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75th CONGRESS  
1st SESSION

S. 2475

(NOTE.—Fill in all blank lines except those provided for the date and number of bill.)

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CARRY

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IN THE SENATE OF THE UNITED STATES

MAY 24 1937

Mr. BLACK introduced the following bill; which was read twice  
and referred to the Committee on Bd. & Labor

# A BILL

TO PROVIDE FOR THE ESTABLISHMENT OF FAIR LABOR STANDARDS IN  
(Insert title of bill here)

EMPLOYMENTS IN AND AFFECTING INTERSTATE COMMERCE, AND FOR OTHER PURPOSES

- 1 Be it enacted by the Senate and House of Representatives of the
- 2 United States of America in Congress assembled, That this Act may be cited as the Fair Labor Standards Act of 1937.

## PART I

LEGISLATIVE DECLARATION; DEFINITIONS; LABOR STANDARDS BOARD

LEGISLATIVE DECLARATION

Case

Section 1. (a) The employment of workers under substandard labor conditions in occupations in interstate commerce, in the production of goods for interstate commerce, or otherwise directly affecting interstate commerce (1) causes interstate commerce and the channels and instrumentalities of interstate commerce to be used to spread and perpetuate among the workers of the several States conditions detrimental to the physical and economic health, efficiency, and well-being of such workers; (2) directly burdens interstate commerce and the free flow of goods in interstate commerce; (3) constitutes an unfair method of competition in interstate commerce; (4) causes industrial dislocations directly burdening and obstructing interstate commerce and diverting interstate commerce from areas in which

(fair labor standards are maintained to areas in which such substandard labor conditions exist; (5) leads to labor disputes directly burdening and obstructing interstate commerce and the free flow of goods in interstate commerce; (6) causes undue price fluctuations impairing the stabil-

## LEGISLATIVE DECLARATION

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(fair labor standards are maintained to areas in which such substandard labor conditions exist; (5) leads to labor disputes directly burdening and obstructing interstate commerce and the free flow of goods in interstate commerce; (6) causes undue price fluctuations impairing the stability of prices of goods in interstate commerce; and (7) directly interferes with the orderly and fair marketing of goods in interstate commerce.

(b) The correction of such conditions directly affecting interstate commerce requires that the Congress exercise its legislative power to regulate commerce among the several States by prohibiting the shipment in interstate commerce of goods produced under substandard labor conditions and by providing for the elimination of substandard labor conditions in occupations in and directly affecting interstate commerce.

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DEFINITIONS } *scor*

Section 2. (a) As used in this <sup>1</sup>act unless the context otherwise requires <sub>M</sub>

(1) "Person" includes an individual, partnership, association, corporation, business trust, receiver, trustee, trustee in bankruptcy or liquidating or reorganizing agent.

(2) "Interstate commerce" means trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof or within the District of Columbia.

(3) "State" means any State of the United States or the District of Columbia.

(4) "Board" means the Labor Standards Board created by section 3 of this <sup>A</sup>act.

(5) "Occupation" means an occupation, industry, trade, or business, or branch thereof or class of work therein, in which persons are gainfully employed.

(6) "Employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States or any State or political subdivision thereof, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

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(7) "Employee" includes any individual employed and any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unlawful discharge, and who has not obtained any other regular and substantially equivalent employment, but shall not include any person employed in an executive, administrative, supervisory, or professional capacity, or as an agricultural laborer as such terms are defined and delimited by regulations of the Board.

(8) "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees or their representatives participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(9) "Labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or

representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(10) "Oppressive wage" means, with regard to any employment to which the provisions of this Act with respect to an oppressive wage shall have been made applicable by regulation or order of the Board under section 4(a), a wage lower than the minimum wage standard of ~~10~~ cents per hour, unless and except insofar as another minimum wage standard is established for such employment by regulation or order of the Board under section 4(c).

(11) "Oppressive work week" means, with regard to any employment to which the provisions of this Act with respect to an oppressive work week shall have been made applicable by regulation or order of the Board under section 4(b), a work week longer than the maximum-work week standard of ~~11~~ hours, unless and except insofar as another maximum-work week standard is established for such employment by regulation or order of the Board under section 4(d).

(12) "Oppressive labor practice" means any practice by an employer constituting (A) the employment of any person to act as a strikebreaker during a labor dispute, and for the purpose of this clause a strikebreaker means a person employed to do work wholly or in part theretofore done by a regular employee (who has stopped, or been excluded from, such work by reason of a labor dispute) where such person is known by the employer to be unqualified for, or to have no intention of accepting, regular employment, or where such person is paid for work done by him a higher wage than the wage

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paid to such regular employee (whether or not such person fulfils additional tasks or duties), but no person shall be deemed to be a strikebreaker if his employment is necessary to prevent irreparable damage to physical property or to maintain essential public services and is confined to the prevention of such irreparable damage or the maintenance of such essential public services; or (B) the employment of any person to engage in espionage over any employee or the immediate family of such employee for the purpose of securing information regarding the affiliation of such employee with a labor organization, the activities or plans of such employee with reference to self-organization, or the political or economic views or activities of such employee.

(13) "Oppressive child labor" means a condition of employment under which (A) any child under the age of sixteen years is employed in any occupation, or (B) any child between the ages of sixteen and eighteen years is employed in any occupation which the Chief of the Children's Bureau in the Department of Labor shall from time to time by regulation or order declare to be particularly hazardous for the employment of such children or detrimental to their health or well-being.

(14) "A fair wage" means a wage fairly and reasonably commensurate with the value of the service or class of service rendered.

