

LABOR AND EMPLOYMENT

CHAPTER 346

HOUSE BILL NO. 1463
(Representatives Mahoney, Tollefson, Gulleson)
(Senators Dotzenrod, Holmberg)

EMPLOYER RETRIBUTION PROHIBITION

AN ACT relating to job protection for employees who report illegal activities; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Prohibited action - Report of complaint to commissioner of labor - Penalty.

1. An employer may not discharge, discipline, threaten discrimination, or penalize an employee regarding the employee's compensation, conditions, location, or privileges of employment because:
 - a. The employee, or a person acting on behalf of an employee, in good faith, reports a violation or suspected violation of federal or state law or rule to an employer or to a governmental body or law enforcement official.
 - b. The employee is requested by a public body or official to participate in an investigation, hearing, or inquiry.
 - c. The employee refuses an employer's order to perform an action that the employee believes violates state or federal law or rule or regulation. The employee must have an objective basis in fact for that belief and shall inform the employer that the order is being refused for that reason.
2. The employee may seek the assistance of the commissioner of labor, who may use the authority of chapters 34-06 and 34-14 to investigate, hold hearings, and otherwise assure compliance with this section.
3. An employer who willfully violates this section is guilty of an infraction.

Approved April 19, 1993
Filed April 20, 1993

CHAPTER 347

HOUSE BILL NO. 1491
(Representatives Austin, Dorso, Hokana, Mahoney)
(Senators Kinnoin, Krebsbach)

INDEPENDENT CONTRACTORS

AN ACT to create and enact a new section to chapter 34-05, a new section to chapter 34-14, a new section to chapter 52-04, and a new section to chapter 65-04 of the North Dakota Century Code, relating to determining an independent contractor's status and to independent contractors for purposes of wage claims, unemployment compensation contributions, and workers' compensation premiums; and to amend and reenact section 65-01-03 of the North Dakota Century Code, relating to independent contractors for purposes of workers' compensation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 34-05 of the North Dakota Century Code is created and enacted as follows:

Independent contractors - Determination made by commissioner. A person beginning work or working as an independent contractor may apply to the commissioner to receive verification of independent contractor status. The commissioner, upon receiving an application, shall review the circumstances of the applicant's job and other relevant information. When the information supports a finding under the "common law" test that the applicant will be working or is working as an independent contractor, the commissioner shall issue a determination to verify the status of the applicant as an independent contractor and shall issue the independent contractor an identification number that will be invalid if the applicant's job changes. If the applicant's job changes, the applicant may reapply for a determination to verify independent contractor status.

SECTION 2. A new section to chapter 34-14 of the North Dakota Century Code is created and enacted as follows:

Retroactive payment not required. When the commissioner reviews a potential employment relationship involving an independent contractor who has a valid identification number issued under section 1 of this Act and determines that the party described as an independent contractor is an employee for purposes of wages, rather than an independent contractor, the commissioner may not require the party determined to be the employer to pay wages, in addition to those required by the contract, for that employee, or any interest, penalty, or delinquency fee with respect to those wages, retroactive to the date the relationship with the employee began, unless, however, the commissioner determines that the employer willfully and intentionally entered the relationship with the purpose of avoiding the payment of wages. The commissioner may require the payment of wages for that employee as of the date the order declaring an employment relationship becomes final.

SECTION 3. A new section to chapter 52-04 of the North Dakota Century Code is created and enacted as follows:

Retroactive payment not required. When the bureau reviews a potential employment relationship involving an independent contractor who has a valid identification number issued under section 1 of this Act and determines that the party described as an independent contractor is an employee for purposes of unemployment compensation, rather than an independent contractor, the bureau may not require the party determined to be the employer to pay contributions for that employee, or any interest, penalty, or delinquency fee with respect to those contributions, retroactive to the date the relationship with the employee began, unless, however, the bureau determines that the employer willfully and intentionally entered the relationship with the purpose of avoiding unemployment compensation benefits. The bureau may require the payment of contributions for that employee as of the date the order declaring an employment relationship becomes final.

