

February 23, 1951.
Labor.

House File 550
By AUBREY, SLOANE,
RYAN and JUDD.

Passed House, Date

Vote: Ayes..... Nays.....

Passed Senate, Date

Vote: Ayes..... Nays.....

Approved.....

A BILL FOR

An Act to prescribe minimum wage and minimum hour standards for all employees, to provide for the establishment of minimum wages by occupation, and to provide for enforcement of such provisions.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Findings and declaration of policy.

2 1. The legislature finds that the employment of workers

3 at wages insufficient to provide adequate maintenance is

4 detrimental to the health and welfare of the people of the

5 state. Such employment impairs the health, efficiency and

6 well-being of the workers so employed, reduces the purchasing

7 power of all employees, constitutes unfair competition

8 against other workers and employers, threatens the stability

9 of industry and compels the community to subsidize employers

10 paying wages too low for health and welfare by appropriations

11 of public money for relief. Experience has shown that

12 the establishment by law of minimum wages adequate to meet

13 the cost of living is an opportunity to improve the life

14 of our national community.

15 2. It is declared to be the policy of this act:

16 (a) to establish as far and as rapidly as possible
17 minimum wage and maximum hour standards for employees at
18 levels consistent with their health, efficiency and general
19 well-being,

20 (b) to safeguard existing minimum wage and maximum
21 hour standards which are adequate to maintain the health,
22 efficiency and well-being of employees against the unfair
23 competition of wage and hour standards which do not provide
24 such adequate standards of living, and,

25 (c) to prescribe the powers and duties of the labor
26 commissioner under this Act, to prescribe penalties for
27 violations of this Act, or of orders or regulations of
28 the labor commissioner authorized hereunder, and to repeal
29 the laws or parts of laws as are specifically provided
30 for in this Act.

1 Sec. 2. Definitions.

2 1. "Commissioner" shall mean the "Iowa Labor Commissioner".

3 2. "Employ" includes permit or suffer to work.

4 3. "Employer" includes any individual, partnership,
5 association, corporation, business trust, legal representative,
6 or any organized group of persons, acting directly in the
7 interest of an employer in relation to an employee, but
8 shall not include the United States.

9 4. "Employee" includes any individual employed by an
10 employer, but shall not include any individual employed

11 in agricultural or domestic service in a private home.

12 5. "Occupation" means any trade, business, industry
13 or branch or group of industries, employment or class of
14 employment, in which individuals are gainfully employed.

15 6. "Wage" means (except as the commissioner may provide
16 under section thirteen (13)) legal tender of the United
17 States, or checks on banks convertible into cash on demand
18 at full face value thereof and may include the reasonable
19 cost, as determined in accordance with section twelve (12)
20 of this Act, of furnishing board or lodging to employees,
21 but shall not include tips or gratuities of any kind.

22 7. "Week" means any period of seven (7) consecutive
23 days.

24 8. "Day" means any period of twenty-four (24)
25 consecutive hours.

1 Sec. 3. Minimum wages.

2 1. Every employer, except as provided under section
3 eleven (11) of this Act, shall pay to all employees employed
4 by him wages at the following rates:

5 (a) Not less than seventy-five cents (75c) an hour and

6 (b) Not less than the rate prescribed in an applicable
7 wage order issued under section eleven (11) of this Act.

8 2. This section shall take effect upon the expiration
9 of one hundred and twenty (120) days from the date of
10 enactment of this Act.

1 Sec. 4. Maximum hours.

2 1. No employer shall, except as hereinafter provided
3 in this section, employ any employee in excess of eight (8)
4 hours a day, or forty (40) hours a week, unless such employee
5 receives compensation for employment in excess of the hours
6 above specified at a rate not less than one and one-half
7 ($1\frac{1}{2}$) times the regular rate at which the employee is employed.

8 2. The provisions of section four (4) shall not apply to
9 any employee employed in such extraordinary emergencies as
10 those resulting directly from fire, flood, storm or similar
11 natural forces, or epidemic of illness or diseases, which
12 require employment in excess of the hours specified in
13 section four (4) in order that life, health, or property may
14 be preserved; provided, however, that the employer shall pay
15 each employee so employed at not less than this regular
16 rate of pay for each hour employed in excess of the hours
17 specified in section four (4); provided further, that in each
18 such case the employer shall immediately notify the
19 commissioner of such excess employment in such manner as the
20 commissioner may require.

