of wages where it appears that any substantial number of employees in the occupation under inquiry are being paid by piece rates as distinguished from time rates, the conference shall recommend minimum piece rates as well as minimum time rates and shall recommend such minimum piece rates as in its judgment will be adequate to supply the necessary cost of living to, and to maintain the health of, employees of average ordinary ability.

§ 8. **Amendment.)** Section 34-06-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-12. Order Issued by Commissioner—Effective Date—Posting.) After the hearing provided for in section 34-06-11 has been held, the commissioner may make and render such order as may be necessary and proper to adopt such recom-

mendations and to carry the same into effect and to require all employers in the occupation affected thereby to observe and comply with such recommendations and order. The order made by the commissioner shall become effective on the sixtieth day following its rendition. After the order has become effective, no employer shall violate or disregard the terms or provisions thereof or employ any employee in any occupation covered thereby for longer hours or under different conditions or at a lower wage scale than are authorized therein. All effective orders shall be reviewed annually. A copy of such order shall be mailed by the commissioner to every employer affected thereby, and each such employer shall keep a copy of the order posted in a conspicuous place in each room of his establishment in which employees work. No order of the commissioner shall permit the employment of any employee for more hours per day or week than the maximum fixed by this chapter.

§ 9. Amendment.) Section 34-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-15. Special License to Employ at Less Than Minimum Wage Issued by Commissioner.) The commissioner may issue to an employee who is physically defective by age or otherwise, or to any apprentice or learner in an occupation which usually requires learners or apprentices, a special license authorizing the employment of such licensee in an occupation in which a minimum wage has been established, at a wage less than such minimum wage. Such license shall be issued under such rules and regulations as the commissioner may establish.

§ 10. Amendment.) Section 34-06-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-06-16. Recovery by Underpaid Employee.) If any employee shall be paid by her or his employer less than the minimum wage to which she or he is entitled under or by virtue of an order of the commissioner, such worker may recover in a civil action the full amount of the minimum wage less any amount actually paid to her or him by the employer, together with such attorney's fees as may be allowed by the court. An agreement providing for employment at less than the minimum wage specified in the order shall be no defense in such action.

§ 11. Appropriation.) There is hereby appropriated out of any unappropriated moneys in the state treasury, the sum of fifty thousand dollars or so much thereof as may be necessary

for the purpose of implementing the administration of state minimum wage laws and regulations.

Approved March 19, 1965.

CHAPTER 238

H. B. No. 690

(Powers (Cass), Haugland, Duncan, Jungroth, Hertz, Frank,) (Poling, Meschke, Williamson, Sanstead, Lundene, Connolly,) (Bergman, Froeschle, Erickson (Ward), Whittlesey, Hilleboe,) (Burk, Skaar, Myhre, Aamoth, Backes, Stockman)

EQUAL PAY FOR MEN AND WOMEN

AN ACT

To provide for equal pay for both males and females for comparable work done and providing for penalties for violation of the provisions of this Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Declaration of Public Policy.) The public policy of this state is declared to be that the practice of discriminating on the basis of sex by paying wages to employees of one sex at a lesser rate than the rate paid to employees of the opposite sex for comparable work on jobs which have comparable requirements unjustly discriminates against the person receiving the lesser rate; leads to low worker morale, high turnover, and frequent labor unrest; discourages workers paid at the lesser wage rates from training for higher level jobs; curtails employment opportunities, decreases workers' mobility, and increases labor costs; impairs purchasing power and threatens the maintenance of an adequate standard of living by such workers and their families; prevents optimum utilization of the state's available labor resources; threatens the well-being of citizens of this state; and adversely affects the general welfare. It is therefore declared to be the policy of this state through exercise of its police power to correct and, as rapidly as possible, to eliminate discriminatory wage practices based on sex.

§ 2. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Employee" means any individual employed by an employer, including individuals employed by the state or any of its political subdivisions including public bodies;

2. "Employer" means any person acting directly or indirectly in the interest of an employer in relation to one or more employees of each sex;
3. "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employee benefits, as defined by the commissioner in regulations issued under this Act;
4. "Employ" includes to suffer or permit to work;
5. "Occupation" includes any industry, trade, business or branch thereof, or any employment or class of employment, but does not include domestic employment in private homes;
6. "Commissioner" means the commissioner of agriculture and labor; and
7. "Person" includes one or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

§ 3. Prohibition of Discrimination.) No employer shall discriminate between employees in the same establishment on the basis of sex, by paying wages to any employee in any occupation in this state at a rate less than the rate at which he pays any employee of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort, and responsibility, but not to physical strength. Differentials which are paid pursuant to established seniority systems, job descriptive systems, merit increase systems, or executive training programs, which do not discriminate on the basis of sex, are not within this prohibition. An employer who is paying a wage differential in violation of this Act shall not, in order to comply with it, reduce the wage rates of any employee. No person shall cause or attempt to cause an employer to discriminate against any employee in violation of this Act. No employer may discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of this Act, except when proven that the act of such employee is fraudulent.