SECTION 4. AMENDMENT. Section 65-01-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

65-01-03. Person performing service for remuneration presumed an employee. Each person who performs services for another for a remuneration, whether the same is paid as a salary, commission, or other considerations in lieu thereof, under any agreement or contract of hire, express or implied, is presumed to be an employee of the person for whom the services are performed, unless the person maintains a separate business establishment or holds that person out to render or renders services to the general public. In determining whether a person is an independent contractor or an employee, the ~~primary~~ test to be employed is the "common law" test.

SECTION 5. A new section to chapter 65-04 of the North Dakota Century Code is created and enacted as follows:

Retroactive payment not required. When the bureau reviews a potential employment relationship involving an independent contractor who has a valid identification number issued under section 1 of this Act and determines that the party described as an independent contractor is an employee for purposes of workers' compensation premiums, rather than an independent contractor, the bureau may not require the party determined to be the employer to pay premiums for that employee, or any interest, penalty, or delinquency fee with respect to those premiums, retroactive to the date the relationship with the employee began, unless, however, the bureau determines that the employer willfully and intentionally entered the relationship with the purpose of avoiding workers' compensation premium payments. The bureau may require the payment of premiums for that employee as of the date the order declaring an employment relationship becomes final.

Approved April 8, 1993
Filed April 9, 1993

CHAPTER 348

SENATE BILL NO. 2097
(Political Subdivisions Committee)
(At the request of the Department of Labor)

MINIMUM WAGE EMPLOYERS

AN ACT to require the commissioner of labor to convene a wage conference committee; to create and enact a new section to chapter 34-06 of the North Dakota Century Code, relating to minimum wage requirements; to amend and reenact subsections 2 and 3 of section 34-06-01 of the North Dakota Century Code, relating to excluding certain employers from the requirements of the minimum wage rules; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹ SECTION 1. AMENDMENT. Subsections 2 and 3 of section 34-06-01 of the North Dakota Century Code are amended and reenacted as follows:

2. "Employee" includes any individual employed by an employer. Provided However, an individual is not an "employee" while engaged in a ridesharing arrangement, as defined in section 8-02-07. The term does not include a person engaged in firefighting or sworn law enforcement officers for a political subdivision of the state.
3. "Employer" includes any individual, partnership, association, corporation, the state and political subdivisions of the state, or any person or group of persons acting in the interest of an employer in relation to an employee.

SECTION 2. A new section to chapter 34-06 of the North Dakota Century Code is created and enacted as follows:

Compensatory time. The state or a political subdivision of the state may provide for compensatory time for its employees if the state or political subdivision complies with the requirements of the Fair Labor Standards Act of 1938, as amended, [Pub. L. 75-718; 52 Stat. 1060; 29 U.S.C. 206] and any rules and interpretations adopted by the United States Department of Labor.

SECTION 3. COMMISSIONER OF LABOR TO CONVENE WAGE CONFERENCE COMMITTEE. The commissioner of labor shall convene a wage conference committee by August 1, 1993.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 1993
Filed April 12, 1993

¹ NOTE: Section 34-06-01 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

CHAPTER 349

HOUSE BILL NO. 1093
(Industry, Business and Labor Committee)
(At the request of the Department of Labor)

LABOR ORDER POSTING

AN ACT to amend and reenact section 34-06-12 of the North Dakota Century Code, relating to the posting of orders issued by the commissioner of labor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-06-12 of the North Dakota Century Code is amended and reenacted 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 recommendations 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 becomes effective on the sixtieth day following its rendition. After the order has become effective, no employer may 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 must be reviewed annually. A copy of such order must 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~~ a commonly frequented area of ~~his~~ the employer's establishment in which employees work. No order of the commissioner may permit the employment of any employee for more hours per day or week than the maximum fixed by this chapter.

