

there to give testimony touching the matter under investigation, or to produce such other evidence as may be required.

Any person who shall, without just cause, fail, neglect, or refuse to obey a subpoena *or order* of the court or who shall, without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpoena *or an order* of the court may be punished by said court for contempt.

Failure to answer court subpoena subjects party to be held in contempt.

Section 4. This act shall become effective immediately upon its final enactment. When effective.

APPROVED—The 18th day of May, A. D. 1937.

GEORGE H. EARLE.

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No. 176

AN ACT

Relating to the performance of industrial work in homes; regulating, and in certain cases prohibiting, industrial homework; imposing duties, restrictions and liabilities on industrial home-workers and on persons, partnerships, associations and corporations, directly or indirectly furnishing materials and articles to home-workers for manufacture or work thereon; requiring permits and home-workers' certificates and prescribing the fees therefor; conferring powers and imposing duties on the Department of Labor and Industry; and prescribing penalties.

Be it enacted, &c., As follows:

Section 1. Legislative Purpose.—This State has long recognized that employment of men, women and children under conditions detrimental to health and general welfare results in injury, not only to the workers immediately affected, but also to the public interest as a whole. This recognition has produced a broad program of regulatory legislation to conserve the public welfare. The continuance of an unregulated industrial homework system in this State runs counter to that program since it is usually accompanied by excessively low wages, long and irregular hours, and unsanitary or otherwise inadequate working quarters. Employment of young children in industrial homework occupations is frequent but effective supervision of this child labor evil has not been attainable under present statutes. The dangerous consequences of this system may fall upon the consumer of its products as well as upon the men and women who are its work force. The preservation of the system, moreover, endangers the protection of the workers in factory industries which, being forced to compete with industrial homework, are under pressure

Legislative purpose.

to relax the established safeguards of life, health and the public welfare. After study of experience and reported investigations, the Legislature is convinced that industrial homework must eventually be abolished, and that during a period of adjustment it must be strictly controlled in the interest of the wage-earners of this State, and of the public at large. This act is the product of that conviction.

Title.

Section 2. Short Title.—This act shall be known and may be cited as the "Industrial Homework Law."

Definitions.

Section 3. Definitions.—The following words, terms and phrases, when used in this act, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) "Contractor." Any person who for the account or benefit of an employer, representative contractor or other person, distributes to a home-worker, or any other person, not recruited or engaged by such employer, representative contractor, or other person, articles or materials to be manufactured in a home, and thereafter to be returned to him or otherwise disposed of in accordance with his directions.

(b) "Department." The Department of Labor and Industry of this Commonwealth.

(c) "Employer." Any person who for his own account or benefit, directly or indirectly, or through an employe, agent, independent contractor, or any other person.

(1) Delivers, or causes to be delivered to another person, any articles or materials to be manufactured in a home and thereafter to be returned to him, not for the personal use of himself or of a member of his family, or thereafter to be disposed of otherwise in accordance with his directions, or

(2) Sells to another person, any materials or articles for the purpose of having such articles or materials manufactured in a home and of then rebuying such materials or articles after such manufacture, either by himself, or by someone designated by him.

(d) "Home." Any room, house, apartment, or other premises, whichever is most extensively\* used, in whole or in part, as a place of dwelling, and including outbuildings upon premises that are primarily used as a place of dwelling, where such outbuildings are under the control of the person dwelling on such premises.

(e) "Home-worker." Any person engaged in manufacturing in a home, articles or materials for an employer, a representative contractor, or a contractor.

(f) "Industrial Homework." Any manufacture in a home of articles, or materials for an employer, a representative contractor, or a contractor.

\* "extensive" in the original.

(g) "Manufacture." To prepare, alter, repair, finish, or process, in whole or in part, or handle in any way connected with the production, wrapping, packaging, or preparation for display of an article or materials.

(h) "Person." An individual, partnership, firm, association, domestic or foreign corporation, the legal representatives of a deceased individual, or the receiver, trustee, or successor of an individual, partnership, association, or corporation.

(i) "Representative Contractor." Any person who receives from an employer, or contractor not within the State, articles or materials to be distributed by him to any home-worker, or other person, not recruited or engaged by such employer or contractor, to be manufactured in a home, and thereafter to be returned to him, or otherwise disposed of, in accordance with his directions.

The singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 4. Prohibited Homework.—It shall be unlawful to manufacture in a home for an employer, contractor, or representative contractor, any of the following articles, or to perform in a home, for such persons, any of the following work, and no permit issued under this act shall be deemed to authorize such manufacture or the performance of any such work:—

(a) Articles of food or drink.