§ 4. Powers of Commissioner.) The commissioner shall have power and it shall be his duty to carry out the provisions of this Act and for this purpose, the commissioner, or his authorized representative, shall have power to:

1. With the consent of the employer or upon appropriate court order, for cause, enter the place of employment of any employer to inspect and copy payrolls and other

- employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to the administration and enforcement of this Act;
2. Examine witnesses under oath, and to require by subpoena the attendance and testimony of witnesses and the production of any documentary evidence relating to the subject matter of any investigation undertaken pursuant to this section;
 3. Eliminate pay practices unlawful under this Act, by informal methods of conference, conciliation and persuasion, and to supervise the payment of wages owing to any employee under this Act; and
 4. Issue such regulations, not inconsistent with the purpose of this Act, as he deems necessary or appropriate to carry out its provisions.

Witnesses summoned by the commissioner or his authorized representative shall be paid the same fees as are allowed witnesses attending the district courts of this state. In the event of the failure of a person to attend, testify, or produce documents under or in response to a subpoena, the court on application of the commissioner or his representative may issue an order requiring said person to appear before the commissioner or authorized representative, or to produce documentary evidence, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

§ 5. Collection of Unpaid Wages and Other Relief.) Any employer who violates the provisions of section 3 of this Act shall be liable to the employee or employees affected in the amount of their unpaid wages, and in instances of willful violation in employee suits up to an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. The court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. No agreement by any such employee to work for less than the wage to which such employee is entitled under this Act shall be a bar to any such action, or to a voluntary wage restitution of the full amount due under this Act. At the written request of any employee claiming to have been paid less than the wage to which he may be entitled under this Act, the commissioner may bring any legal action necessary

in behalf of the employee to collect such claim for unpaid wages. The commissioner shall not be required to pay the filing fee, or other costs, in connection with such action. The commissioner shall have power to join various claims against the employer in one cause of action. In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of this Act. The commissioner shall have power to petition any court of competent jurisdiction to restrain violations of section 3, and for such affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of this Act.

§ 6. Statute of Limitations.) Court action under this Act may be commenced no later than two years after the cause of action occurs.

§ 7. Records and Reporting.) Every employer subject to this Act shall make, keep, and maintain such records of the wages and wage rates, job classifications and other terms and conditions of employment of the persons employed by him, and shall preserve such records for such periods of time, and shall make such reports therefrom as the commissioner shall prescribe.

§ 8. Posting of Law.) Every person subject to this Act shall keep an abstract or copy of this Act posted in a conspicuous place in or about the premises wherein any employee is employed. Employers shall be furnished copies or abstracts of this Act by the state without charge.

§ 9. Penalties.) Any person who violates any provision of this Act, or who discharges or in any other manner discriminates against any employee because such employee has made any complaint to his employer, the commissioner, or any other person, or has instituted, or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceedings, shall, upon conviction thereof be subject to a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment. Any employer who violates this Act by failing to keep the records required hereunder, or to furnish such records to the commissioner upon request, or who falsifies such records, or who hinders, delays, or otherwise interferes with the commissioner or his authorized representative in the performance of his duties in the enforcement of this Act, shall upon conviction be subject to a fine of not more than one hundred dollars.

Approved March 15, 1965.

CHAPTER 239

H. B. No. 797

(Hertz, Kvasager, Ruddy, Myhre, Jungroth, Meschke,
(Powers (Cass), Haugland, Erickson (Ward), Larsen (Grand Forks))

SETTLEMENT OF LABOR DISPUTES

AN ACT

To repeal chapter 34-10 of the North Dakota Century Code.

*Be It Enacted by the Legislative Assembly of the State of
North Dakota:*

§ 1. Repeal.) Chapter *34-10 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1965.

CHAPTER 240

H. B. No. 589

(Hertz, Anderson, Stockman, Powers (Barnes))

WAGE COLLECTION

AN ACT

Relating to payment and collection of wages for labor; requiring semimonthly or agreed payments; providing for separation of employees from payroll; imposing certain conditions in event of industrial disputes; requiring the prompt payments of wages conceded to be due; placing responsibility for enforcement of this Act; granting the commissioner of labor and his deputy certain powers and imposing certain duties; generally providing for the enforcement of this Act; fixing penalties for violations; permitting assignment of claims for wages to the commissioner; imposing upon the commissioner of labor and his deputy the duty to prosecute actions; providing for power to promulgate regulations.

