

By Messrs. Craven of Boston and Cimino of Milford, petition of the Mass. State Building and Construction Trades Council, James J. Craven, Jr., Salvatore P. Cimino and another that provision be made for fair competition by requiring payment of certain wage rates. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT PROVIDING FOR FAIR COMPETITION BY REQUIRING PAYMENT OF CERTAIN WAGE RATES.

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. Chapter 149 of the General Laws is hereby
2 amended by striking out section 27, as appearing in section 1
3 of chapter 625 of the acts of 1973, and inserting in place
4 thereof the following section: —

5 *Section 27.* The commissioner shall prepare, for the use of
6 such public officials or public bodies whose duty it shall be to
7 cause public works to be constructed, a list of the several
8 jobs usually performed on various types of public works upon
9 which mechanics and apprentices, teamsters, chauffeurs and
10 laborers are employed, including the transportation of gravel
11 or fill to the site of said public works or the removal of sur-
12 plus gravel or fill from such site. The commissioner shall
13 classify said jobs, and he may revise such classification from
14 time to time, as he may deem advisable. Prior to awarding
15 a contract for the construction of public works, said public
16 official or public body shall submit to the commissioner a list
17 of the jobs upon which mechanics and apprentices, teamsters,
18 chauffeurs and laborers are to be employed, and shall request
19 the commissioner to determine the rate of wages to be paid
20 on each job. Said rates shall apply to all persons engaged in
21 transporting gravel or fill to the site of said public works or

22 removing gravel or fill from such site, regardless of whether
23 such persons are employed by a contractor or subcontractor
24 or are independent contractors or owner-operators. The com-
25 missioner, subject to the provisions of the preceding section,
26 shall proceed forthwith to determine the same, and shall
27 furnish said official or public body with a schedule of such
28 rate or rates of wages as soon as said determination shall
29 have been made. In advertising or calling for bids for said
30 works, the awarding official or public body shall incorporate
31 said schedule in the advertisement or call for bids by an ap-
32 propriate reference thereto, and shall furnish a copy of said
33 schedule, without cost, to any person requesting the same.
34 Said schedules with all changes in wage rates thereafter es-
35 tablished in the manner provided in section twenty-six shall
36 be the minimum rate or rates of wages for employees on that
37 contract at the time the work is performed.

38 Any person engaged in the construction of said works shall
39 cause a legible copy of said schedule to be kept posted in a
40 conspicuous place at the site of said works during the life of
41 the contract. The aforesaid rates of wages in the schedule of
42 wage rates shall include payments by employers to employee
43 benefit plans as provided in the previous section, and such
44 payments shall be considered as payments to persons under
45 this section performing work as herein provided. Any em-
46 ployer engaged in the construction of such works who does
47 not make payments to an employee benefit plan, where such
48 payments are included in said rates of wages, shall pay the
49 amount of said payments directly to each employee engaged
50 in said construction. Public officials and public bodies con-
51 tracting for public work for which the commissioner has de-
52 termined rates of wages for mechanics, apprentices, team-
53 sters, chauffeurs and laborers shall take steps including with-
54 holding of payments necessary to compel contractors and sub-
55 contractors to pay the rates of wages determined by the
56 commissioner for the contract, and shall, upon request of the
57 commissioner, require any contractor or subcontractor per-
58 forming work under the contract to present at the office of
59 the public body for examination by the public body, the com-

60 missioner and any interested party designated by the com-
61 missioner, all payroll records (including daily and weekly re-
62 ports of employees performing work under the contract, pay-
63 roll registers and payroll books) showing the hours worked
64 and rates of wages paid to mechanics, apprentices, teamsters,
65 chauffeurs and laborers performing work under the contract.
66 Whoever shall pay less than said rate of wages, including pay-
67 ments to employee benefit plans, and supplementary unem-
68 ployment benefit plans, or the equivalent in wages on said
69 works to any person performing work within classification as
70 determined by the commissioner, and whoever, for himself,
71 or as representative, agent or officer of another, shall take
72 or receive for his own use or the use of any other person, as
73 a rebate, refund or gratuity, or in any other guise, any part
74 or portion of the wages, including payments to employee
75 benefit plans, or the equivalent payments in wages, paid to
76 any such person for work done or service rendered for said
77 public works, shall be punished by a fine of not less than
78 three hundred dollars nor more than five hundred dollars for
79 each offense and each such payment shall be a separate offense.
80 Each such offense shall also be an unfair method of competition
81 within the meaning of section two of chapter ninety-three A and
82 the court shall also enter judgment for damages, attorneys' fees and
83 costs computed in accordance with section eleven of chapter nine-
84 ty-three A in favor of each person not receiving the rate of wage
85 established by the commissioner. For the purposes of this section,
86 the phrase "employee benefit plans" shall mean all payments by
87 employers to health and welfare, pension, and any other benefit
88 plans and programs provided in collective bargaining agreements
89 or understandings between organized labor and employers.