(b) Articles for use in connection with the serving of food or drink.

(c) Toys and dolls.

(d) Tobacco.

(e) Drugs and poisons.

(f) Bandages and other sanitary goods.

(g) Explosives, fireworks, and articles of like character.

(h) The tearing or sewing of rags: Provided, That the word "rags" shall not be deemed to apply to new remnants, clippings, or selvages which are the by-products of manufacturing processes.

(i) Articles, the processing of which requires exposure to substances determined by the department to be hazardous to the health or safety of persons so exposed.

Section 5. Power to Prohibit.—(a) The department shall have the power, upon its own initiative, to make an investigation of that portion or branch of any industry which employs home-workers, in order to determine:

(1) Whether the wages and conditions of employment are injurious to the health and welfare of home-workers in such portion or branch; or

(2) Whether the wages and conditions of employment prevailing in such portion or branch have the effect of rendering unduly difficult the maintenance of existing labor standards, or the observance and enforcement of labor standards established by law, or regulation for the industry of which such portion or branch is a part, thus jeopardizing wages or working conditions of the factory workers in such industry.

(b) If, on the basis of information in its possession, with or without an investigation as provided in this section, the department shall find that industrial homework cannot be continued within any industry without injuring the health and welfare of the home-workers within that industry, or without rendering unduly difficult the maintenance of existing labor standards or the observance and enforcement of labor standards established by law for the protection of the factory workers in that industry, the department shall, by order, require all employers, representative contractors, or contractors in such industry to discontinue the furnishing within this Commonwealth of articles or materials for industrial homework, and no permit issued under this act shall be deemed thereafter to authorize the furnishing of articles, or materials for industrial homework prohibited by such order.

(c) All power machines used in conduct of industrial homework shall be guarded in accordance with the laws and regulations of the Department of Labor and Industry.

Section 6. Procedure.—(a) Before making such order, the department shall hold a public hearing, or hearings, at which an opportunity to be heard shall be afforded to any employer or representative of employers, and any home-worker or representative of home-workers, and any other person or persons having an interest in the subject matter of hearing. A public notice of such hearing shall be given in such manner as may be fixed by the department. Such notice shall be made at least thirty days before the hearing is held. Such hearing, or hearings, shall be in such place, or places, as the department deems most convenient to the employers and home-workers to be affected by such order.

(b) The department shall determine the effective date of such order, which date shall be not less than ninety days after the date of the promulgation of its order. The order shall set forth the type or types of manufacturing which are prohibited after its effective date.

Section 7. Permit Required by Employers and Representative Contractors.—(a) Every employer and every representative contractor within this Commonwealth must procure from the department an employer's permit. Application for such permit shall be made on a

form prescribed by the department. Such permit shall be in writing, dated when issued, and signed by the Secretary of Labor and Industry, or his duly authorized representative. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted. Such permit shall be valid for a period of one year from the date of its issuance, unless sooner revoked.

(b) No such permit shall be issued to any person, or to the successor in interest of any person whose employer's permit has been revoked by the department within two years prior to the last application for such a permit.

(c) Any employer, or a representative contractor, who delivers to another person any articles or materials for manufacture by industrial homework without having in his possession a valid employer's permit from the department, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00), or to undergo imprisonment for not more than six (6) months, or both, in the discretion of the court.

Section 8. Injunction against Continued Violations.—Whenever any employer or representative contractor has twice been found guilty of conducting his business without an employer's permit, the department may apply to the court of common pleas of any county in which such employer or representative contractor has a place of business for an injunction, and such court shall upon such application issue an injunction to restrain such employer or representative contractor from further violating the provisions of this act.

Section 9. Permit Required by Contractors.—(a) Every contractor must procure from the department a contractor's permit. Application for such permit shall be made on a form prescribed by the department. Such permit shall be in writing and signed by the Secretary of Labor and Industry, or his duly authorized representative. It shall give the name and address of the person to whom it is issued, and shall designate and limit the acts that are permitted. Such permit shall be valid for a period of one year from the date of its issuance unless sooner revoked.

(b) No such permit shall issue to any person who or whose predecessor in interest held an employer's permit which, within two years prior to the application for a contractor's permit, was revoked by the department.

(c) Any contractor who delivers, or causes to be delivered, to another person, any articles or materials for manufacture by industrial homework without having in his possession a valid contractor's permit, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be

sentenced to pay a fine of not more than one thousand dollars (\$1,000.00), or to undergo imprisonment for not more than six (6) months, or both, in the discretion of the court.

