

ACT 19

A Bill for an Act to Amend Chapter 94 of the Revised Laws of Hawaii 1955, as Amended, Relating to Wages and Hours.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

The 1961 amendments to the Federal Fair Labor Standards Act, with respect to overtime pay, take away from newly covered employees of large establishments a protection they formerly enjoyed and require owners of smaller companies to pay higher rates for overtime work than owners of large enterprises. In order to correct these inequities, it is urgent that corrective legislation be enacted.

SECTION 2. Section 94-2 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the paragraph defining the term "employee" by deleting division (k) in its entirety and substituting the following therefor:

"(k) in any capacity if by reason of his employment in such capacity and during the term thereof the minimum wage which may be paid such employee or maximum hours which such employee may work during any workweek without the payment of overtime, are prescribed by the Federal Fair Labor Standards Act of 1938, as amended, or as the same may be further amended from time to time; provided, that if the minimum wage which may be paid such employee under said Fair Labor Standards Act for any workweek is less than the minimum wage prescribed by Section 94-3 then the provisions of Section 94-3 shall apply in respect to such employees for such workweek; provided further, that if the maximum workweek established for such employee under said Fair Labor Standards Act for the purposes of overtime compensation is higher than the maximum workweek established under Section 94-4, then the provisions of Section 94-4 shall apply in respect to such employee for such workweek; except that such employee's regular rate in such an event shall be his regular rate as determined under said Fair Labor Standards Act."

SECTION 3. Section 94-4(b) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting it in its entirety and substituting the following therefor:

"(b) in the case of an employer,

(1) who is engaged in agriculture and in the first processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products, or in the processing of sugar cane molasses or sugar cane into sugar (but not refined sugar) or into syrup, or in the first processing of or in canning or packing any agricultural or horticultural commodity, or in handling, slaughtering or dressing poultry or livestock; or

(2) who is engaged in agriculture and whose agricultural products are processed by an employer who is engaged in a seasonal pursuit or in processing, canning or packing operations referred to in paragraph (1); or

(3) who is at any place of employment engaged primarily in the first processing of, or in canning or packing seasonal fresh fruits;

the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged during any period or periods of not more than twenty workweeks in the aggregate, as selected by the employer, in any year from and after the yearly period commencing July 1, 1957; provided, that no employee shall be employed more than forty-eight hours in any such exempt workweeks unless such employee receives compensation for his employment in excess of forty-eight hours in any one workweek at a rate not less than one and one-half times the regular rate at which he is employed."

SECTION 4. This Act shall take effect on and after July 1, 1962.

(Approved May 16, 1962.) H.B. 242.

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