21 3. This section shall take effect upon the expiration
22 of one hundred and twenty (120) days from the date of enactment
23 of this Act.

1 Sec. 5. Wage investigations: appointment of wage boards.

2 For the purpose of carrying out the declared policy of this
3 Act, the commissioner, upon his own motion, may, from time to
4 time, or upon the petition of one hundred (100) or more

5 residents of the state, shall, investigate the wage paid to
6 employees in any occupation. If, on the basis of
7 information in his possession, with or without an investigation,
8 the commissioner is of the opinion that any substantial
9 number of employees are receiving wages which are less than
10 sufficient to maintain the employees in health, efficiency
11 and general well-being, he shall appoint a wage board to
12 recommend a minimum wage for employees in such occupation.

1 Sec. 6. Wage boards; powers and duties; recommendations.

2 1. A wage board shall be appointed by the commissioner
3 without regard to any other provisions of law regarding the
4 appointment and compensation of employees of the state. It
5 shall include not more than three (3) disinterested persons
6 representing the public, one of whom the commissioner shall
7 designate as chairman, a like number of persons representing
8 employers in the occupation. The representatives of the em-
9 ployers and employees shall be selected so far as practical
10 from nominations submitted by employers and employees, or
11 organizations thereof, in such occupation. Two-thirds
12 ($\frac{2}{3}$) of the members of such wage board shall constitute a
13 quorum and its recommendations shall require a vote of not
14 less than a majority of all its members. The members of a
15 wage board shall be entitled to compensation at the rate of not
16 to exceed ten dollars (\$10.00) per day for each meeting
17 attended by them, or each day actually spent in the work of
18 the board. They shall also be paid their reasonable and

19 necessary traveling and other expenses while engaged in the
20 performance of their duties. The commissioner shall make rules
21 and regulations not inconsistent with this Act governing
22 the selection of a wage board and its mode of procedure.

23 2. The commissioner shall present to the wage board all
24 the evidence and information in his possession relating to
25 the wages in the occupation for which the wage board was
26 appointed and all other information which the commissioner
27 deems relevant to the establishment of a minimum wage for such
28 industry and shall cause to be brought before the board any
29 witnesses whom the commissioner deems material. A wage board
30 may summon other witnesses or call upon the commissioner to
31 furnish additional information to aid in its deliberations.

32 3. Within sixty (60) days of its organization, a wage
33 board shall submit to the commissioner its recommendations as
34 to a minimum wage, which in no case shall be less than the
35 rate prescribed by section three a. one (3.a.1) to be paid
36 by employers in the occupation considered, which it determines
37 to be as nearly adequate as is economically feasible to
38 maintain the minimum standard of living necessary for the
39 health, efficiency and general well-being of workers. The
40 recommendations may include terms and conditions relating to
41 part-time employment, including the wage rates to be paid
42 therefor and suitable treatment of other cases or classes of
43 cases which, because of the nature and character of the
44 employment, in the judgment of the board justify special

45 treatment.

46 The wage board may recommend deductions, from the
47 applicable minimum wage, of the reasonable cost of board and
48 lodging which it determines on an occupation basis where such
49 board and lodging are customarily furnished and used in
50 the occupation.

51 In making such recommendations a wage board shall consider,
52 among other relevant factors:

53 (a) cost of living,

54 (b) the wages established in the state for work of like
55 or comparable character by collective labor agreements
56 negotiated between employers and employees by representatives
57 of their own choosing, and

58 (c) the wages paid in the state for work of like or
59 comparable character by employers who voluntarily maintain
60 reasonable minimum wage standards.

1 Sec. 7. Wage orders.

2 1. Within thirty (30) days after the filing of the
3 wage board's report, the commissioner, after due notice to
4 interested persons and a public hearing thereon, shall approve
5 and carry into effect the recommendations contained in such
6 report, if he finds that the recommendations are made in
7 accordance with law, are supported by the evidence adduced at
8 the public hearing, and will carry out the purposes of this
9 Act; otherwise he shall disapprove such recommendations.
10 If the commissioner disapproves such recommendations, he

11 shall again refer the matter to the same wage board, or to
12 another wage board for such industry (which he may appoint
13 for such purpose), for further consideration and recommendations.
14 Due notice of any hearing provided for in this section
15 shall be given by publication in such newspapers and by such
16 other means as the commissioner deems reasonably calculated
17 to give general notice to interested persons. The rules of
18 evidence applied by the courts in proceedings at law and in
19 equity shall not apply in any hearings or proceedings
20 conducted by or before the commissioner or a wage board.