Section 10. Fees.—(a) A fee of two hundred dollars (\$200.00) shall be paid to the department for the original issuance of an employer's permit.

(b) For each annual renewal of such permit, the employer or representative contractor shall pay to the department a fee of—

(1) Fifty dollars (\$50.00), where at no time during the preceding year did the employer, or representative contractor, directly or indirectly, have business relations simultaneously with more than one hundred home-workers.

(2) One hundred dollars (\$100.00), where at any time during the preceding year the employer, or representative contractor, directly or indirectly, had business relations simultaneously with more than one hundred, but less than three hundred home-workers.

(3) Two hundred dollars (\$200.00), where at any time during the preceding year the employer, or representative contractor, directly or indirectly, had business relations simultaneously with three hundred or more home-workers.

(c) A fee of twenty-five dollars (\$25.00) shall be paid to the department for the issuance of a contractor's permit.

Section 11. Home-Worker's Certificate.—(a) Every person desiring to engage in industrial homework within this Commonwealth must procure from the department a home-worker's certificate, which shall be issued without cost and which shall be valid for a period of one year from the date of its issuance, unless sooner revoked or suspended. Application for such certificate shall be made in such form as the department may by regulation prescribe. Such certificate shall be valid only for work performed by the applicant himself in his own home, and in accordance with the provisions of this act.

(b) No home-worker's certificate shall be issued:—

(1) To any person under the age of sixteen years; or

(2) To any person known to be suffering from an infectious, contagious, or communicable disease, or known to be living in a home that is not clean, sanitary and free from infectious, contagious, or communicable diseases.

(c) The department may revoke, or suspend any home-worker's certificate if he finds that the holder is performing industrial homework contrary to the conditions under which the certificate was issued, or to any provision of this act, or has permitted any person not holding a valid home-worker's certificate to assist him in performing his industrial homework.

Section 12. Records to Be Kept.—No person having an employer's or a contractor's permit shall deliver, or cause to be delivered, or received, any articles or materials for or as a result of industrial homework, unless he shall keep in such form and forward to the department at such intervals, as it may by regulation prescribe, and on such blanks as it may provide, a complete and accurate record of all persons engaged in industrial homework on articles or materials furnished or distributed by him; of all places where such persons work; of all articles or materials furnished and distributed to such persons, described as the department may require; of all goods which such persons have manufactured; of the net cash wages received by each home-worker; and of all contractors to whom he has furnished articles or materials to be manufactured for him in any home.

Section 13. Conditions of Manufacture.—Industrial homework on articles or materials manufactured for any person to whom an employer's permit has been issued shall be performed:—

(a) Only by a person possessing a valid home-worker's certificate.

(b) Only by persons over the age of sixteen years.

(c) Only by persons resident in the home in which the work is done.

(d) Only during such hours as may be fixed by law or regulation as permissible hours of labor in factories by persons of the same age and sex as the home-worker; and

(e) Only in a home that is clean and sanitary and free from any infectious, contagious, or communicable disease.

Upon the issuance of an employer's permit to an employer, or representative contractor, or a contractor's permit to a contractor, such employer, representative contractor, or contractor, shall be deemed to have accepted responsibility for the observance of the conditions of manufacture specified by this section; and each of such conditions shall be deemed to be a condition of the employer's or contractor's permit to the same extent as though it were expressly set forth therein.

Section 14. Labels Required.—No employer, or representative contractor, or contractor, shall deliver, or cause to be delivered, any articles or materials to be manufactured by any home-worker, unless there has been conspicuously affixed to each article or material a label, or other mark of identification, bearing the employer's or representative contractor's name and address, printed or written legibly in English; but if the articles or materials are of such a nature that they cannot be individually so labeled or identified, then the employer or representative contractor shall conspicuously label, in

like manner, the package, or other container in which such articles or materials are delivered, or are to be kept, while in the possession of the home-worker.

Section 15. Unlawfully Manufactured Articles.—Any articles, or materials which are being manufactured in a home, in violation of any provision of this act, may be seized and removed by any agent of the department, and may be retained by him until claimed by the employer or representative contractor. The department shall, by registered mail, give notice of such removal to the person whose name and address are affixed to the article, as provided by section fourteen. Unless the article so removed is claimed within thirty days thereafter, it may be destroyed or otherwise disposed of.

Section 16. Delivery to Contractors.—No employer, or representative contractor, shall deliver, or cause to be delivered, any material or articles to a contractor who is not in possession of a valid contractor's permit.