Approved March 11, 1993
Filed March 12, 1993

CHAPTER 350

HOUSE BILL NO. 1308
(Representative Clayburgh)

MINIMUM WAGE EXEMPTION FOR DISABLED

AN ACT to amend and reenact section 34-06-15 of the North Dakota Century Code, relating to a special license issued by the commissioner of labor to employ a person at less than minimum wage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-06-15 of the North Dakota Century Code is amended and reenacted 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~~ whose productive capacity for the work to be performed is impaired by physical or mental disability, or to any apprentice or learner in an occupation ~~which that~~ that usually requires learners or apprentices, a special license authorizing the employment of ~~such that~~ such licensee in an occupation in which a minimum wage has been established, at a wage less than ~~such the~~ the minimum wage ~~for that occupation.~~ Such ~~The commissioner shall issue the license must be issued under such rules and regulations as adopted by~~ The commissioner shall issue the license by the commissioner may establish.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 351

HOUSE BILL NO. 1436
(Representatives Gates, C. Carlson)
(Senator Heinrich)

CHILD LABOR LAWS

AN ACT to create and enact a new section to chapter 34-07 of the North Dakota Century Code, relating to exemption of newspaper carriers and shopper carriers from North Dakota child labor laws; to amend and reenact sections 34-07-01, 34-07-02, 34-07-03, 34-07-05, 34-07-06, 34-07-11, 34-07-12, 34-07-14, 34-07-15, 34-07-16, 34-07-17, 34-07-18, 34-07-19, and 34-07-20 of the North Dakota Century Code, relating to who may employ youth under the age of fourteen in the state, who may issue certificates to minors who wish to work, the limitations on the hours a minor fourteen or fifteen years of age may work, and hazardous occupations in which minors may not be employed; and to repeal sections 34-07-07, 34-07-08, 34-07-10, and 34-07-13 of the North Dakota Century Code, relating to employment certificates for minors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-07-01 of the North Dakota Century Code is amended and reenacted as follows:

¹ **34-07-01. Employment of minor under fourteen years of age prohibited.** No minor under fourteen years of age may be employed or permitted to work in, ~~or in connection with, any factory, workshop, mercantile establishment, store, business office, telegraph office, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages~~ any occupation except farm labor, domestic service, or in the employment of, and under the direct supervision of, that minor's parent, guardian, or grandparent. Domestic service includes services of a household nature performed by an employee in or about a private home of the employer. No person, firm, or corporation may employ any minor under fourteen years of age may be employed in any business or service whatever during any part of the hours when the public schools of the district in which the minor resides are in session.

SECTION 2. AMENDMENT. Section 34-07-02 of the North Dakota Century Code is amended and reenacted as follows:

² **34-07-02. Certificate of employment required - Inspection - List of minors employed to be kept.** No minor ~~between the age of fourteen and sixteen years~~ fourteen or fifteen years of age may be employed or permitted to work in any

¹ NOTE: Section 34-07-01 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

² NOTE: Section 34-07-02 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

~~factory, workshop, or mercantile establishment occupation except farm labor, domestic service, or in the employment of, and under the direct supervision of, the minor's parent or guardian unless the minor has graduated from high school or is exempt from compulsory school attendance or, unless the person, firm, or corporation employing him procures and keeps on file an employment certificate signed by the minor's parent or guardian in accordance with the provisions of this chapter. Any person, firm, or corporation employing a minor must keep on file a completed employment certificate, for each minor, as provided in this chapter. The employment certificate must be accessible to inspection by the superintendent of schools of the municipality, if one is employed, otherwise to the business manager of the school board or the secretary of the board of education principal of the school which the minor attends, a principal in the municipality in which the minor resides, or the commissioner of labor or the commissioner's agent or representative. Any person, firm, or corporation employing minors under the age of sixteen years shall keep two complete lists of all minors employed. One such list must be kept on file by the employer and the other must be conspicuously posted near the principal entrance of the building in which any such minor is employed.~~

SECTION 3. AMENDMENT. Section 34-07-03 of the North Dakota Century Code is amended and reenacted as follows:

³ **34-07-03. Question of age of minor employee - Who may raise - Duties of employer - Evidence required.** Any person, firm, or corporation employing in ~~any~~ factory, workshop, or mercantile establishment a minor who appears to be under the age of sixteen years and for whom an employment certificate is not filed as required by the provisions of this chapter, either shall furnish satisfactory evidence that such minor is ~~over~~ sixteen years of age or older or shall cease to employ such minor or to permit ~~him~~ the minor to work in such ~~factory, workshop, or mercantile establishment within ten days~~ employment immediately after a demand is made upon ~~him that he~~ the employer to do so by:

1. ~~The county superintendent of schools principal of the school which the minor attends or a principal in the municipality in which the minor resides;~~
2. ~~The superintendent of schools of the municipality in which the child is employed or of which he is a resident;~~
3. ~~The business manager of the school board or the secretary of the board of education of the school district of which the child is a resident;~~
4. ~~The commissioner of labor or his~~ the commissioner's agent or representative; or
5. ~~Any member or representative of the county board of child welfare if such a board is maintained in the county in which such child is employed or resides;~~
6. ~~Any school attendant or truant officer; or~~

³ NOTE: Section 34-07-03 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

- 7- 3. Any other officer charged with the enforcement of child labor, compulsory school attendance, or other child welfare laws.

The officer making such demand may require the same evidence, and only the same evidence, of age of the minor as is required on the issuance of an employment certificate under the provisions of this chapter.

SECTION 4. AMENDMENT. Section 34-07-05 of the North Dakota Century Code is amended and reenacted as follows:

⁴ ~~34-07-05. When employment certificate of minor required~~ Who may issue certificates - Where certificates may be obtained. An employment certificate must be in writing and must be issued ~~only on the evidence of age prescribed in section 34-07-06 and may be issued by the superintendent of schools of the municipality in which the minor resides, if a superintendent is employed thereby, and if not, by the business manager of the school board or the secretary of the board of education of the school district in which the minor resides by the minor's parent or guardian.~~ The parent or guardian who certifies, or rejects, the employment certificate must file a completed copy with the department of labor, the employer, the principal of the school which the minor attends, or a principal in the municipality in which the minor resides, within ten days of certification or rejection. No employment certificate is required for any minor then in, or who is about to enter, ~~his~~ the ~~minor's~~ minor's own employment or the employment of a firm or corporation of which ~~he~~ the ~~minor~~ minor is a member or officer. The commissioner of labor shall make the certificates of employment available.

SECTION 5. AMENDMENT. Section 34-07-06 of the North Dakota Century Code is amended and reenacted as follows:

34-07-06. Evidence of age of minor. The age of a minor who desires an employment certificate must be proved by:

1. A certificate of proof of birth issued by the state registrar of vital statistics;
2. ~~The baptismal certificate, or transcript of the record of baptism duly certified, showing the date of birth and the place of baptism of the child;~~
- 3- ~~A bona fide contemporary record of the date of the child's birth comprising a part of the family record of births in the Bible, or other documentary~~ Documentary evidence satisfactory to the commissioner of labor, such as a certificate of arrival in the United States issued by the United States immigration officers and showing the age of the child, a passport showing the age of the child, a valid driver's license, a baptismal certificate, or a life insurance policy. Such other satisfactory documentary evidence must have been in existence for at least one year, and in the case of a life insurance policy, for at least four years. ~~A school record, a parent's, guardian's, or custodian's~~

⁴ NOTE: Section 34-07-05 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

~~affidavit, or any other written statement of age may not be accepted except as specified in subsection 4; or~~

4. ~~A certificate signed by a public health physician or by a public school physician stating in his opinion the physical age of the minor. Such certificate must state the height and weight of the minor and any other evidence of physical age revealed by the physician's examination or upon which the opinion of the physician is based. A parent's, guardian's, or custodian's signed statement as to the age of a minor or a record of age as given on the register of the school first attended by the child or as reported in any school census, if obtainable, must be submitted with the physician's certificate showing physical age.~~

