

Iowa . Labor laws 254

LABOR LAWS OF IOWA

A GUIDE FOR THE IOWA EMPLOYER WHO IS
OPERATING A SMALL OR MEDIUM-SIZED BUSINESS

BY THOMAS W. STEWART



BUREAU OF
LABOR AND MANAGEMENT

State University of Iowa
IOWA CITY, IOWA, 1951

KFI
4531
.S74
1951

BUREAU OF LABOR AND MANAGEMENT

The Bureau of Labor and Management of the State University of Iowa, established in September 1950, has three objectives:

- 1) To integrate instruction at the State University of Iowa in various subjects related to the field of labor and management; including personnel management, labor legislation, engineering, psychology, economics and industrial management.
- 2) To conduct, from time to time, conferences and meetings of employers and employees designed to discuss various problems confronting Iowa labor and management.
- 3) To engage in research in problems of labor and management on an industry-wide basis, attempting to study objectively those problems which concern Iowa labor and management. The findings will then be published and distributed throughout the state to Iowa labor, management, educational and public groups.

TABLE OF CONTENTS

	<i>Page</i>
Introduction	2
The Creation of the Employer-Employee Relationship	4
Hours of Work	7
Safety Appliances	8
Facilities for Employees	10
Wages	10
Workmen's Compensation	12
Labor Disputes	15
Discharge of Employees	16
Footnotes	17

Introduction

This booklet is intended to serve as a guide for the Iowa employer who is operating a small or medium-sized business which does not "affect interstate commerce". Its purpose is to set forth in a clear, concise, and logical order those Iowa laws which prescribe the rights and duties between an employer and his employees. The limitations of the coverage of this booklet are three: first, it is not intended as a guide for the governmental or for the large scale employer since both of these usually have attorneys retained on a full-time basis; second, it does not purport to cover laws of a very technical nature which are applicable only to businesses of a specialized character; and third, it does not contain federal law.

In view of the third limitation, it is of the utmost importance for the reader to remember that if his business is one affecting interstate commerce, some of the state laws will be superseded by the federal laws, and all of the federal laws will be applicable to him.

The concept of "affecting interstate commerce" is a very complex one, and no definite formula exists by which an employer can determine whether his business is within such classification. However, as an aid in resolving the problem, the following rulings of the National Labor Relations Board are given as probable requisites of the Board's taking jurisdiction:

1. the annual dollar volume of sales of goods or services in interstate commerce exceeds \$25,000,¹ or
2. sales to public utilities, transit companies, and other instrumentalities of interstate commerce equal or exceed \$50,000,² or
3. goods shipped to the employer from outside the state equal or exceed \$50,000,³ or
4. the employer purchases \$1,000,000 or more of goods from a supplier within the state, but such goods were originally shipped from outside the state,⁴ or
5. the combined dollar volume in any of the above categories, figured on a percentage basis of the minimum figure in each category equals 100%,⁵ or
6. where the business is a public utility or transit company,⁶ or

7. where the business is an instrumentality or channel of interstate or foreign commerce,⁷ or
8. when the business is an integral part of a multistate enterprise,⁸ or
9. when the business is one whose operations substantially affect the national defense.⁹

If it appears from the application of the above standards that the particular business is likely to be considered one over which the National Labor Relations Board will take jurisdiction, and hence one affecting interstate commerce; the reader may obtain a simplified version of the federal laws with which this booklet deals on the state level by writing the United States Department of Labor for their bulletin #100, "Federal Labor Laws and Agencies—A Layman's Guide."

CHAPTER I

The Creation of the Employer-Employee Relationship

Iowa, in line with most of the states, has a series of statutory provisions governing the creation of the employer-employee relationship. These provisions deal with certain grounds which cannot be made the basis of refusing employment to an applicant, and with the restrictions on employing persons in certain business, or to perform certain functions if they are below certain ages.

Union affiliation of the applicant:

An employer may not refuse employment to a person if the *only* ground of the refusal is that:

1. the applicant is a member of a union, or
2. the applicant is not a member of a union, or
3. the applicant refuses to join a union in the future, or
4. the applicant intends to resign from a union in the future,¹⁰ or
5. the employer has contracted or agreed with another person, firm, association, corporation, or labor organization to exclude persons from employment on the grounds listed above.¹¹

Members of the national guard:

An employer may not refuse employment to a person solely because that person is a member of the national guard.¹²

Age of the applicant:

Iowa has numerous restrictions on the minimum age of employees engaging in certain types of work. These restrictions are aimed primarily at the duties that certain persons may perform after they are hired, but since the employer hires a person with the idea that such person will perform certain tasks, it is convenient to consider the restrictions in respect to the creation of the employment relationship.