(15) "A reasonable work week" means a number of hours of employment in a week which is reasonably suitable to the nature of the service or class of service rendered.

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(16) "Substandard wage" means a wage lower than a minimum fair wage established by an order of the Board applicable to the employment in which such wage is paid.

(17) "Substandard work week" means a work week longer than a maximum reasonable work week established by an order of the Board applicable to the employment in which such work week is maintained.

(18) "Substandard<sup>#</sup> labor condition" means a condition of employment under which (A) any employee is employed at an oppressive or substandard wage; or (B) any employee is employed for an oppressive or substandard work week; or (C) oppressive child labor exists; or (D) any oppressive labor practice exists.

(19) "Fair<sup>#</sup> labor standard" means a condition of employment under which (A) no employee is employed at an oppressive or substandard wage; or (B) no employee is employed for an oppressive or substandard work week; or (C) no oppressive child labor exists; or (D) no oppressive labor practice exists.

(20) "Labor standard order" means an order of the Board under section 4, 5, 6, 8, 9, or 10, or any two or more of such sections.

(21) "Goods" means goods, wares, products, commodities, merchandise, or articles of trade of any character, or any part or ingredient thereof, but shall not mean goods in the possession of the ultimate consumer thereof.

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(22) "Unfair goods" means goods in the production of which employees have been employed in any occupation under any substandard labor condition.

(23) "Fair goods" means goods in the production of which no employees have been employed in any occupation under any substandard labor condition.

(24) "Produced" means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in the making of tools and dies used in the production of such goods in any State.

(25) "Sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(26) "To a substantial extent" means not casually, sporadically, or accidentally, but as a settled or recurrent characteristic of the matter or occupation described, or of a portion thereof, which need not be a large or preponderant portion thereof.

(27) The singular includes the plural and the plural includes the singular.

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(b) For the purposes of this <sup>A</sup>act, proof that any employ<sup>e</sup>ee was employed under any substandard labor condition in any factory, mill, workshop, mine, quarry, or other place of employment where goods were produced, within ninety days prior to the removal of such goods therefrom, shall be prima facie evidence that such goods were produced by such employee employed under such substandard labor condition.

LABOR STANDARDS BOARD *J. S. C. O.*

<sup>11</sup>Section 3. (a) There is hereby created a Board, to be known as the Labor Standards Board, which shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate. <sup>and in such appointment industrial and geographic regions shall be given consideration.</sup> The President shall from time to time designate one of the members of the Board to act as Chairman. One of the original members of the Board shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, and their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(b) A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board and two members of the Board shall at all times constitute a quorum. The Board shall have an official seal which shall be judicially noticed.



(c) Each member of the Board shall receive a salary of \$10,000 a year, shall be eligible for reappointment, and shall not engage in any other business, vocation or employment.

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(d) The Board may select, employ, and fix the compensation of an executive secretary and such attorneys, examiners, regional directors, special consultants, and experts as it deems necessary to carry out the functions and duties of the Board, without regard to the provisions of other laws applicable to the employment and compensation of officers and

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employees of the United States. The Board may, subject to the civil service laws, appoint such other employees as it deems necessary to carry out the functions and duties of the Board and shall fix their salaries in accordance with the Classification Act of 1923, as amended. The Board may establish and utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may at the direction of the Board appear for and represent the Board in any case in Court. In the appointment, selection, classification, and promotion of officers and employees of the Board, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency.

(e) The principal office of the Board shall be in the District of Columbia but it may meet or exercise any or all of its powers at any other place. The Board may, by one or more of its members or authorized representatives, or by such other agents or agencies as the Board may designate, prosecute any inquiry necessary to its functions in any part of the United States.

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(f) The Board shall submit annually a report to the Congress covering the work of the Board for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act as it may find advisable.

PART II <sup>1</sup>/<sub>m</sub>

ESTABLISHMENT OF FAIR LABOR STANDARDS

*Jessca*

NON-OPPRESSIVE WAGE AND HOUR STANDARDS

*Sen*

Section 4. (a) Having regard to the policy of the Congress to extend the applicability of the provisions of this Act with respect to an oppressive wage to all employments within the scope of this Act as rapidly as possible, the Board shall from time to time by regulation or order declare such provisions applicable to employments within the scope of this Act as rapidly as the Board finds that such provision can be made applicable to such employments without unreasonably curtailing opportunities for employment.

(b) Having regard to the policy of the Congress to extend the applicability of the provisions of this Act with respect to an oppressive work week to all employments within the scope of this Act as rapidly as possible, the Board shall from time to time by regulation or order declare such provisions applicable to employments within the scope of this Act as rapidly as the Board finds that such provisions can be made applicable to such employments without unreasonably curtailing the earning power of the employees in such employments.

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#/# (c) Having due regard to the minimum wage standard established by section 2(a)(10), the Board shall by regulation or by order vary such standard upward or downward as to all employees or as to any class or classes of employees to the extent that the Board finds a variation necessary or appropriate to prevent the depression of general wage levels below those consistent

with the maintenance of a minimum standard of living necessary for health and efficiency, without unreasonably curtailing opportunities for employment.

#/# (d) Having due regard to the maximum work week standard established by section 2(a)(11), the Board shall by regulation or by order vary such standard upward or downward as to all employees or as to any class or classes of employees to the extent that the Board finds a variation necessary or appropriate, considering the physical and economic health, efficiency and well-being of the employees and the number of persons available for employment, without unreasonably curtailing the earning power of the employees.