~~The person issuing the employment certificate for a minor shall require the evidence of age stated in subsection 1 in preference to that specified in any subsequent subsection, and may not accept the evidence of age permitted by any later subsection unless he receives and files evidence that the proof of age required by the preceding subsection or subsections cannot be obtained.~~

SECTION 6. AMENDMENT. Section 34-07-11 of the North Dakota Century Code is amended and reenacted as follows:

34-07-11. Requirements for certificate for school term but not during daily session - Truant or deficient minor not to be employed. A certificate permitting the employment of a minor during the school term, but not during the daily period of the school session, may be granted upon compliance with the requirements for a vacation certificate if such minor is in actual, regular, and full-time attendance in any public, private, or parochial school as provided by law and maintains a passing grade in all studies pursued by him in such school. No minor may be employed who at the time is guilty of truancy or of deficiency in his studies, as determined by the minor's parent or guardian, or the principal of the school which the minor attends, or a principal in the municipality in which the minor resides, or the commissioner of labor or the commissioner's agent or representative.

SECTION 7. AMENDMENT. Section 34-07-12 of the North Dakota Century Code is amended and reenacted as follows:

34-07-12. Issuance and contents Contents of employment certificate. An employment certificate must be issued by the proper superintendent, principal, business manager, or secretary, as the case may be, upon receipt of a proper and complete application from or on behalf of a minor entitled to such certificate. It ~~The employment certificate~~ must state the date and place of birth of the minor, the color of his the minor's hair and eyes, his the minor's height and weight, any distinguishing facial marks of such minor, ~~that the papers required by this chapter for the class of certificate issued have been duly examined, approved, and filed, and that the minor named in such certificate has appeared before and been examined by the officer signing the certificate~~ a description of the job duties and responsibilities of the minor, and must also be signed by the minor's parent or guardian and the employer.

SECTION 8. AMENDMENT. Section 34-07-14 of the North Dakota Century Code is amended and reenacted as follows:

34-07-14. Revocation of certificate - Notice - Return of revoked certificate. Whenever it appears to the officer minor's parent or guardian, or the principal of

the school which the minor attends, a principal in the municipality in which the minor resides, or the commissioner of labor or the commissioner's agent or representative who issued an employment certificate, or to his the person's successor, that such certificate has been improperly or illegally issued or that the physical or moral welfare of the minor would be best served by the revocation of the certificate, such officer may revoke the certificate forthwith certificate may be revoked. The revoking officer shall give notice of the revocation by registered or certified mail to the person employing such minor and to the minor holding the certificate. Immediately upon receiving notice of the revocation of the certificate the employer shall return the revoked certificate to the officer revoking the same and shall discontinue the employment of the minor. Revocation of a permit must be registered with the commissioner of labor or the commissioner's agent within ten days.

SECTION 9. AMENDMENT. Section 34-07-15 of the North Dakota Century Code is amended and reenacted as follows:

34-07-15. Maximum hours of labor of minors ~~under sixteen~~ fourteen or fifteen years of age - Notice to be posted. No minor ~~under the fourteen or fifteen years of age of sixteen years~~ may be employed or permitted to work at any occupation, except in domestic services and at farm labor, before the hour of seven a.m. nor after the hour of seven p.m., except that such hours are seven a.m. to nine p.m. from June first through labor day, nor more than ~~twenty-four~~ eighteen hours during school weeks, nor more than three hours on school days, nor more than ~~forty-eight~~ forty hours during nonschool weeks, nor more than eight hours on nonschool days. A school week is considered to be any week Monday through Sunday in which a youth is required to be in attendance, for any period of time, four or more days. Provided, however, that the limitations restricting hours of work during schoolweeks and schooldays do not apply to minors who are not attending school because they are excused from compulsory school attendance by the provisions of chapter 15-34.1. Every employer shall post in a conspicuous place 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 must be furnished by the commissioner of labor. The employment of any minor for a longer period than that stated in the notice is a violation of this chapter.