21 2. Orders issued under this section shall define the
22 occupation to which they shall apply and may include such
23 administrative regulations as the commission finds
24 necessary to carry out the purposes of this Act and of the
25 orders. Except as provided in section eleven (11), the
26 rates established by any minimum wage order shall apply
27 alike to all employees regardless of age or sex.

28 3. No such order shall take effect until thirty (30)
29 days after due notice is given of the issuance thereof by
30 publication in such newspapers and by such other means as the
31 commissioner deems reasonably calculated to give to interested
32 persons general notice of such issuance. A certified copy
33 of each such order shall be filed in the office of the
34 secretary of state.

1 Sec. 8. Right to review.

2 1. Any person aggrieved by an order of the commissioner

3 issued under section seven (7) may obtain a review of such
4 order in the district court, by filing in such court, within
5 thirty (30) days after the entry of such order, a written
6 petition praying that the order of the commissioner be modified
7 or set aside in whole or in part. A copy of such petition
8 shall forthwith be served upon the commissioner, and there-
9 upon the commissioner shall certify and file in the court
10 a transcript of the record upon which the order complained of
11 was entered. Upon the filing of such transcript such court
12 shall be exclusive jurisdiction to affirm, modify, or set
13 aside such order in whole or in part, so far as it is
14 applicable to the petitioner. The review by the court shall
15 be limited to questions of law, and findings of fact by the
16 commissioner when supported by substantial competent evidence
17 shall be conclusive. No objection to the order of the
18 commissioner shall be considered by the court unless such
19 objection shall have been urged before the commissioner or
20 unless there were reasonable grounds for failure so to do.
21 If application is made to the court for leave to adduce
22 additional evidence, and it is shown to the satisfaction of
23 the court that such additional evidence may materially affect
24 the result of the proceeding and that there were reasonable
25 grounds for failure to adduce such evidence in the proceeding
26 before the commissioner, the court may order such additional
27 evidence to be taken before the commissioner. The commissioner
28 may modify his findings by reason of the additional evidence

29 so taken (but in no case may he modify the recommendations of
30 a wage board, except upon and in accordance with the further
31 recommendations of such a wage board), and shall file with the
32 court such modified or new findings which if supported by
33 evidence shall be conclusive, and shall also file his
34 recommendations, if any, for the modification or setting aside
35 of the original order. The judgment and decree of the court
36 shall be final, subject to right of appeal to supreme court.

37 2. The commencement of proceedings under subsection one
38 (1) shall not, unless specifically ordered by the court
39 operate as a stay of the commissioner's order. The court
40 shall not grant any stay of the order unless the person
41 complaining of such order shall file in court an undertaking
42 with a surety or sureties satisfactory to the court for the
43 payment to the employees affected by the order, in the event
44 such order is affirmed, of the amount by which the
45 compensation such employees are entitled to receive under
46 the order exceed the compensation they actually receive
47 while such stay is in effect.

1 Sec. 9. Investigations; inspections; records.

2 1. The commissioner is authorized, and it shall be his
3 duty, to enforce the provisions of this Act and any orders
4 issued thereunder. For administrative purposes, there is
5 hereby created within the labor commission a wage and hour
6 division. Said division shall be under the charge of a
7 director and shall be organized in the same manner as other

8 bureaus or divisions of the said labor commission. If he
9 deems such action advisable for the more efficient and
10 economical administration of the work and duties of the
11 labor commission, the commissioner, regardless of the
12 provisions of any other law, may combine or consolidate the
13 activities of any other division or bureau of the labor
14 commission with those of the wage and hour division. The
15 commissioner shall have the authority to appoint the
16 director of the wage and hour division and such assistants and
17 other employees as may be necessary for the proper enforcement
18 of this Act and to fix their compensation, subject to existing
19 laws applicable to the appointment and compensation of
20 employees of the state.