Section 5. (a) Whenever the Board shall have reason to believe that, owing to the inadequacy or ineffectiveness of the facilities for collective bargaining, wages lower than a minimum fair wage are paid to employees in any occupation in which such employees are engaged in interstate commerce or are engaged in the production of goods which are sold or shipped to a substantial extent in interstate commerce, the Board shall conduct an investigation of the wages paid in such occupation and the value of the services rendered therefor. If the Board shall determine that wages lower than a minimum fair wage are paid in such occupation to a substantial extent, or that the payment of such wages by one or more employers in such occupation threatens to undermine a fair labor standard maintained by others, and that the establishment of a minimum fair wage in such occupation will not unreasonably curtail opportunities for employment, the Board shall make an order establishing the minimum fair

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wage for employees in that occupation. In determining and establishing a minimum fair wage for any service or class of service, the Board (1) shall take into account the cost of living and all other relevant circumstances affecting the value of the service or class of service rendered, (2) shall be guided by like considerations as would guide a court in a suit for the reasonable value of services rendered where services are rendered at the request of an employer without contract as to the amount of the wage to be paid, (3) shall consider the wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing, and (4) shall consider the wages paid for work of like or comparable character by employers who voluntarily maintain fair wage standards in the occupation to be subject to the order establishing such minimum fair wage; but the Board shall not establish a minimum fair wage which in the judgment of the Board will give employees receiving not more than such minimum fair wage an annual wage income in excess of twelve hundred dollars, or an hourly wage in excess of eighty cents except for overtime, night, or extra-shift work.

(b) Whenever the Board shall have reason to believe that, owing to the inadequacy or ineffectiveness of the facilities for collective bargaining, hours of employment longer than a maximum reasonable work week are maintained among employees in any occupation, in which such employees are engaged in interstate commerce or are engaged in the production of goods which are sold or shipped to a substantial extent in interstate commerce, the Board shall conduct an investigation of the hours of employment maintained in such

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occupation and the number of hours of employment in a week reasonably suitable to the nature of the services rendered therein. If the Board shall determine that hours of employment longer than a maximum reasonable work week are maintained in such occupation to a substantial extent, or that the maintenance of such hours of employment by one or more employers in such occupation threatens to undermine a fair labor standard maintained by others, and that the establishment of a maximum reasonable work week in such occupation will not unreasonably curtail the earning power of the employees, the Board shall make an order establishing a maximum reasonable work week for employees in that occupation. In determining and establishing a maximum reasonable work week for any service or class of service, the Board (1) shall take into account the relation of the work to the physical and economic health, efficiency, and well-being of the employees and all other relevant circumstances affecting the reasonableness of the period of working time for the work or class of work performed, (2) shall consider the number of persons available for employment in the occupation to be subject to the order establishing such maximum reasonable work week, (3) shall consider the hours of employment established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing, and (4) shall consider the hours of employment for work of like or comparable character maintained by employers who voluntarily maintain a reasonable work week in the occupation to be subject to the order establishing such maximum reasonable work week; but the Board shall not establish a maximum reasonable work week of less than ~~the~~ hours.

EXEMPTIONS FROM LABOR STANDARDS WITH RESPECT TO WAGES AND HOURS

Section 8. (a) The Board by regulation or order shall provide that the payment of an oppressive or substandard wage or the maintenance of an oppressive or substandard work week by any employer employing less than ~~10~~ employees shall not be deemed to constitute a substandard labor condition, unless and except in so far as the Board finds that the maintenance of the appropriate fair labor standard by such class of employers is necessary or appropriate in order to carry out the purposes, or prevent the circumvention, of any provision

~~or provisions~~ of this Act. The Board shall have power to define by regulation or order the method of computing and determining the number of employees employed by any employer to prevent the circumvention of the Act or any of its provisions through the use of agents, independent contractors, subsidiary or controlled companies, or home or off-premise employees, or by any other means or device.

(b) Unless an applicable order of the Board under this section or any other section of this Act shall otherwise provide, the maintenance among employees of an oppressive or substandard work week shall not be deemed to constitute a substandard labor condition if the employees so employed receive additional compensation for such overtime employment at the rate of one and one-half times the regular hourly wage rate at which such employees are employed. But the Board shall have power to make an order determining that the maintenance of such overtime employment in any occupation, except upon such terms and conditions if any as are contained in such order, shall constitute a substandard labor condition for the purpose of any one or more provisions of this Act if and to the extent that the Board finds that the maintenance of a work week that is not oppressive or substandard in such occupation is necessary or appropriate in order to carry out the purpose, or prevent the circumvention, of such provision or provisions of this Act. Any such order may contain such terms and conditions relating to overtime employment, including the wage rates to be paid therefor, as the Board shall consider necessary or appropriate in the occupation affected.

~~or provisions~~ of this <sup>A</sup> act. The Board shall have power to define by regulation or order the method of computing and determining the number of employees employed by any employer to prevent the circumvention of the Act or any of its provisions through the use of agents, independent contractors, subsidiary or controlled companies, or home or off-premise employees, or by any other means or device.

(b) Unless an applicable order of the Board under this section or any other section of this <sup>A</sup> act shall otherwise provide, the maintenance among employees of an oppressive or substandard work week shall not be deemed to constitute a substandard labor condition if the employees so employed receive additional compensation for such overtime employment at the rate of one and one-half times the regular hourly wage rate at which such employees are employed. But the Board shall have power to make an order determining that the maintenance of such overtime employment in any occupation, except upon such terms and conditions if any as are contained in such order, shall constitute a substandard labor condition for the purpose of any one or more provisions of this <sup>A</sup> act if and to the extent that the Board finds that the maintenance of a work week that is not oppressive or substandard in such occupation is necessary or appropriate in order to carry out the purpose, or prevent the circumvention, of such provision or provisions of this <sup>A</sup> act. Any such order may contain such terms and conditions relating to overtime employment, including the wage rates to be paid therefor, as the Board shall consider necessary or appropriate in the occupation affected.

