

HOUSE No. 1499

By Mr. Honan of Winthrop (by request), petition of Samuel H. Kalish and Sally Portin that rules and regulations applicable to industrial establishments be made conformable to those of competing industrial establishments in other cities. Labor and Industries.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Eight.

AN ACT PROVIDING FOR THE CONFORMATION OF RULES, REGULATIONS, ORDERS AND DECISIONS MADE THEREUNDER TO THOSE APPLICABLE TO INDUSTRIAL ESTABLISHMENTS LOCATED IN OTHER STATES AND COMPETING WITH INDUSTRIAL ESTABLISHMENTS LOCATED IN THIS COMMONWEALTH.

1 *Whereas*, The deferred operation of this act would
2 defeat its purpose and would cause substantial injury
3 to the public welfare and would delay necessary pro-
4 tection to employers and employees engaged in in-
5 dustry in this commonwealth, it is hereby declared to
6 be an emergency law, necessary for the immediate
7 preservation of the public welfare and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section two of chapter one hundred
2 and fifty-one of the General Laws, as amended by
3 chapter four hundred and one of the acts of nineteen

4 hundred and thirty-seven, is hereby amended by strik-
5 ing out the word "and" before the figure "(3)" in the
6 definition of the term "A fair wage", and by adding
7 at the end of said definition the following: — and (4)
8 shall take into consideration the wages paid in compet-
9 ing establishments of such industries located in other
10 states, — so that the definition of "A fair wage"
11 shall read as follows: — "A fair wage", a wage fairly
12 and reasonably commensurate with the value of the
13 service or class of service rendered. In establishing a
14 minimum fair wage for any service or class of service
15 under this chapter the commissioner and the wage
16 board without being bound by any technical rules of
17 evidence or procedure (1) may take into account the
18 cost of living and all other relevant circumstances
19 affecting the value of the service or class of service
20 rendered, (2) may be guided by like considerations as
21 would guide a court in a suit for the reasonable value
22 of services rendered where services are rendered at the
23 request of an employer in the absence of an express
24 contract as to the amount of the wage to be paid, (3)
25 may consider the wages paid in the commonwealth for
26 work of like or comparable character by employers who
27 voluntarily maintain minimum fair wage standards,
28 and (4) shall take into consideration the wages paid in
29 competing establishments of such industries located in
30 other states.

1 SECTION 2. Section twelve of chapter one hun-
2 dred and fifty-one of the General Laws, as amended
3 by chapter four hundred and one of the acts of nine-
4 teen hundred and thirty-seven, is hereby amended
5 by striking out from the first sentence thereof the
6 words "for one year or more."

1 SECTION 3. Section six of chapter one hundred and
2 fifty-one of the General Laws, as amended by chapter
3 four hundred and one of the acts of nineteen hundred
4 and thirty-seven, is hereby amended by adding thereto,
5 at the end thereof, the following: —

6 Each wage board shall hold a public hearing relating
7 to the subject-matter to be considered by it and shall
8 give notice thereof, at least twenty days before the
9 date of such hearing, by publishing such notice once
10 a week for two successive weeks in at least one daily
11 newspaper published in each county and by mailing
12 to each employer engaged in such industry and listed
13 in the office of the commissioner a copy of such notice.
14 Each employer and employee engaged in such industry
15 and any other citizen of the commonwealth shall have
16 the right to be heard, to submit testimony, and to
17 examine and cross-examine witnesses at such hearing.
18 The record of such hearing shall be taken stenographi-
19 cally, and any employer, employee or other interested
20 party shall have a right to a copy of a transcript of
21 such stenographic record upon request and payment of
22 reasonable charges therefor.

1 SECTION 4. Section fourteen of chapter one hun-
2 dred and fifty-one of the General Laws, as amended by
3 chapter four hundred and one of the acts of nineteen
4 hundred and thirty-seven, is hereby amended by in-
5 serting therein, after the word "decision", wherever
6 the same appears in said section, the following words:
7 — rule, order or regulation, — so that said section
8 shall read as follows: — Any person aggrieved by any
9 decision, rule, order or regulation of the commissioner
10 may bring a petition in the superior court praying
11 that such decision, rule, order or regulation of the

12 commissioner may be reviewed by the court, and,
13 after such notice to the commissioner as the court
14 deems necessary, it shall review such decision, rule,
15 order or regulation, hear the evidence and make such
16 order approving, in whole or in part, or setting aside,
17 in whole or in part, the decision, rule, order or regu-
18 lation appealed from as justice may require, and may
19 refer any matter or issue arising in the proceedings to
20 the commissioner for further consideration. The
21 filing of the petition shall not stay proceedings upon
22 the decision, rule, order or regulation appealed from,
23 but the court may, on application, after notice to the
24 commissioner and for cause shown, grant a restrain-
25 ing order. Upon any such petition the court may
26 take evidence without being bound by any technical
27 rules of evidence or procedure, to the end that any
28 evidence may be received which the court considers
29 probative.

1 SECTION 5. Chapter one hundred and fifty-one of
2 the General Laws, as amended by chapter four hun-
3 dred and one of the acts of nineteen hundred and
4 thirty-seven, is hereby amended by adding thereto,
5 at the end of said chapter one hundred and fifty-one,
6 the following section: —

7 *Section 22.* No rule, regulation, decision or order
8 at any time heretofore or hereafter made, rendered or
9 promulgated under this chapter with respect to any
10 industrial establishments in this commonwealth that
11 are in competition with industrial establishments
12 located in other states shall have any force, effect or
13 validity until the effective date of a federal law impos-
14 ing upon competing industrial establishments of such
15 industry located in other states, similar regulations,

16 restrictions or requirements, or until such time as the
17 governor of this commonwealth officially declares that
18 at least three fourths of the states in which competing
19 establishments of such industry are located have in
20 effective operation a substantially equivalent rule,
21 regulation, decision or order. Whenever notice is
22 brought to the attention of the commissioner that
23 states in which are located establishments in any
24 industry competing with those of this commonwealth
25 have modified or repealed any rule, regulation, decision
26 or order which was substantially equivalent to one in
27 effect in this commonwealth with respect to such
28 industry, and that a substantially equivalent rule,
29 regulation, decision or order is not in effective opera-
30 tion in at least three fourths in number of such com-
31 peting states, then such rule, regulation, decision or
32 order then in effect in this commonwealth shall be
33 forthwith accordingly modified or repealed.