Since the restrictions become more extensive as the age of the applicant decreases, it is necessary in using the following outline to start with the restrictions applicable to persons under 21 and then look at the restrictions on all the other age groups which would include the prospective employee in determining whether he may perform certain tasks. For example: An employer wishes to know whether he can hire

a boy 13 years old to run a freight elevator. Looking at IV (persons under 14 years) nothing is found that would prohibit it; but since any restriction that would apply to a male under 16 (III), under 18(II), and under 21 (I) would also apply to a male under 14, the employer must look under all those divisions. When he looks under III A 2 he sees that neither a male nor female under 16 can perform such duties. Since the person is 13, he is not subject to the restrictions in V and that division may be ignored in the solution of the example.

- I. No person under 21 years of age,
 - A. if female,
 1. shall be employed in any capacity where the work cannot be done except while standing.¹³
 - B. if male or female,
 1. shall serve beer in any place of business in which the selling of beer constitutes more than 50% of the gross business transacted.¹⁴ But a married person may serve beer in such establishments even though under 21.¹⁵
 2. shall be employed as driver of a motor vehicle used in the public transportation of freight or passengers for compensation between fixed termini, or over a regular route;¹⁶ or as driver of any motor vehicle used as a carrier of inflammables or combustibles, or as a public or common carrier of persons,¹⁷ unless such vehicle is a school bus.
- II. No person under 18 years of age,
 - A. if female,
 1. shall clean machinery while it is in motion,¹⁸
 2. shall be employed in a street trade¹⁹ in any town of 10,000 population or over.²⁰
 3. shall be employed in any public place²¹ in any town of 10,000 population or over.²²
 - B. male or female,
 1. shall be employed in delivering, transmitting, or distributing messages in cities of 10,000 or more between the hours of 10:00 P.M. and 5:00 A.M.²³
 2. shall be employed as driver of a motor vehicle used in the public transportation of freight for compensation which does not operate between fixed termini or over a regular route.²⁴

III. No person under 16 years of age,

A. male or female,

1. shall be employed before the hour of 7:00 A.M. or after the hour of 6:00 P.M. in: any store or mercantile establishment employing more than eight persons, in any mine, manufacturing establishment, factory, mill, shop, laundry, slaughter or packing house, livery stable, garage, place of amusement, or in delivering or transmitting merchandise or messages.²⁵ Males or females between the ages of 14 and 16 may work in such establishments between the hours of 7:00 A.M. and 6:00 P.M. if the employer procures a work permit issued by the superintendent of schools or the school board.²⁶ If the parents of the child employed operate the establishment it is impossible to ascertain whether the statutes require that he work only between the hours of 7:00 A.M. and 6:00 P.M. and whether he needs a work permit.²⁷
2. shall operate or assist in operating any freight or passenger elevator,²⁸
3. shall operate or assist in operating dangerous machinery unless they are pupils working under an instructor in manual training departments of public schools, or under an instructor in a school shop, or industrial plant in an approved course in vocational education.²⁹
4. shall be employed at any work which is dangerous or injurious to the health or morals, or about explosives, in or about a mine during the school term, in a hotel, cafe, restaurant, bowling alley, pool or billiard room, cigar store, barber shop, or any occupation dangerous to life or limb.³⁰
5. shall be employed to drive a school bus.³¹

B. if male,

1. shall clean machinery while it is in motion,³²
2. shall be employed in any public place or in any street trade in cities of 10,000 or more unless he is issued a badge by the officer authorized to issue work permits. Such a badge will allow him to work only at such times between 4:00 A.M. and 7:30 P.M. as the public schools are not in

session, and during summer school vacation until 8:30 P.M.³³

IV. No person under 14 years of age,

A. male or female,

1. shall be employed in those businesses and occupations listed above under III A 1 unless it is an establishment or occupation operated by the employee's parents.³⁴ If the establishment is so operated by the parents, it is impossible to determine whether the statutes require him to have a work permit and whether he is still subject to the hours stated in III A 1.³⁵

V. No person under 11 years of age,

A. if male,

1. shall be employed in any public place or in any street trade in towns of more than 10,000 except when a work permit is issued to him by the superintendent of schools.³⁶

CHAPTER II

Hours of Work

If persons under 21 years of age are employed, the employer should consult the section immediately preceding entitled "Age of the applicant." In addition to the provisions found in that section, the following comprise the Iowa law regulating hours of work.