(c) The Board shall provide by regulation or by order that the employment of employees in any occupation upon terms and conditions prescribed by the Board at a wage lower or for a work week longer than the appropriate fair labor standard otherwise applicable to such occupation shall not be deemed to constitute a substandard labor condition for the purpose of one or more provisions of this Act if the Board finds that the special character or terms of the employment or the limited qualifications of the employees makes such employment justifiable and not inconsistent with the accomplishment of the purposes of such one or more provisions of this Act. Such regulations or orders may provide for (1) the employment of learners and apprentices at such wages lower than the applicable wage and subject to such limitations as to time, number, proportion, and length of service as the Board shall prescribe; (2) the employment of persons whose earning capacity is impaired by age or physical or mental deficiency or injury, under special licenses to be issued by the Board, at such wages lower than the applicable wage and for such period as shall be fixed in such licenses; (3) deductions for board, lodging, and other facilities furnished by the employer if the nature of the work is such that the employer is obliged to furnish and the employee to accept such facilities; (4) overtime employment in periods of seasonal or peak activity or in maintenance, repair, or other emergency work and the wage rates to be paid for such overtime employment; and (5) suitable treatment of other cases or classes of cases which, because of the nature and character of the employment, justify special treatment.



Part III  $\frac{1}{M}$ 

## UNFAIR GOODS BARRED FROM INTERSTATE COMMERCE

PROHIBITED SHIPMENTS AND EMPLOYMENT CONDITIONS IN INTERSTATE  
COMMERCE AND PRODUCTION FOR INTERSTATE COMMERCE

Section 7. (a) It shall be unlawful for any person, directly or indirectly, to transport or cause to be transported in interstate commerce, or to aid or assist in transporting, or obtaining transportation in interstate commerce for, or to sell for shipment in interstate commerce or with knowledge that shipment thereof in interstate commerce is intended, any unfair goods.

(b) It shall be unlawful for any person, directly or indirectly, to transport or cause to be transported, or to aid or assist in transporting or obtaining transportation for, any unfair goods or any goods produced by employees under the age of eighteen years into any State where such goods are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State relating to the receipt, possession, sale, or use of goods produced in violation of labor standards or practices prescribed by such law.

(c) It shall be unlawful for any person to employ under any substandard labor condition any employee engaged in interstate commerce or in the production of goods intended for transportation or sale in violation of subsection (a) or (b) of this section.

PROTECTION OF INTERSTATE COMMERCE FROM EFFECT OF  
SUBSTANDARD LABOR CONDITIONS

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Sec ~~7~~ 8. (a) Whenever the Board shall determine that the maintenance of any substandard labor condition in any occupation among employees of an employer or a class of employers not engaged in the sale or shipment of goods in interstate commerce or in the production of goods for sale or shipment in interstate commerce gives to the employer or class of employers maintaining such substandard labor condition an unfair competitive advantage over employers engaged in interstate commerce or in the production of goods for sale or shipment in interstate commerce, or causes the provisions of section 7 to create discrimination against any such employers or against interstate commerce or goods shipped or sold in interstate commerce, the Board shall make an order requiring the employer or class of employers benefiting from such unfair competitive advantage or discrimination to discontinue such substandard labor condition.

(b) Whenever the Board shall determine that goods shipped or sold in interstate commerce are marketed so regularly and continuously in competition with unfair goods not shipped or sold in interstate commerce that fair and non-discriminatory application of any provisions of section 7 requires the discontinuance of any substandard labor condition among all employees employed in any occupation in or in connection with the production of such unfair goods, the Board shall make an order requiring the discontinuance of such substandard labor condition in such occupation.

(c) It shall be unlawful for any person to employ any employee in violation of any term or provision of any order made under this section.

Part IV <sup>1</sup>/<sub>m</sub>

ELIMINATION OF SUBSTANDARD LABOR CONDITIONS

DIRECTLY AFFECTING INTERSTATE COMMERCE

PROTECTION OF FAIR LABOR STANDARDS FROM INTERSTATE COMPETITION } *scor*

Sec ~~10~~ <sup>110</sup> 9. (a) Whenever the Board shall determine that a substandard labor condition exists in the production of goods in one State and that such goods are sold or transported in interstate commerce and compete to a substantial extent in another State with other goods in the production of which such substandard labor condition does not exist, whether or not such other goods are sold in interstate commerce, the Board shall make an order requiring the elimination of such substandard labor condition and the maintenance of the appropriate fair labor standard in the production of goods which so compete.

(b) Whenever the Board shall determine that a substandard labor condition exists in the production of goods in one State and that such goods compete to a substantial extent in that State with other goods produced in another State and sold or transported in interstate commerce, in the production of which such substandard labor condition does not exist, the Board shall make an order requiring the elimination of such substandard labor condition and the maintenance of the appropriate fair labor standard in the production of goods which so compete.