1 SECTION 2. Said chapter 149 is hereby further amended by
2 striking out section 27B and inserting in place thereof the
3 following section: —

4 *Section 27B.* Every contractor, subcontractor or public body
5 engaged in public work to which section twenty-seven,
6 twenty-seven A and twenty-seven F apply shall keep a true
7 and accurate record of all mechanics and apprentices, team-

8 sters, chauffeurs and laborers employed thereon, showing the
 9 name, address and occupational classification of each such
 10 employee on said work, and the hours worked by, and the
 11 wages paid to, each such employee, and shall furnish to the
 12 commissioner, upon his request, a copy of said record, signed
 13 by the employer or his authorized agent under the penalties
 14 of perjury.

15 Such records shall be open to inspection by any authorized
 16 representative of the department at any reasonable time, and
 17 as often as may be necessary.

18 Each such contractor, subcontractor or public body shall
 19 preserve its payroll records for a period of three years from
 20 the date of completion of the contract.

21 Each contractor, subcontractor or public body shall furnish
 22 to the commissioner of labor and industries within thirty
 23 days after completion of its portion of the work a statement
 24 executed by the contractor, subcontractor or public body or
 25 by any authorized officer or employee of the contractor, sub-
 26 contractor or public body who supervises the payment of
 27 wages, in the following form: —

28 STATEMENT OF COMPLIANCE

29, 19

30 I, do hereby state:

31 (Name of signatory party) (Title)

32 That I pay or supervise the payment of the persons em-

33 ployed by

34 (Contractor, subcontractor or public body)

35 on the (Building or project)

36 and that all mechanics and apprentices, teamsters, chauffeurs
 37 and laborers employed on said project have been paid in
 38 accordance with wages determined under the provisions of
 39 sections twenty-six and twenty-seven of chapter one hundred
 40 and forty-nine of the General Laws.

41 Signature

42 Title

43 The above-mentioned copies of payroll records and state-
44 ments of compliance shall be available for inspection by any
45 interested party filing a written request to the commissioner
46 for such inspection.

47 The commissioner or his authorized representative, shall
48 have full power and authority to enter the place of business
49 or employment of any contractor or subcontractor perform-
50 ing work under a contract for which the commissioner has
51 determined a schedule of rates of wages, examine all payroll
52 records, including daily and weekly reports of employees
53 performing work under the contract, payroll registers and
54 payroll books, showing the hours worked and rates of wages
55 paid to mechanics, apprentices, teamsters, chauffeurs and
56 laborers performing work under the contract and the district
57 court shall issue an appropriate order to enforce that right if
58 the contractor or subcontractor refuses to permit such entry
59 and examination. If the records are kept outside the common-
60 wealth, upon request of inspection by the commissioner or
61 authorized representative, they shall be made available within
62 the commonwealth within fourteen days after demand. The
63 commissioner or authorized representative shall have the
64 right to make a transcript of any of these records.

65 The district court shall also issue an appropriate order to
66 require any contractor or subcontractor performing work
67 under the contract to present for examination at the office of
68 the public body the payroll records identified in section
69 twenty-seven of this chapter.

1 SECTION 3. Amend chapter 149, section 27C by striking the
2 first sentence and inserting in place thereof the following first
3 sentence: —

4 Whoever either by himself or an agent, superintendent or fore-
5 man for another, violates any provision of sections twenty-six
6 through twenty-seven F shall be punished by a fine of not less than
7 three hundred dollars nor more than five hundred dollars for each
8 offense and each such payment shall be a separate offense.

1 SECTION 4. Amend chapter 149, section 27F by striking the

2 words at the end of the last sentence reading “punished by a fine of
3 not less than one hundred dollars nor more than five hundred
4 dollars” and inserting in place thereof “punished as provided in
5 section 27C”.

1 SECTION 5. The changes in sections twenty-seven, twenty-
2 seven B and twenty-seven C of this act shall apply to all contracts
3 executed on and after the effective date of this act.