21 2. The commissioner or his authorized representative
22 may investigate and gather data regarding the wages, hours,
23 and other conditions and practices of employment in the
24 state, and may enter and inspect such places and such
25 records (and make such transcriptions thereof), question
26 such employees, and investigate such facts, conditions,
27 practices, or matters as he may deem necessary or appropriate
28 to determine whether any person has violated any provision
29 of this Act, or which may aid in the enforcement of the
30 provision of this Act, or in connection with the recommendation
31 of further legislation.

32 3. Every employer shall keep in or about the premises
33 wherein any employee is employed a record of the name,

34 address and occupation of each such employee, of the amount
35 paid each pay period to each such employee, of the hours
36 worked each day and each work week by each such employee,
37 and of such other information and for such periods of time
38 as the commissioner may by regulation or order prescribe.

39 The commissioner or his authorized representative shall
40 for the purpose of examination have access to and the right to
41 copy from such records, and every employer shall furnish
42 to the commissioner or his authorized representative on
43 demand a sworn statement of such records, and, if the
44 commissioner shall so require, upon forms prescribed or
45 approved by him. Every employer shall furnish to the com-
46 missioner or his authorized representative such information
47 relating to the employment of workers and in such manner
48 as the commissioner may require. Every employer shall keep
49 a printed abstract of the law and a copy of any minimum
50 wage order to which he may be subject conspicuously posted
51 in or about the premises wherein any person subject thereto
52 is employed. Employers shall be furnished copies of such
53 abstract and orders on request without charge.

54 4. Any employer who hinders or delays the commissioner
55 or his authorized representative in the performance of his
56 duties in the enforcement of this Act; or who refuses to
57 admit the commissioner or his authorized representative to
58 any place of employment; or who fails to keep or falsifies
59 any record required under the provisions of this section,

60 or who refuses to make such records accessible or to furnish
61 a sworn statement thereof or to give information required
62 for the proper enforcement of this Act, upon demand, to
63 the commissioner or his authorized representative; or who
64 fails to post an abstract of this law or a copy of a
65 minimum wage order as required by this section shall be
66 deemed to have violated this Act.

1 Sec. 10. Learners; apprentices; handicapped workers.

2 1. The commissioner may by regulation or by orders
3 provide for the employment, under special certificates
4 issued pursuant to regulations of the commissioner;

5 (a) of learners, at such wages lower than the applicable
6 minimum wage and subject to such limitations as time, number,
7 proportion, and length of service as the commissioner shall
8 prescribe,

9 (b) of apprentices, at such wages lower than the
10 applicable minimum wage as are approved by the state
11 apprenticeship council, and

12 (c) of individuals whose earning capacity is impaired
13 by age or physical or mental deficiency or injury, at such
14 wages lower than the applicable minimum wage and for such
15 period as shall be fixed in such certificates.

1 Sec. 11. Oaths; affidavits; subpoenas.

2 1. The commissioner or his authorized representative,
3 or a wage board, shall have the power to administer oaths,
4 to take or cause to be taken the depositions of witnesses,

5 and to require by subpoena the attendance and testimony of
6 witnesses and the production of all books, records, and
7 other evidence relative to any matter under investigation.
8 Such subpoenas shall be signed and issued by the commis-
9 sioner or his authorized representative, or by the chairman of
10 the wage board, as the case may be. In cases of failure of
11 any person to comply with any subpoena lawfully issued
12 under this section or on the refusal of any witness to
13 produce evidence or to testify to any matter regarding which
14 he may be lawfully interrogated, it shall be the duty of any
15 district court, or the judge thereof, upon application of the
16 commissioner or his authorized representative, or the
17 chairman of the wage board, to compel obedience by proceedings
18 for contempt, as in the case of disobedience of the
19 requirements of a subpoena issued by such court or a
20 refusal to testify therein. The commissioner shall have the
21 power to certify to official Acts.

