

Chapter 653

Conditions of Employment

Chapter 653

NOTES OF DECISIONS

The minimum wage law of 1913 [ORS 653.520 to 653.540 and former ORS 653.105 to 653.125, 653.205 to 653.250] was a valid exercise of the police power and not in conflict with U.S. Const., Am. 14, the due process clause. *Stettler v. O'Hara*, (1914) 69 Or 519, 139 P 743, Ann Cas 1916A, 217, LRA 1917C, 944; *Simpson v. O'Hara*, (1914) 70 Or 261, 141 P 158; aff'd without opinion, *Stettler v. O'Hara and Simpson v. O'Hara*, (1917) 243 US 629, 37 S Ct 475, 61 L Ed 937.

The purpose of the minimum wage law is to protect the lives, health and morals of women and minor workers by fixing the minimum wages, maximum hours and the standard conditions of labor under which the work is to be done. *Fred Meyer, Inc. v. Keasey*, (1933) 145 Or 266, 27 P2d 311.

A liberal construction should be given the statute but it should not be extended so as to authorize the commission to exercise power which the legislature did not intend that it should have. *Id.*

FURTHER CITATIONS: *Williams v. Corbett*, (1955) 205 Or 69, 286 P2d 115.

ATTY. GEN. OPINIONS: Application to juveniles working under court order, 1962-64, p 423.

653.015

CASE CITATIONS: *Williams v. Corbett*, (1955) 205 Or 69, 286 P2d 115.

ATTY. GEN. OPINIONS: Fixing wages and hours of women and minors in professional work such as cosmetic therapy, 1952-54, p 229.

653.020

ATTY. GEN. OPINIONS: Applicability to migrant agricultural workers, (1970) Vol 35, p 305, 321.

653.261

NOTES OF DECISIONS

1. In general

Under the supremacy clause of the U.S. Constitution, a federal statute will prevail over state regulations. *Richards v. Griffith Rubber Mills*, (1969) 300 F Supp 338.

2. Under former similar statute

An order applying only to Portland did not give an employer in Portland unequal protection of the law. *Stettler v. O'Hara*, (1914) 69 Or 519, 536, 139 P 743, Ann Cas 1916A, 217, LRA 1917C, 944, aff'd without opinion, (1917) 243 US 629, 37 S Ct 475, 61 L Ed 937.

The statute was constitutional under Ore. Const. Art. I, §1, declaring all men have equal rights, or §20, forbidding the granting of special privileges to particular persons. *State v. Muller*, (1906) 48 Or 252, 85 P 855, 120 Am St Rep 805,

11 Ann Cas 88, aff'd on other grounds 208 US 412, 28 S Ct 324, 52 L Ed 551, 13 Ann Cas 957.

Under the police power a state had the right to regulate the working hours of women, and that power was not affected by other laws of the state granting or denying to women the same rights as to contracts and the elective franchise as are enjoyed by men. *Muller v. Ore.*, (1908) 208 US 412, 28 S Ct 324, 52 L Ed 551, 13 Ann Cas 957, aff'd 48 Or 252, 85 P 855, 20 Am St Rep 805, 11 Ann Cas 88.

The statute was intended to protect women and minors from being compelled to work unreasonably long hours, at inadequate wages or under conditions pernicious to health and morals. *Fred Meyer, Inc. v. Keasey*, (1933) 145 Or 266, 27 P2d 311.

The particular hours of the day for work by women could not be prescribed by the commission. *Id.*

Employment at any hour during the day of women in stores was contemplated by the statute, provided they did "not work more than 10 hours during the 24 hours of one day or 60 hours during any one week." *Id.*

Order of commission could further restrict hours of employment. *Williams v. Corbett*, (1955) 205 Or 69, 286 P2d 115.

The employment of a boy of 10 during school vacation to serve water to men constructing a county road was legal, as no statute authorized the commission to declare that no child under 16 should be employed unless he acquired learning taught in the first eight years of public schools. *King v. Union Oil Co.*, (1933) 144 Or 655, 24 P2d 345, 25 P2d 1055.

ATTY. GEN. OPINIONS: Compliance with statute to change order of commission, 1920-22, p 284; demand that employer employing women and minors produce for inspection books, payrolls, etc., as within authority of commission, 1920-22, p 369; further restriction of hours of employment by commission as not curtailed, 1924-26, p 626; order requiring observance of orders of commission by employes in occupation affected, as within authority of commission, 1926-28, p 224; appearance in musical entertainment with consent of court of a boy violinist under 12 years of age, 1928-30, p 362; walkathon as a violation of law regulating and limiting hours of employment of women, 1930-32, p 245; increase or decrease of minimum wages of women without public hearing, 1930-32, p 517; cosmetic therapy school students as employes, 1936-38, p 501; authority to prohibit payment of compensation on piece work basis for women employed in harvesting, packing, curing, canning or drying any variety of perishable fruit, vegetables, or fish, 1942-44, p 421; authority of commission to issue permit for the employment of women in excess of 10 hours a day or 60 hours a week in an emergency, 1942-44, p 473; war as an emergency contemplated by the statute, 1942-44, p 473; fixing wages and hours of women and minors in professional work such as cosmetic therapy, 1952-54, p 229; establishing welfare and sanitary standards, 1956-58, p 221.