OTHER LABOR-STANDARD ORDERS } *scor*

Sec ~~10~~ <sup>110</sup> 10. Whenever the Board shall determine that a substandard labor condition exists to a substantial extent in an occupation, the Board shall make an order requiring the elimination of such substandard labor condition and the maintenance of the appropriate fair labor standard in such occupation if the Board finds *1*

(1) that the maintenance of such substandard labor condition by any employer or class of employers leads or tends to lead to labor disputes directly burdening or obstructing interstate commerce or the free flow of interstate commerce;

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(2) that the maintenance of such substandard labor condition by any employer or class of employers directly affects the movement of goods or the performance of services in interstate commerce or the price of goods or services in interstate commerce or causes undue price fluctuations in interstate commerce or directly threatens or interferes with the stability of prices of goods or services in interstate commerce or the orderly marketing of goods or services in interstate commerce; or

(3) that such substandard labor <sup>condition</sup> is maintained by any employer or class of employers with the intent to divert or substantially affect the movement of goods or the performance of services in interstate commerce or to control or directly affect the price of goods or services in interstate commerce. If the Board shall find that any employer or class of employers maintain a substandard labor condition in an occupation and that the employer or class of employers maintaining such substandard labor condition do in fact thereby divert or substantially

affect the movement of goods or the performance of services in interstate commerce or tend to control or directly affect the price of goods or services in interstate commerce, the facts so found shall constitute prima facie evidence that the employer or class of employers maintaining such substandard labor condition did so with the intent to produce such effect or effects on interstate commerce.

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Section 11. (a) It shall be unlawful for any person to employ any employee in violation of any term or provision of an order of the Board made under section 9 or section 10.

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(b) It shall be unlawful for any person directly or indirectly to transport or cause to be transported in interstate commerce, or to aid or assist in transporting or obtaining transportation in interstate commerce for, or to sell for shipment in interstate commerce or with knowledge that shipment thereof in interstate commerce is intended, any goods produced by employees employed in violation of any term or provision of an order of the Board made under section 9 or section 10.

(c) It shall be unlawful for any person directly or indirectly to transport or cause to be transported, or to aid or assist in transporting or obtaining transportation for, any goods produced by employees employed in violation of any term or provision of an order of the Board made under section 9 or section 10 into any State where

such goods are intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State relating to the receipt, possession, sale, or use of goods produced in violation of labor standards or practices prescribed by such law.

GENERAL ADMINISTRATIVE PROVISIONS

PROVISIONS RELATING TO LABOR STANDARD ORDERS } *sec*

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~~Section~~ 12. A labor standard order  $\frac{1}{m}$

(1) shall be made only after a hearing held pursuant to section 13;

(2) shall take effect upon the publication thereof in the Federal Register or at such date thereafter as may be provided in the order;

(3) may be based upon one or more provisions of this Act and shall specify the provision or provisions on which it is based;

(4) shall define the occupation or occupations, the territorial limits thereof, and the class, craft or industrial unit or units to which such order relates;

(5) subject to the provisions of this Act under which such order is made, may classify employers, employees, and employments within the occupation to which such order relates according to localities, the population of the communities in which such employment occurs, the number of employees employed, the nature and volume of the goods produced, and

such other differentiating circumstances as the Board finds necessary or appropriate to accomplish the purposes of such order, and may make appropriate provision for different classes of employers, employees, or employment; but it shall be the policy of the Board to avoid unnecessary or excessive classifications and to exercise its powers of classification only to the extent necessary or appropriate to accomplish the essential purposes of the Act;

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(6) <sup>fol comma</sup> in case of an order relating to wages, may contain such terms and conditions as the Board may consider necessary or appropriate to prevent the established minimum wage becoming the maximum wage and to prevent the discharge or reduction in wages of employees receiving more than the established minimum wage; and it shall be the policy of the Board to establish such minimum wage standards as will affect only those employees in need of legislative protection without interfering with the voluntary establishment of appropriate differentials and higher standards for other employees in the occupation to which such standards relate;

(7) shall contain such terms and conditions as the Board finds necessary or appropriate to carry out the purposes of such order, to prevent the circumvention or evasion thereof and to safeguard the fair labor standards therein established;

(8) may modify, extend, or rescind at any time, in the light of the circumstances then prevailing, a labor-standard order previously made.

HEARINGS } *scor*

~~Section~~ 13. A labor-standard order shall be made, modified, extended, or rescinded only after a hearing held pursuant to this section. Such hearing shall be held at such time and place as the Board shall prescribe, on the Board's own motion or on the complaint of any labor organization or any person having a bona fide interest (as defined by the Board) filed in accordance with such regulations as the Board shall prescribe, and showing reasonable cause why such hearing should be held. Notice of such hearing shall be given by publication thereof in the Federal Register, not less than ten days before the date of such hearing, and in such other appropriate manner as the Board shall direct. Such hearing shall be public and may be held before the Board, any member thereof, or any officer of the Board designated by it. Appropriate records of such hearing shall be kept. The Board shall not be bound by any technical rules of evidence or procedure.