Section 17. Violations.—(a) If the department has reason to believe that a person having an employer's or contractor's permit is not observing the provisions of this act, or of a regulation or order authorized by it to be issued by the department, or the conditions of such permit, the department may, on ten days' notice, summon such person to appear before it to show cause why the department should not find that he has failed to observe such provisions or conditions.

(b) If, after such hearing, the department finds as a fact that such person has failed to observe or comply with a provision of this act, his permit or a regulation or order, issued by the department under authority of this act, the department may—

(1) Revoke the permit of such person, the order of revocation to be effective on a date fixed by the department not more than thirty days after the date of its issuance.

(2) Cause to be published in a newspaper or newspapers circulating within this Commonwealth, or in such other manner as the department may deem appropriate, the name of such person as having failed in the respects stated to maintain the standards established under authority of this act. Such publication may contain an identification by trade name, or otherwise, of the products manufactured or sold by such persons. Neither the department, nor any authorized representative of the department, nor any newspaper publisher, proprietor, editor, nor employe thereof, shall be liable to an action for damages for publishing the name of any person as provided for in this act, unless guilty of some wilful misrepresentation.

Section 18. Agreements to Contributions by Employes Void.—No agreement by a home-worker to pay



any portion of a payment required of any person by any provision of this act shall be valid, and no person shall make a deduction for such purpose from the wages or salary of any home-worker.

Section 19. Filing and Inspection of Records and Returns.—Records, reports, applications, and returns required to be made by this act, shall be kept on file by the Department of Labor and Industry, and shall be open to examination and inspection, and subject to its regulation. They may be used as evidence in any proceeding under this act, but shall not otherwise become matter of public record.

Section 20. Fees of Witnesses.—Each witness who appears in obedience to a subpoena issued by the department shall be entitled to such witness fees as the department shall allow, payable from appropriations made to the department for such purposes.

Section 21. Penalties.—In addition to any penalties otherwise prescribed in this act—

(a) Any person who wilfully makes a false statement or representation in order to lower the amount of fees due from him under this act; or

(b) Any person who makes a deduction from the wages or salary of any home-worker to pay any portion of a payment which such person is required by this act to make; or

(c) Any person who refuses to allow the Secretary of Labor and Industry, or his authorized representative, to enter his place of business for the purpose of inspecting his payroll, or other records or documents relative to the enforcement of this act, or who refuses to permit the Secretary of Labor and Industry, or his authorized representative, to copy such record or documents, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000.00), or to undergo imprisonment for a term of six (6) months, or both, in the discretion of the court.

Section 22. Rules and Regulations.—Rules and regulations necessary to carry out the provisions of this act shall be made by the department. It shall have the power, and its duty shall be, to enforce all the provisions of this act, except as otherwise specifically provided.

Section 23. Payment into State Treasury.—All fees and other moneys derived from the operation of this act shall be paid into the State Treasury, through the Department of Revenue to the credit of the General Fund.

Section 24. Constitutional Construction.—The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, or inapplicable to any person, or circumstances, the decision of the court

shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such provisions not been included herein.

Inconsistent acts repealed.

Section 25. Repeal of Existing Law.—All acts and parts of acts inconsistent with this act are hereby repealed.

APPROVED—The 18th day of May, A. D. 1937.

GEORGE H. EARLE

No. 177

AN ACT

To encourage the making and maintaining of agreements concerning wages, hours, and conditions of employment between employers and employes by their representatives, and the settlement of controversies concerning the same by mediation and voluntary arbitration; conferring powers of mediation and arbitration of such controversies on the Department of Labor and Industry.

Be it enacted, &c., That,

Labor.

Short title.

Policy stated.

Section 1. This act shall be known, and may be cited, as "Pennsylvania Labor Mediation Act."

Section 2. It is the public policy of the Commonwealth to encourage employers and employes by their representatives to make and maintain agreements concerning wages, hours, and conditions of employment, and to settle all controversies arising out of the application of such agreements.

Definitions.

Section 3. When used in this act—

(a) The term "department" shall mean the Department of Labor and Industry.

(b) The term "employer" includes an employer and any person acting, directly or indirectly, on behalf of or in the interest of an employer with the employer's knowledge or ratification, but a labor organization, or any officer or agent thereof, shall be considered an employer only with respect to individuals employed by such organization.

(c) The term "employee" shall include any employe, and shall not be limited to the employes of a particular employer, unless the act explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of or in connection with any current labor dispute, or because of any unfair labor practice as provided in the act of 1937, entitled "Pennsylvania Labor Relations Act." This term, however, shall not include any individual taking the place of any employe whose work has ceased as aforesaid, nor shall it include any individual employed by his parent or spouse, or in the