SECTION 10. AMENDMENT. Section 34-07-16 of the North Dakota Century Code is amended and reenacted as follows:

34-07-16. Prohibited employments and occupations of minors. No minor ~~under the fourteen or fifteen years of age of sixteen years~~ may be employed or permitted to work in:

1. Any employment involving the use of any power-driven machinery; but this prohibition does not apply to the use of (a) office machines, such as adding machines or typewriters; (b) tagging, pricing, or similar machines used in retail stores; (c) domestic-type machines used in food service operations, such as toasters, coffee grinders, milkshake blenders; ~~or~~ (d) machines used in service stations such as those in connection with car cleaning, washing, or polishing, or in the dispensing of gasoline or oil; provided, however, that no work may be done in connection with cars and trucks if such work involves the use of pits, racks, or lifting apparatus,

- or involving the inflation of any tire mounted on a rim equipped with removable retaining ring; or (e) lawnmowers.
2. Construction work ~~of any kind~~ other than cleaning, errand running, moving, stacking, loading, or unloading materials by hand.
 3. Lumbering or logging operations.
 4. Sawmills or planing mills.
 5. The manufacture, disposition, or use of explosives.
 6. ~~Any capacity which requires the adjusting of any belt to any machinery or the oiling, wiping, or cleaning of any machinery.~~
 7. ~~Any employment which requires the operation, or the assisting in the operation, of any power driven woodworking machinery or emery or polishing wheels used for polishing metal.~~
 8. ~~The operation of stamping machines in sheet metal and tinware manufacturing.~~
 9. ~~The operation of stamping machines in washer and nut factories operating corrugating rolls such as are used in roofing factories.~~
 10. The operation of any steam boiler, steam machinery, or other steam generating apparatus.
 11. ~~Repealed by S.L. 1975, ch. 299, § 2.~~
 12. ~~The operation or assisting in the operation of dough brakes or cracker machinery of any description.~~
 13. ~~The operation of wire or iron straightening machinery.~~
 14. ~~The operation or assisting in the operation of rolling mill machinery, punches, or shears, or washing, grinding, or mixing mills, or calendar rolls in rubber manufacture.~~
 15. 7. The operation or assisting in the operation of laundry machinery.
 16. 8. Preparing any composition in which dangerous or poisonous acids are used.
 17. 9. The manufacture of paints, colors, or white lead.
 18. 10. Operating or assisting in the operation of passenger or freight elevators.
 19. 11. Any mine or quarry.
 20. 12. The manufacture of goods for immoral purposes.
 21. 13. Any other employment not herein specifically enumerated that may be considered dangerous to his life or limb or in which his health may be injured or his morals deprived.

14. Occupations which involve working on an elevated surface, with or without use of safety equipment, including ladders and scaffolds in which the work is performed higher than six feet from the ground surface.
15. Security positions or any such occupations that require the use of a firearm or other weapon.
16. Door-to-door sales of any kind.
17. Occupations involving the loading, handling, mixing, applying, or working around or near any fertilizers, herbicides, fungicides, pesticides, insecticides, or any other chemicals, toxins, or heavy metals.
18. Occupations in or in connection with medical or other dangerous wastes.
19. Occupations which involve the handling or storage of blood, blood products, body fluids, and body tissues.
20. Cooking, baking, grilling, or frying.
21. Warehouse or storage work of any kind in which the main objective of the operation is distribution.
22. Trucking or commercial driving of any kind.

Nothing contained in this section prohibits a minor from doing ordinary farm labor or from operating farm machinery. No person ~~under sixteen~~ fourteen or fifteen years of age may be employed in any capacity if such employment compels the person to remain standing constantly. This section does not prevent the education of a minor in music nor the employment of a minor as a singer or musician in a church, school, or academy, or in any school or home talent exhibition given by the people of a local community.