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Section 14. Before making an order under section 5 establishing a minimum fair wage or a maximum reasonable work week, or both, for employees in any occupation, the Board may, if it considers it necessary or appropriate, appoint an advisory committee to investigate and report upon the fair value of the services rendered by employees in such occupation or the number of hours of employment reasonably suitable to the nature of the work therein, or both. Such advisory committee shall be composed of an equal number of persons representing the employers and the employees in such occupation, and of not more than three disinterested persons representing

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the public, one of whom shall be designated as chairman. Persons representing the employers and employees shall be selected so far as practicable from nominations submitted by employers and employees, or organizations thereof, in such occupation. Two-thirds of the members of such advisory committee shall constitute a quorum and the recommendations or report of such committee shall require a vote of not less than a majority of all its members. Members of an advisory committee shall be entitled to reasonable compensation to be fixed by the Board for each day actually spent in the work of the advisory committee in addition to their reasonable and necessary traveling and other expenses, and shall be supplied with adequate stenographic, clerical, and other assistance. The Board shall submit to an advisory committee promptly upon its appointment such data as the Board may have available on the matter referred to it. Any such advisory committee shall, after investigation, hearing and conference with the principal interested parties, submit a report upon the matter on which its advice was requested within sixty days after the appointment of such advisory committee. If its report is not submitted in such time, the Board may appoint a new advisory committee. The Board may accept or reject, in whole or in part, the recommendations of an advisory committee and may re-submit the matter to the same advisory committee or to a new advisory committee, as the Board deems proper; but the Board shall make its order only after a hearing held pursuant to section 13.

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## INVESTIGATIONS; TESTIMONY, ) SCOR

Section 15. (a) The Board, in its discretion, may investigate and gather data regarding the wages, hours, and other conditions and practices of employment in any occupation and the effect thereof upon interstate commerce; and may investigate any facts, conditions, practices, or matters which it may deem necessary or appropriate to determine whether any person has violated or is about to violate any provision of this Act or any labor-standard order, or to aid in the enforcement of the provisions of this Act, in prescribing regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this act relates.

(b) For the purpose of any investigation or any other proceeding under this act, including any proceeding under section 13 or section 14, any member of the Board, or any officer thereof designated by it, is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, or other records of any employer deemed relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Board may invoke the aid of any court of the United States in the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, and other records. Such court may

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issue an order requiring such person to appear before the Board, or a member or officer thereof designated by the Board, and to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(d) No person shall be excused from attending and testifying or from producing books, papers, correspondence, or other records and documents before the Board or any member thereof or any officer designated by it, or in obedience to the subpoena of the Board, or in any cause or proceeding under this Act on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

ENFORCEMENT *free*

~~Section~~ 16. Whenever it shall appear to the Board that any person is engaged or about to engage in any ~~act~~ or practice which constitutes or will constitute a violation of any provision of this ~~act~~,

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or of any provision of any labor-standard order, it may in its discretion bring an action in the proper ~~District~~ Court of the United States ~~or of the District of Columbia~~ to enjoin such ~~act~~ or practice and to enforce compliance with this ~~act~~ or with such labor-standard order, and upon a proper showing a permanent or temporary injunction or decree or restraining order shall be granted without bond. The Board may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who, in his discretion, may institute the appropriate criminal proceedings under this ~~act~~.

Section 17. (a) Every employer subject to any provision of this Act or of a labor standard order, and every employer engaged at any stage in the production of goods that are regularly sold or shipped in interstate commerce, shall make, keep, and preserve for such periods, such records of the persons employed by him, the age of such employees, and the wages, hours, and other conditions and practices of employment maintained by him as the Board shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this Act or the regulations or orders thereunder, and shall furnish to the Board or its authorized representative, upon demand, a sworn statement of the same. Every such employer shall allow any authorized representative of the Board to enter and inspect his place of business or

employment and to inspect and make transcripts of any and all books, payrolls, and other records that in any way appertain to or have a bearing upon the conditions of employment prevailing among his employees. Every employer subject to a labor standard order shall keep a copy of such order posted in a conspicuous place in every room in which employees in any occupation subject to such order are employed. Employers shall be furnished copies of such orders upon request without charge.

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(b) Whenever considered by the Board to be necessary or appropriate to aid in the enforcement of any provision of this <sup>A</sup> act or of any labor standard order, the Board may require by regulation or by order that any goods subject to such provision of this <sup>A</sup> act or of such labor standard order, or packages or other containers containing such goods, shall be plainly and clearly labeled so that information deemed by the Board necessary or appropriate to aid in the enforcement of such provision may be readily ascertained.

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POWERS OF THE SECRETARY OF LABOR AND OF THE CHILDREN'S BUREAU } *from*

<sup>113</sup> ~~Section~~ 18. So far as practicable, the Board shall make all the investigations necessary under section 15 and all the inspections necessary under section 17 (a) through the Secretary of Labor and his duly authorized representatives. The Secretary of Labor shall have power to make such investigations and inspections and to report the results thereof to the Board, and the Secretary of Labor may utilize such State and local agencies, officers, and employees as he finds necessary or appropriate to assist in the making of such investigations and inspections. The <sup>Chief</sup>

of the Children's Bureau in the Department of Labor, or any of his duly authorized representatives, shall have power, concurrently with the Board, to enter and inspect places of employment and to inspect records in accordance with section 17(a), and to bring an action under section 16 to enjoin any act or practice which is unlawful by reason of the existence of oppressive child labor.

~~Section~~ 19. The Board shall have authority, from time to time, to make, issue, amend and rescind such regulations and such orders as it may deem necessary or appropriate to carry out the provisions of this act, including but not limited to regulations defining technical and trade terms used in this act. Among other things, the Board shall have authority, for the purposes of this act, to provide for the form and manner in which complaints may be filed and proceedings instituted for the establishment of fair labor standards; to prescribe the procedure to be followed at any hearing or other proceeding before the Board or any member of the Board or any officer thereof designated by it or any advisory board appointed by it; to define and delimit employments in which persons are deemed to be employed in an executive, administrative, supervisory, or professional capacity or as agricultural laborers; to define the method of computing and determining the number of employees employed directly or indirectly by any employer; to prescribe the form and contents of records to be kept by employers and of reports to be filed under this act and of notices of labor standard orders and the publicity to be given to this act

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and to labor standard orders and notices thereof; and to require and prescribe the form of labels to be attached to goods or containers of goods subject to this act. For the purpose of its regulations and orders, the Board may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters. The regulations and orders of the Board shall take effect upon the publication thereof in the Federal Register or at such later date as the Board shall direct. No provision of this Act imposing any liability or disability shall apply to any act done or omitted in good faith in conformity with any regulation or order of the Board, notwithstanding that such regulation or order may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

VALIDITY OF CONTRACTS *Jscar*

Section 20. (a) Any contract, agreement, or understanding for the employment of any person in violation of any provision of this Act or of a regulation or order thereunder shall be null and void. 2475

(b) Any contract, agreement, understanding, condition, stipulation, or provision binding any person to waive compliance with any provision of this Act or with any regulation or order thereunder shall be null and void.