22 2. No person shall be excused from attending and
23 testifying or from producing books, papers, correspondence,
24 memoranda, contracts, agreements, or other records and
25 documents before the commissioner or his authorized
26 representative or a wage board, or in obedience to the
27 subpoena of the commissioner or his authorized representative
28 or of a wage board or in any cause or proceeding instituted
29 under this Act, on the ground that the testimony or evidence,
30 documentary or otherwise, required of him may tend to

31 incriminate him or subject him to a penalty or forfeiture;
32 but no individual shall be prosecuted or subject to any
33 penalty or forfeiture for or on account of any transaction,
34 matter or thing concerning which he is compelled to testify
35 or produce evidence, documentary or otherwise, after
36 having claimed his privilege against self-incrimination,
37 except that such individual so testifying shall not be exempt
38 from prosecution and punishment for perjury committed
39 in so testifying.

1 Sec. 12. Regulations and orders.

2 1. The commissioner shall have the power to make, issue,
3 amend and rescind such regulations and orders as are necessary
4 or appropriate to carry out the provisions of this Act.
5 Such regulations or orders, and without limiting the
6 generality of the foregoing, may define terms used in this
7 Act, and may include such terms and conditions, including
8 the restriction or prohibition of industrial homework or of
9 such other Acts or practices or its regulation to permit the
10 desirable employment of handicapped or other special workers
11 as the commissioner finds necessary or appropriate to carry
12 out the purposes of the Act, or of a wage order issued
13 thereunder, and to prevent the circumvention or evasion
14 thereof and to safeguard the standards therein established;
15 and shall include such partial or total restrictions or pro-
16 hibitions of the employment (notwithstanding the payment of
17 time and one-half ($1\frac{1}{2}$) the regular rate of pay) of employees

18 in excess of the hours specified in section four (4) as he
19 finds necessary to prevent the circumvention of the intent
20 of section four (4) to reduce hours of labor by the reduction
21 in wage rates to avoid the penalizing effect of the overtime
22 compensation provisions, or by other devices ; and may permit
23 reasonable deductions from the minimum wage applicable under
24 the Act issued pursuant thereto for board, lodging or other
25 similar services furnished by an employer to his employees.

26 2. Regulations or orders of the commissioner issued
27 pursuant to subsection one (1) which relate to industrial
28 homework or to employment in excess of the hours specified in
29 section four (4) shall be made only after notice to interested
30 persons and a public hearing by the commissioner at which such
31 persons may be heard.

32 3. Regulations or orders issued pursuant to this section
33 shall take effect upon publication in such newspapers and by
34 such other means as the commissioner deems reasonably calculated
35 to give to interested persons general notice of such issuance.

1 Sec. 13. Cooperation with federal agency.

2 The labor commission may and it is hereby authorized to
3 assist and cooperate with the wage and hour division, "United
4 States Department of Labor", in the enforcement with this state
5 of the "Fair Labor Standard Act of 1938", approved June 25, 1938,
6 and subject to the regulations of the administrator of the
7 wage and hour division or of the chief of the "United States
8 Department of Labor", as the case may be, and to the laws of

9 the state applicable to the receipt and expenditure of moneys,
10 may be paid or reimbursed by said division and the said bureau
11 for the reasonable cost of such assistance and cooperation.

1 Sec. 14. Penalty provisions; collection on unpaid wages.

2 1. Any employer who violates and provision of this Act,
3 or of a wage order issued pursuant to section seven (7),
4 or of any regulation or order of the commissioner issued
5 under the authority of this Act, or who discharges or in
6 any other manner discriminates against any employee because
7 such employee has made any complaint to this employer, the
8 commissioner, or any other person, or instituted or caused
9 to be instituted any proceeding under or related to this
10 Act, or has testified or is about to testify in any such
11 proceedings, or has served or is about to serve on a wage
12 board, shall, upon conviction thereof, be punished by a
13 fine of not less than twenty-five dollars (\$25.00) nor more
14 than five hundred dollars (\$500.00), or by imprisonment for
15 not less than ten (10) nor more than ninety (90) days, or
16 both such fine and imprisonment. Each day a violation
17 shall continue shall constitute a separate offense.

18 Failure of an employer to pay an employee the minimum
19 wage or overtime compensation, if any, required by sections
20 three (3) and four (4), respectively, in full, within five
21 (5) days after the end of the customary pay period during
22 which the wages were earned, shall constitute prima-facie
23 evidence of a violation of such sections.