653.305

NOTES OF DECISIONS

The child labor law is not impaired by a determination that a minor employe is subject to the Workmen's Compensation Act. *Manke v. Nehalem Logging Co.*, (1957) 211 Or 211, 301 P2d 192, 315 P2d 539.

FURTHER CITATIONS: *Williams v. Corbett*, (1955) 205 Or 69, 286 P2d 115.

ATTY. GEN. OPINIONS: Applicability to occupation such as cosmetic therapy, 1952-54, p 229; establishing welfare and sanitary standards, 1956-58, p 221.

653.307

CASE CITATIONS: *Manke v. Nehalem Logging Co.*, (1957) 211 Or 211, 301 P2d 192, 315 P2d 539.

ATTY. GEN. OPINIONS: Power to revoke permits issued under statute, 1922-24, p 29; authority to enforce against Indians on Indian reservation, 1948-50, p 318; procedure to excuse child from school for employment, 1950-52, p 66; employer's duty as to certificate, 1950-52, p 66.

653.310

CASE CITATIONS: *Manke v. Nehalem Logging Co.*, (1957) 211 Or 211, 301 P2d 192, 315 P2d 539.

653.315

NOTES OF DECISIONS

This section does not operate as a deprivation of liberty or property without due process; nor does it infringe on the equal rights of citizens. *State v. Shorey*, (1906) 48 Or 396, 86 P 881, 24 LRA(NS) 1121.

FURTHER CITATIONS: *Wind R. Lbr. Co. v. Frankfort M., A. & P.G. Ins. Co.*, (1912) 116 CCA 160, 196 Fed 340; *McGowan v. Maryland*, (1961) 366 US 421, 81 S Ct 1101, 6 L Ed 2d 393.

ATTY. GEN. OPINIONS: Delivering newspapers before 6 a.m. or after 6 p.m. by boy under 16 years of age, 1922-24, p 571; participation in contest held at night by motion picture theatres as employment for compensation of children under 16, 1926-28, p 160.

653.320

NOTES OF DECISIONS

A child 10 years of age legally may be employed during school vacation to serve water to men working upon a road construction project. *King v. Union Oil Co.*, (1933) 144 Or 655, 24 P2d 345, 25 P2d 1055.

FURTHER CITATIONS: *State v. Shorey*, (1906) 48 Or 396, 86 P 881, 24 LRA(NS) 1121; *Manke v. Nehalem Logging Co.*, (1957) 211 Or 211, 301 P2d 192, 315 P2d 539; *Kerr v. State Pub. Welfare Comm.*, (1970) 3 Or App 27, 470 P2d 167, Sup Ct review denied, cert. denied, 402 US 950.

653.330

CASE CITATIONS: *Manke v. Nehalem Logging Co.*, (1957) 211 Or 211, 301 P2d 192, 315 P2d 539.

ATTY. GEN. OPINIONS: Employment as wood carrier to fireman, as fireman of logging engine, or to work on rigging, of minor under 18, 1922-24, p 379.

653.335

NOTES OF DECISIONS

In the absence of an allegation that the foreman ordering the deceased to operate an elevator in violation of this section acted by the direction or in the presence of a superior representing the defendant nonresident corporation, the complaint did not allege a joint liability so as to deprive the corporation of its right to remove. *Shaver v. Pac. Coast Condensed Milk Co.*, (1911) 185 Fed 316.

Where an employer knew that a minor under 18 was operating an elevator it was its duty to see that he ceased doing so and to discharge him if he persisted. *Beaver v. Mason, Ehrman & Co.*, (1914) 73 Or 36, 143 P 1000.

Secret instructions to a boy not to run an elevator during the time he did so, which resulted in the death of the decedent, were immaterial where he had apparent authority to do so. *Thompson v. Union Fisherman's Co-op. Packing Co.*, (1929) 128 Or 172, 273 P 953.

FURTHER CITATIONS: *Manke v. Nehalem Logging Co.*, (1957) 211 Or 211, 301 P2d 192, 315 P2d 539.

653.340

CASE CITATIONS: *Manke v. Nehalem Logging Co.*, (1957) 211 Or 211, 301 P2d 192, 315 P2d 539.

653.505

CASE CITATIONS: *Stettler v. O'Hara*, (1914) 69 Or 519, 139 P 743, Ann Cas 1916A, 217, LRA 1917C, 944, aff'd, 243 US 629, 37 S Ct 475, 61 L Ed 937.

653.520

ATTY. GEN. OPINIONS: Commission as succeeding to duties of board of inspectors of child labor, 1950-52, p 66.

653.525

NOTES OF DECISIONS

Under the supremacy clause of the United States Constitution, a federal statute will prevail over state regulations. *Richards v. Griffith Rubber Mills*, (1969) 300 F Supp 338.

653.991

CASE CITATIONS: *Williams v. Corbett*, (1955) 205 Or 69, 286 P2d 115; *Manke v. Nehalem Logging Co.*, (1957) 211 Or 211, 301 P2d 192, 315 P2d 539.

ATTY. GEN. OPINIONS: Authority to enforce against Indians on Indian reservation, 1948-50, p 318.