REPARATION; RELEASE OF GOODS *Jscar*

Section 21. (a) If any employee is paid by his employer a wage lower than the minimum wage required to be paid by any provision of

this Act or of a labor-standard order, he shall be entitled to receive as reparation from his employer the full amount of such minimum wage less the amount actually paid to him by the employer. If any employee is employed for more hours per week than the maximum work week required to be maintained by any provision of this Act or of a labor-standard order, he shall be entitled to receive as reparation from his employer additional compensation for the time that he was employed in excess of such maximum work week at the rate of one and one-half times the agreed wage at which he was employed or the minimum wage, if any, for such time established by this Act or by an applicable labor standard order, whichever is higher, less the amount actually paid to him for such time by the employer.

(b) If any goods in the production of which any employee has been employed for a wage lower than the minimum wage applicable to such employee under this Act or a labor standard order or for more hours per week than the maximum work week applicable to such employee under this Act or a labor standard order, are sold or transported in interstate commerce or into any State in violation of any provision of this Act or of a labor standard order, every employee employed in the production of such goods under any such substandard labor condition shall be entitled to the same reparation as if the payment of such wage or the maintenance of such work week were required by this Act, unless the

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employer shall prove that he had no knowledge or reasonable ground to believe that such goods would be sold or transported in violation of any provision of this act or any labor standard order thereunder.

(c) Any employee entitled to reparation under this section may recover such reparation in a civil action together with costs and such reasonable attorney's fees as may be allowed by the court. Any such claim for reparation shall not be the subject of any voluntary assignment, except to the Board as herein provided. At the request or with the consent of any employee entitled to such reparation, the Board or an authorized regional representative of the Board may take an assignment of any claim of such employee under this section in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay costs and such reasonable attorney's fees as may be allowed by the court.



(d) The Board shall, by order, exempt any goods from the operation of any provision of this Act prohibiting the sale or transportation of such goods in interstate commerce or into a State if the Board finds that every person having a substantial proprietary interest (as defined by the Board) in such goods had no reason to believe that any substandard labor condition existed in the production of such goods or that such exemption is necessary to prevent undue hardship or economic waste and is not detrimental to the public interest. Any order of the Board under this subsection shall contain such terms and conditions as the Board considers necessary or appropriate in order to safeguard the enforcement and prevent the circumvention of this Act. In the case of

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goods produced under any substandard labor condition relating to wages or hours of employment maintained by any employer having a substantial proprietary interest (as defined by the Board) in such goods, no such order shall be granted unless it is established to the satisfaction of the Board that adequate provision has been made for the payment, to every employee employed by him in the production of such goods under any such substandard labor condition, of the reparation to which such employee is entitled under this section on account of such employment.

Section ~~11~~ 22. (a) No provision of this *A*ct or of any regulation or order thereunder shall supersede, or justify non-compliance with, any *F*ederal or *S*tate law or municipal ordinance regulating or prohibiting the employment of minors or establishing a minimum wage higher than a minimum wage established under this *A*ct or a maximum work *W*ork week lower than a maximum work *W*ork week established under this *A*ct, or otherwise regulating the conditions of employment in any occupation and not in conflict with a provision of this *A*ct or a regulation or order thereunder.

(b) Any goods produced in any State by employees under the age of eighteen years or by employees employed under any substandard labor condition transported into any other State and remaining therein for use, consumption, sale, or storage shall, upon arrival and delivery in such other State, be subject to the operation and effect of the laws of such other State relating to the use, consumption, sale, or

storage of goods produced in violation of the labor standards or practices prescribed by such laws, to the same extent and in the same manner as though such goods had been produced in such other State, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

~~Section~~ <sup>110</sup> 23. (a) Nothing in this *A*ct, or in any regulation or order thereunder, shall be construed to interfere with or impede or diminish in any way the right of employees to self-organization; to form, join, or assist labor organization; to bargain collectively through representatives of their own choosing; and to engage in all concerted activities allowed by the law of the land, and the *A*ct shall be construed and applied to encourage and protect the self-organization of employees for the purpose of collective bargaining and mutual aid.

(b) Nothing in this act, or in any regulation or order thereunder, shall be construed to invalidate any contract, understanding, or collective bargaining agreement whereby an employer undertakes to pay a wage in excess of the applicable minimum wage under this *A*ct or to require a shorter work week than the applicable maximum work week under this *A*ct or otherwise to confer benefits or advantages upon employees not required by this *A*ct.

COMMON CARRIERS NOT LIABLE } *ACR*

~~Section~~ <sup>110</sup> 24. No provision of this *A*ct shall impose any liability or penalty upon any common carrier for the transportation in

interstate commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this *A*ct shall excuse any common carrier from its obligations to accept any goods for transportation.