Working on Sunday:

It is unlawful to perform any labor on Sunday except that of necessity or charity. However, this restriction does not apply to the tending or keeping of toll bridges, toll gates and ferries. Nor does it apply to those who conscientiously observe the seventh day of the week (Saturday) as the Sabbath.³⁷

Operation of Motor Vehicles:

Employees operating commercial motor vehicles on Iowa highways must be given at least eight hours off duty if they drive twelve hours out of each twenty-four hours. If they drive twelve *consecutive* hours out of any twenty-four hour period, they must be relieved from duty for ten consecutive hours.³⁸

Railroad Employees:

No railroad employee engaged in or connected with the movement of any rolling stock, engine, or train shall be permitted to work more than sixteen hours in any twenty-four hour period. If the employee works sixteen *consecutive* hours he must be given ten hours off duty before he may be permitted to resume work.³⁹ These restrictions do not apply, however, to work performed in the protection of life or property in cases of accident, wreck, or other unavoidable casualty, or prevent train crews from taking a passenger train, or freight train loaded exclusively with livestock or perishable freight to the next nearest division point upon such railroad; and it does not apply to that time necessary for the trainmen to reach a resting place when an accident, wreck, washout, snow blockade, or other unavoidable cause has delayed their train; nor do such restrictions apply to employees of sleeping car companies.⁴⁰

Time off for voting:

Any employee entitled to vote at a general election may, prior to the day of election, apply to his employer for time off to vote. The employer must then allow the employee to absent himself from work for a two-hour period during the time the polls are open. The employer is not allowed to deduct from the employee's wages for such absence, but the employer may specify which hours are to be taken off.⁴¹

Minors:

No person under 16 years of age shall be employed for more than 40 hours in any one week in organized school districts having part-time schools.⁴²

Persons under 16 employed in stores or mercantile establishments employing more than eight persons, mines, manufacturing establishments, factories, mills, shops, laundries, slaughter or packing houses, livery stables, garages, places of amusement, or in the distribution or transmission of merchandise or messages may not work more than eight hours in any one day, nor more than forty-eight hours a week. If such person is employed for more than five hours a day, he must be given a noon intermission of at least thirty minutes between 11:00 A.M. and 1:00 P.M.⁴³

CHAPTER III

Safety Appliances

Steam boilers:

Steam boilers must be provided with a safety valve.⁴⁴

Safety appliances:

The person in charge of any workshop, manufacturing, or other industrial establishment or concern operated by machinery must, so far as practicable, install and keep in order belt shifters or other safe mechanical means for throwing belts on and off pulleys, install loose pulleys; and protect, by guards or housing, all gearing, cogs, belting, shafting, tumbling rods, universal or knuckle joints, set screws, saws, planes, and other machinery, when so located or used that employees may receive injury thereby.⁴⁵ Such safety appliances may be removed or adjusted so as to impair their protective purpose if it is necessary to enable the employee operating said machine to perform any special work that cannot otherwise be performed; but it is the duty of the employer to immediately replace such safety device after such special work has been completed.⁴⁶

Blowers and pipes for dust:

Workshops and factories where emery wheels, emery belts, or tumbling barrels are used shall provide blowers and pipes so as to protect the user from the particles of dust produced or caused thereby, and to carry away said particles of dust directly to the outside of the building, or to some receptacle placed so as to receive or confine such dust. These requirements do not apply to grinding machines upon which water is used at the point of grinding contact, nor to small emery wheels used temporarily for tool grinding. Shops employing not more than one man at such work may, in the discretion of the labor commissioner, be exempt from the requirements stated above.⁴⁷

Pipes and flues for gases:

Any place where molten metal or other material which gives off deleterious gases or fumes is kept or used shall be equipped with pipes or flues so arranged as to give easy escape to such gases or fumes into the open air, or provided with other adequate ventilators.⁴⁸

Miscellaneous safety provisions:

Extensive safety provisions are provided for coal and gypsum mines, but since that is a very specialized area, they are not included here. Such provisions may be found in Chapters 82 and 83 of the Iowa Code (1950). Many provisions of the law which have a collateral bearing on the health and comfort of the employees such as the statutory requirements as to fire escapes are not included here because they are very technical and have no direct bearing on the employer-employee relationship.