SECTION 11. AMENDMENT. Section 34-07-17 of the North Dakota Century Code is amended and reenacted as follows:

34-07-17. Permit to work in theater or place of amusement. A minor under sixteen years of age may be employed to act or perform in a theater or place of amusement if a permit so to do is obtained from the ~~judge of the juvenile court or from the juvenile court commissioner of the judicial district in which the minor resides.~~ Such permit must be granted if it appears to the satisfaction of such court or commissioner minor's parent or guardian and the commissioner of labor or the commissioner's agent or representative, if such person decides that the appearance of such minor will not be detrimental to his the minor's morals, health, safety, welfare, or education.

SECTION 12. A new section to chapter 34-07 of the North Dakota Century Code is created and enacted as follows:

Newspaper and shopper carrier exemption. The provisions of this chapter do not apply to newspaper or shopper carriers. This exemption applies to carriers engaged in making deliveries to subscribers' homes or to other newspaper or shopper consumers. It applies to carriers engaged in the street sale or delivery of newspapers or shoppers to the consumer, but it does not include persons engaged in hauling newspapers or shoppers to drop stations, distributing centers, newsstands, newsracks, vending machines, or similar locations or items.

SECTION 13. AMENDMENT. Section 34-07-18 of the North Dakota Century Code is amended and reenacted as follows:

34-07-18. Inspection of factories and establishments by peace officers - Report - Complaints. Peace officers may visit ~~mines, factories, workshops, and mercantile~~ any business 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.

SECTION 14. AMENDMENT. Section 34-07-19 of the North Dakota Century Code is amended and reenacted as follows:

34-07-19. Duties of commissioner of labor. The commissioner of labor shall prepare all ~~blanks~~ employment certificates necessary in the administration of this chapter, shall distribute such ~~blanks~~ employment certificates to the school officers, ~~parents, guardians,~~ and authorities of this state, shall exercise general supervision, interpretation, and exemption powers over the administration of the provisions of this chapter, and shall enforce the same. ~~He and his~~ The commissioner and the commissioner's agents and representatives have full power of visitation and inspection of all ~~factories, industries, and other~~ business establishments in which minors may be employed or permitted to work.

SECTION 15. AMENDMENT. Section 34-07-20 of the North Dakota Century Code is amended and reenacted 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~~ the commissioner may issue general and special orders with reference to the employment of minors and may prohibit or exempt 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 is in addition to the regulations specified in this chapter.

SECTION 16. REPEAL. Sections 34-07-07, 34-07-08, 34-07-10, and 34-07-13 of the North Dakota Century Code are repealed.

Approved April 9, 1993
Filed April 9, 1993

CHAPTER 352

SENATE BILL NO. 2492
(Senators Tallackson, Heinrich)
(Representatives Gorder, Kilichowski)

EMPLOYEE REPRESENTATION AT GRIEVANCE PROCEEDING

AN ACT to create and enact a new section to chapter 34-11.1 of the North Dakota Century Code, relating to a public employee's right to representation during grievance proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 34-11.1 of the North Dakota Century Code is created and enacted as follows:

Employee representation at grievance proceeding. An employee who is a party to a work-related grievance proceeding may be accompanied, advised, and represented throughout the proceeding by another employee or by a representative chosen by the employee involved in the proceeding.

Approved March 30, 1993
Filed April 1, 1993

CHAPTER 353

SENATE BILL NO. 2096
(Industry, Business and Labor Committee)
(At the request of the Department of Labor)

EMPLOYER WITHHOLDING FROM EMPLOYEE WAGES

AN ACT to amend and reenact section 34-14-04.1 of the North Dakota Century Code, relating to withholding by an employer of advances paid to an employee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-14-04.1 of the North Dakota Century Code is amended and reenacted as follows:

34-14-04.1. Limitations on withholdings. Every employer shall withhold from the compensation due ~~his~~ employees those amounts which are required by state or federal law to be withheld and may deduct advances paid to employees, other than undocumented cash, and other individual items authorized in writing by the employees.

Approved April 19, 1993
Filed April 20, 1993