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Section 25. (a) Any person aggrieved by an order of the Board under this <sup>A</sup>act may obtain a review of the legal validity of such order in the circuit court of appeals of the United States for any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Board be modified or set aside in whole or in part or declared legally invalid as applied to such person. A copy of such petition shall forthwith be served upon any member of the Board or upon any officer thereof designated by the Board for that purpose, and thereupon the Board shall certify and file in the court a transcript of the record upon which the order complained of was entered. At the earliest convenient time the court shall hear and determine the case upon such record, and the court shall have power to affirm or set aside such order in whole or in part and to declare the legal validity or invalidity of such order as applied to the petitioner. The review by the court shall be limited to questions of law, and findings of fact by the Board when supported by

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evidence shall be conclusive unless it shall appear that the findings of the Board are arbitrary or capricious. No objection to the order of the Board shall be considered by the court unless such objection shall have been urged before the Board or unless there were reasonable grounds for failure so to do. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the Board, the court may order such additional evidence to be taken before the Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Board may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file with the court such modified or new findings, which if supported by evidence, shall be conclusive, and its recommendation, if any, for the modifications or setting aside of the original order. The judgment and decree of the court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, sections 346 and 347). Notwithstanding any other provision of law, the jurisdiction conferred by this Act to review the legal validity of an order of the Board or of the application thereof to any person, shall be exclusive, and no court of the United States or of any State shall have jurisdiction

to pass upon the legal validity of any order of the Board under this Act or of the application thereof to any person except in a proceeding under this section or in an action or proceeding instituted by the Board or by the United States pursuant to the provisions of this Act.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Board's order. The court shall not grant any stay of a labor standard order relating to wages or hours unless the person complaining of such order shall file in court an undertaking with a surety or sureties satisfactory to the court for the payment to the employees subject to the order of the reparation to which they would be entitled under section 21 in the event that the order should be upheld.

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JURISDICTION OF OFFENSES AND SUITS *J. S. M.*

~~Section~~ 26. The District Courts of the United States ~~and of the District of Columbia~~, shall have jurisdiction of violations of this Act or the regulations or orders thereunder, and, concurrently with State and territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this Act or the regulations or orders thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation or an element thereof occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this Act, or regulations or orders thereunder,

may be brought in any such district or in the district wherein the defendant is an inhabitant or transacts business, and process in such cases may be served in any district in which the defendant is an inhabitant or transacts business or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, sections 225 and 347), and section 7, as amended, of the Act entitled "An Act to establish a Court of Appeals for the District of Columbia", approved February 9, 1893 (D. C. Code, title 18, section 26). No costs shall be assessed against the Board in any proceeding under this Act brought by or against the Board in any court.

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Section 27. (a) Any person who wilfully performs or aids or abets in the performance of any act declared to be unlawful by any provision of this Act shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$500 or imprisoned for not more than six months, or both. Where the employment of an employee in violation of any provision of this Act or of a labor standard order is unlawful, each employee so employed in violation of such provision shall constitute a separate offense.

(b) Any employer who wilfully fails to keep records required by this Act or any regulation or order thereunder or to furnish such records to the Board or any authorized representative of the Board upon request, and any person who wilfully destroys (except after such time as may be prescribed under the regulations adopted pursuant to this Act)

mutilates, alters, or by any means or device falsifies any such record, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500 or imprisoned for not more than six months, or both, and each week of such failure to keep the records required under this Act or to furnish same to the Board or any authorized representative of the Board shall constitute a separate offense.

(c) Any person who wilfully makes any statement or entry in any application, report, or record filed or kept pursuant to the provisions of this Act or any regulation or order thereunder, knowing such statement or entry to be false in any material respect shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$500 or imprisoned for not more than six months, or both.

(d) Any employer who wilfully discharges or in any other manner discriminates against any employee because such employee has filed any complaint or instituted or caused to be instituted any investigation or proceeding under or related to this Act, or has testified or is about to testify in any such investigation or proceeding, or has served or is about to serve on an advisory committee, or because such employer believes that such employee has done or may do any of said acts, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(e) Any person who, without just cause, shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, or other records, if in his or its power

so to do, in obedience to the subpoena of the Board, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than \$500 or to imprisonment for not more than six months, or both.

(f) No person shall be imprisoned under subsection (a) or (b) of this section except for an offense committed after the conviction of such person for a prior violation of this Act or of an order or regulation thereunder.

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Section 28. If any provision of this Act or of any regulation or order thereunder or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision of this Act or of such regulation or order to persons or circumstances other than those as to which it is held invalid shall not be affected thereby. Without limiting the generality of the foregoing, if any provision of this Act or any regulation or order thereunder shall be held invalid in so far as it gives any effect to any substandard labor condition or requires the maintenance of any fair labor standard on the part of any person or in any circumstances, the application of such provision of this Act or of such regulation or order shall not be affected thereby in so far as it gives any effect to any other substandard labor condition or requires the maintenance of any other fair labor standard on the part of the same person or in the same circumstances, or in so far as it gives any effect to the same substandard labor condition or requires the maintenance of the same fair labor standard on the part of any other person or in any other circumstances.

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EFFECTIVE DATE OF ACT

*Dec 29*

Section ~~29~~ <sup>29</sup> 29. This *A*ct shall take effect immediately, except that no provision requiring the maintenance of any fair labor standard or giving any effect to any substandard labor condition shall take effect until the one hundred and twentieth day after the enactment of this *A*ct, and no labor standard order shall be effective prior to that day.

*X*

*Indorsement follows*

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