CHAPTER IV

Facilities for Employees

Toilet facilities:

Every manufacturing establishment, workshop, or hotel in which five or more persons are employed, shall have a sufficient number of water closets, earth closets, or privies for the reasonable use of the employees. Such facilities shall be properly screened and ventilated and kept in a clean condition and free from all obscene writing and marking. There shall be at least one to each twenty employees, and if women or girls are employed, there shall be separate facilities and approaches.⁴⁹

Toilet facilities for the use of street railway employees must be provided and maintained at suitable locations along the route, and schedules shall be such as to permit employees to use such facilities.⁵⁰

Washing facilities:

Adequate washing facilities must be provided in factories, mercantile establishments, mills, and workshops for the employees; and if the work is of such character as to require a partial or complete change of clothing, separate dressing rooms and lockers for each sex must be provided. There must also be provided a sufficient supply of suitable drinking water.⁵¹

Seats for female employees:

All employers of females in any workshops, mercantile, or manufacturing establishments shall provide and maintain suitable seats, when practicable, for the use of such female employees, at or beside the counter or workbench where employed, and permit the use thereof by such employees to such extent as the work engaged in may reasonably admit.⁵²

CHAPTER V

Wages

Minimum wages:

There are no minimum wage laws in Iowa except those relating to school teachers.⁵³

Frequency of payment:

Railroad employees shall be paid at least semi-monthly. Each

payment must include all unpaid wages earned up to a time not more than 18 days prior to the date of payment. Employees absent on pay day, and employees leaving or being discharged from their employment shall be paid at any time on six days' notice. A railway corporation cannot secure exemption from these requirements by special contract with the employees.⁵⁴

Mine workers shall be paid on demand semi-monthly. Wages earned during the first 15 days of the month shall be paid not later than the first Saturday after the 20th of each month. Wages earned after the 15th day of each month shall be paid not later than the Saturday after the 5th of the succeeding month. Failure or refusal to make payment within 5 days after demand (if such demand is made on or after the due date as provided above) entitles the laborer to recover the amount due plus a penalty of \$1.00 for each day such payment is neglected or refused: but the total penalty may not exceed the amount originally due.⁵⁵ All such wages shall, on demand, be paid in money. No script, check, draft, order or other evidence of indebtedness shall be given in payment of wages unless it is redeemable in money at its face value.⁵⁶

To whom payment may be made:

Where a contract for the personal services of a minor⁵⁷ has been made with him alone, payment made to the minor in accordance with the terms of the contract precludes recovery by the parent or guardian.⁵⁸

Wages earned by a wife should be paid to her unless she has in some manner consented to their being paid to her husband or some other person, or a court has ordered that they be paid to someone other than the wife.⁵⁹

No assignment of wages by the head of a family is valid unless it is in writing and signed by the person making the assignment (and his or her spouse, if married) and acknowledged.⁶⁰

Deductions from wages for labor organization dues, charges, fees, contributions, fines, and assessments must not be made unless the employee presents the employer with a written assignment meeting the requirements in the above paragraph, and even then the assignment by the employee may be revoked by him at any time by giving thirty days' written notice to the employer.⁶¹

Computation of Wages:

Where a miner is to be paid by the ton or other quantity, the operator of the mine shall, unless otherwise agreed upon in writing, weigh the coal before screening and the miner shall be credited at

the rate of 80 pounds to the bushel and 2,000 pounds to the ton; but no payment shall be required for sulphur, rock, slate, blackjack, dirt, or other impurities which may be loaded or found with the coal.⁶²

Garnishment of employee's wages:

If one of the employees is sued by a creditor, the employer may receive a writ of attachment, garnishing any wages due the employee, and forbidding the employer to pay such wages to the employee.⁶³ The employer should strictly observe this prohibition because if he goes ahead and pays the wages to the employee, he may be forced to pay them a second time to the creditor.⁶⁴ Either the same or a subsequent notice⁶⁵ may order the employer to appear in court to answer questions concerning the amount he owes to the employee and whether he knows of any other persons owing money to or holding property belonging to the employee.⁶⁶ If the employer fails, without sufficient excuse to appear and answer such questions, he will be presumed to be indebted to the employee for the full amount of the creditor's claim.⁶⁷ After appearing and answering such questions, the creditor may disagree with the employer as to the amount the employer owes the employee and in that case the question may ripen into a full-fledged lawsuit between the creditor and the employer.⁶⁸ However, if there is no disagreement, the employer may exonerate himself from further responsibility by paying over to the sheriff the amount owing by the employer to the employee.⁶⁹

CHAPTER VI

Workmen's Compensation

Purpose:

The Iowa Supreme Court has said that the purpose of the Workmen's Compensation Act is to ". . . avoid litigation, lessen expense thereof, and afford an efficient speedy tribunal to determine and award compensation to injured employees."⁷⁰ The Iowa Act establishes a system of compensation for certain types of employees sustaining injuries arising out of and in the course of employment. The compensation is according to a statutory schedule which provides for the number of weeks during which compensation must be paid for a great number of accidents ranging from the loss of one joint of the little finger to loss of life.⁷¹ For all practical purposes, the compensation will range between \$12 and \$24 per week, depending upon the employee's wages.⁷² In addition to the weekly compensa-

tion, an employer coming under the provisions of the Act may be required to pay up to a maximum of \$500 for medical expenses, plus \$1,000 for hospital expenses, plus the total cost of ambulance and special nurse charges,⁷³ plus \$300 for burial expenses if the injury results in death.⁷⁴ The maximum amount which an employer might be forced to pay under the Act would seem to be \$11,400, plus all ambulance and special nurse charges. Such a payment would only be required in the highly unlikely situation of an employee becoming permanently and totally disabled and dying after 400 weeks of disablement as a result of the injury.

In return for coming under the Act and making payments according to the statutory schedule, the employer is released from all other liability—his liability is determined exclusively by the statute and is not determined by a jury.⁷⁵

Employees covered by the Act:

The Act does *not* cover: persons engaged in agriculture, insofar as injuries shall be incurred by employees while engaged in agricultural pursuits or any operations immediately connected therewith; household or domestic servants; or persons whose employment is of a casual nature.⁷⁶ All other employees come under the provisions of the Act unless they, or the employer, reject its provisions.⁷⁷

Rejection of the Act:

Either the employer or the employee may elect to reject the provisions of the Act and in such case the right to, and the amount of compensation, will be determined by a trial according to common law principles as modified by the Act.

Method of rejection:

Employers are automatically presumed to have consented to come under the Act.⁷⁸ The presumption may be overcome only if the employer files a notice to reject as provided by 85.4-.6 of The Code.

The employee may elect to waive the coverage of the Act by filing a notice to reject as provided by 85.9-.11 of The Code. Unless such a notice is filed by the employee, he is presumed to have accepted the coverage of the Act.⁷⁹

Results of rejecting the coverage of the Act:

The Act is so framed as to discourage either the employer or employee from rejecting its benefits.

If the employer alone rejects, or if both the employer and employee reject, then the employer will be presumed negligent, such negligence will be presumed to be the legal cause of the injury, and

the employer will not be allowed to avail himself of the common law defenses of contributory negligence, assumption of risk, and the fellow servant rule.⁸⁰

If the employee alone rejects, the employer may use all the common law defenses, except that assumption of risk may not be used as a defense in relation to the employer's failure to provide safety appliances as required by statute.⁸¹

Result of electing to be covered by the Act:

When neither party rejects the provisions of the Act, the employer must pay the statutory compensation for all personal injuries arising out of and in the course of employment,⁸² except that no compensation is required when the injury is caused by the employee's willful intent to injure himself or another, or intoxication of the employee was the proximate cause of the injury.⁸³

Reports of injuries:

Every employer must keep a record of all injuries sustained by his employees in the course of their employment and resulting in incapacity for a longer period than one day. If the injury results in disability for a longer period than seven days, then the employer must file a written notice with the Commissioner of the Workmen's Compensation Commission (on official forms procurable from the commissioner) within forty-eight hours, not counting Sundays and legal holidays, after the employer learns of such injury and resulting disability.⁸⁴

Occupational Disease Law:

The Iowa Occupational Disease Law is in most respects very similar to the Workmen's Compensation Act.⁸⁵ The dominant differences are in the coverage: the Occupational Disease Law covers all employees who, in the course of their employment, are exposed to an occupational disease among those listed in 85A.9 of The Code. If the employee comes within such class, coverage is mandatory⁸⁶ and there appears to be no provision for either the employer or employee to reject the provisions of the Act.