24 2. (a) Any employer who violates any provision of

25 sections three (3) or four (4) of this Act shall be liable
26 to the employee or employees affected in the amount of
27 their unpaid minimum wages, or unpaid overtime compensation,
28 as the case may be, and in additional equal amount of
29 liquidated damages.

30 (b) Action to recover such liability may be maintained
31 in any court of competent jurisdiction by any one (1) or more
32 employees for and in behalf of himself or themselves and
33 other employees similarly situated, or such employee or
34 employees may designate an agent or representative to maintain
35 such action for and in behalf of all employees similarly
36 situated. The court in such action shall, in addition to
37 any judgment awarded to the plaintiff or plaintiffs, allow
38 a reasonable attorney's fee to be paid by the defendant,
39 and costs of the action. At the request of any person paid
40 less than the amount to which he is entitled under the
41 provisions of this Act the commissioner may take an assignment
42 in trust for the assigning employee of the full amount to which
43 he is entitled under this subsection and may bring any legal
44 action necessary to collect such claim, and the employer shall
45 be required to pay the costs and such reasonable attorney's
46 fees as may be allowed by the court. The commissioner shall
47 not be required to pay the filing fee, or other costs, in
48 connection with such action. The commissioner in case of suit
49 shall have the power to join various claimants against the
50 same employer in one cause of action.

51 (3) Whenever it shall appear to the commissioner that

52 any employer is engaged in any Act or practice which constitutes
53 or will constitute a violation of any provision of this Act,
54 or of any provision of any regulation or wage order issued
55 thereunder, he may in his discretion bring an action in
56 the district court of the state to enjoin such Act or practice
57 and to enforce compliance with this Act or with such regulation
58 or wage order, and upon a proper showing a permanent or
59 temporary injunction or restraining order shall be granted
60 without bond.

1 Sec. 15. Relation to other laws.

2 Except as may be specially provided, nothing in this
3 statute shall in any way repeal or affect the validity of
4 any state law or any order or regulation issued thereunder
5 establishing or authorizing the establishment of minimum
6 wages or maximum hours, nor in any way interfere with the
7 right of the commissioner to proceed under any such law,
8 order, or regulation, or to issue, rescind, or modify
9 orders or regulations under any existing law; and where any
10 state law authorizes a different procedure for the establishment
11 of minimum wages or maximum hours from that herein authorized
12 the commissioner shall have power to act under either or both
13 of such procedures; provided that the minimum wages and
14 maximum hours established under this Act shall prevail and
15 be in effect in all cases, except where another state law or
16 any federal law or any municipal ordinance or any order or
17 regulation issued thereunder, establishes a minimum wage

18 higher than the minimum wage established under this Act or a
19 maximum work week lower than the maximum work week established
20 by this Act, such higher minimum wage or lower work week
21 shall prevail and be in effect.

1 Sec. 16. Right of collective bargaining protected.

2 Nothing in this Act shall be deemed to interfere with,
3 impede, or in any way diminish the right of employees to
4 bargain collectively through representatives of their own
5 choosing in order to establish wages in excess of the
6 applicable minima under this Act, or to establish hours of
7 work shorter than the applicable maximum under this Act.

1 Sec. 17. Separability.

2 If any provision of this Act, or the application thereof
3 to any person or circumstance, is held invalid the remainder
4 of the Act and the application of such provision to other
5 persons or circumstance shall not be affected thereby.

1 Sec. 18.

2 Except as herein otherwise specifically provided, this
3 Act shall take effect upon enactment.

1 Sec. 19. Short title

2 This Act shall be known as the "Wage and Hour Act".

EXPLANATION OF H. F. 550

The effect of this law will be to grant protection to employees engaged in purely intrastate occupations which they do not now have under federal law. These intrastate occupations are chiefly service and retail trades and it is generally recognized that these are occupations in which many of the worst abuses exist.

It is by now well accepted that the existence of sub-standard wages constitutes a menace to the welfare of the community at large and frequently requires the expenditure of public funds to take care of the victims of these conditions. Moreover, low wages not only mean sub-standard living conditions but they also reduce the purchasing power of the workers and require employers who maintain fair standards to meet the competition of sub-standard employers.

The bill only provides for the minimum wage rates and leaves to collective bargaining the establishment of wages above these minimums.