*Be It Enacted by the Legislative Assembly of the State of
North Dakota:*

§ 1. Definition.) Whenever used in this Act, "Employer" includes every person, firm, partnership, association, corporation, receiver or other officer of a court of the state, and any agent or officer of any kind of the above-mentioned classes and subject to the provisions hereof, employing any person in this state.

*Note: This chapter was also repealed by section 15, chapter 236, 1965 S.L.

§ 2. Semimonthly or Agreed Payday.) Every employer shall pay all wages due to his employees at least twice each calendar month, or on regular agreed paydays designated in advance by the employer, in lawful money of the United States or with checks on banks convenient to the place of employment.

§ 3. Employees Who Are Separated from Payroll Before Paydays.)

1. Discharged employees. Whenever an employer separates an employee from the payroll the unpaid wages or compensation of such employee shall become due immediately, and the employer shall pay such wages to the employee within twenty-four hours of the time of separation.
2. Employees quitting. Whenever an employee not having a written contract for a definite period quits or resigns his employment, the wages or compensation earned shall become due and payable not later than the next regular stated pay day.
3. Industrial disputes. In the event of the suspension of work as the result of an industrial dispute, the wages and compensation earned and unpaid at the time of said suspension shall become due and payable at the next regular payday, as provided in section 1 of this Act, including, without abatement or reduction, all amounts due all persons whose work has been suspended as a result of such industrial dispute, together with any deposit or other guaranty held by the employer for the faithful performance of the duties of the employment.

§ 4. Unconditional Payment of Wages Conceded To Be Due.) In case of a dispute over wages, the employer shall give written notice to the employee of the amount of wages less whatever the employee owes the employer which he concedes to be due and shall pay such amount without condition within the time set by this Act, provided that acceptance by the employee of any payment made hereunder shall not constitute a release as to the balance of the claim.

§ 5. Enforcement.) It shall be the duty of the commissioner of labor or his deputy to ensure compliance with the provisions of this Act, to investigate as to any violations of this Act, and to institute or cause to be instituted actions for penalties and forfeitures provided hereunder. The commissioner of labor or his deputy may hold hearings to satisfy himself as to the justice of any claim, and he shall cooperate with any employee in the enforcement of a claim against his employer

in any case whenever, in his opinion, the claim is valid. The commissioner of labor and his authorized representative shall have the right to enter places of employment for the purpose of inspecting records and seeing that all provisions of this Act are complied with.

§ 6. Personnel.) The commissioner of labor and his deputy, may employ such clerical and other assistants as may be necessary to carry out the purposes of this Act, and shall fix the compensation of such employees and may also, to carry out such purposes, incur reasonable traveling expenses for the said commissioner, his deputy, and assistants.

§ 7. Penalties.) Any employer who shall willfully refuse to pay the wages due and payable when demanded as in this Act, or who shall falsely deny the amount thereof, or that the same is due with intent to secure for himself or any other person any discount upon such indebtedness, or with intent to annoy, harass, or oppress, or hinder, or delay, or defraud the person to whom such indebtedness is due, shall be guilty of a misdemeanor and upon conviction thereof, be punished by a fine of not less than twenty-five dollars or more than fifty dollars for each such offense. Any employee who shall falsify the amount due himself or who willfully attempts to defraud the employer shall be subject to a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars or more than fifty dollars for each such separate offense.

§ 8. Assignment of Wage Claims to Commissioner of Labor for Recovery by Civil Action.) The commissioner of labor or his deputy shall have power and authority to take assignments of wage claims, rights of action for penalties provided by section 9 of this Act, not to exceed two hundred dollars in any case of any one claim without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner or his deputy, are entitled to the services of the commissioner or his deputy and who, in his judgment, have claims which are valid and enforceable in the courts. The commissioner or his deputy shall have power to join various claimants in one preferred claim or lien, and in case of suit to join them in one cause of action.

§ 9. Employees' Remedies.) Whenever the commissioner determines that wages have not been paid, and that such unpaid wages constitute an enforceable claim, the commissioner shall upon the request of the employee take an assignment in trust for such wages or any claim for liquidated

damages, without being bound by any of the technical rules respecting the validity of any such assignments and may bring any legal action necessary to collect such claim. With the consent of the assigning employee at the time of the assignment the commissioner shall have the power to settle and adjust any such claim to the same extent as might the assigning employee.

§ 10. Rules and Regulations.) The commissioner is authorized to issue such rules and regulations as necessary for the purpose of carrying out the provisions of this Act.

§ 11. Separability of Provisions.) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

Approved March 19, 1965.