Compulsory insurance:

An employer subject to the Workmen's Compensation Act or the Occupational Disease Law must insure his liability in some company or association approved by the Commissioner of Insurance⁸⁷ or post a sufficient bond as required by Chapter 87 of The Code,⁸⁸ or furnish satisfactory proof to the commissioner of the employer's solvency and financial ability to pay the compensation and benefits as provided by law.

If the employer fails to insure (or post bond or convince the Insurance Commissioner of his financial ability) he is required to post a notice on the premises so stating and further stating that he is liable as if he had rejected the provisions of the Act.⁸⁹

If the employer insures his liability, it is a misdemeanor to withhold any part of an employee's salary for the purpose of paying the premium on such insurance.⁹⁰

CHAPTER VII

Labor Disputes

Labor Unions—general:

The labor of a human being, either mental or physical is not a commodity of commerce and it is lawful for men and women to organize themselves into or carry on unions for the purpose, by lawful means of lessening the hours of labor, or increasing the wages, or bettering the condition of the members of such organizations, or lawfully carrying out their legitimate purposes.⁹¹

Prohibited types of strikes:

It is unlawful for any labor union, its officers or representatives to enter into or carry out, or attempt to carry out by strikes or violence, or threats of either, any contract, agreement, arrangement, combination or conspiracy for the purpose of forcing or requiring:

1. any person, firm, or corporation to cease using, selling, handling, transporting or dealing in the goods or products of any other person, firm, or corporation, or
2. any person, firm, or corporation to cease selling, transporting, or delivering goods or products to any other person, firm, or corporation, or
3. any employer other than their own employer to recognize, deal with, comply with the demands of, or employ members of any labor union, association or organization, or
4. an employer to break an existing collective bargaining agreement which such employer may have with any labor union, association or organization.⁹²

It is unlawful for any labor union or its officers or representatives to cause a stoppage or slow down of work of an employer because of a dispute between unions or the officers or representatives thereof with respect to jurisdiction over, or the right to do the work or a part of the work of such employer.⁹³

Injunctions in labor disputes:

An employer may obtain an injunction against a strike if the purpose of the strike is to secure any of the objectives forbidden by the preceding section, or to secure a union or closed shop.⁹⁴ Picketing may be enjoined if its objective is not a proper one for concerted union activity, if the picketing is not conducted in such a way as to be reasonably related to the attainment of a permitted objective, or if it is carried on in such manner or in such numbers as to result in intimidation or a probable breach of the peace.⁹⁵

Here it is important to again emphasize that if the business is one affecting interstate commerce, the federal laws are applicable and it is much more difficult to obtain an injunction. The Norris-LaGuardia Act requires, among other things, that before an injunction can issue from a federal court, notice must be given to the union, there must be a hearing in open court, and the court must determine from the testimony that: unlawful acts have been threatened and will be continued unless restrained, substantial and irreparable injury to the complainant's property will follow if the injunction is not granted, greater injury will be inflicted upon the complainant by denial of the injunction than will be inflicted on the defendant by granting the injunction, the complainant has no adequate remedy at law, and the public officers charged with the duty to protect complainant's property are unwilling or unable to furnish adequate protection.⁹⁶

Arbitration of labor disputes:

Whenever a labor dispute involves ten or more employees and the business is not one in interstate commerce, the employer may petition the Governor to appoint a board of arbitration.⁹⁷ The board will investigate the facts and make an award but the award will be binding on the parties only if both parties so agree prior to the submission of the issue.⁹⁸ Even if both parties do not so agree, the award must be given publicity in local newspapers⁹⁹ and may indirectly bring about a settlement by arousing public sentiment. The parties are forbidden to engage in any strike or lockout for ten days following the appointment of the board.¹⁰⁰

CHAPTER VIII

Discharge of Employees

Discharge because of union activity:

An employer may not discharge an employee if the *only* ground for such discharge is that the:

1. employee is a member of a union, or
2. employee is not a member of a union, or
3. the employee refuses to join a union in the future, or
4. the applicant intends to resign from a union in the future, or
5. the employer has contracted or agreed with another person, firm, association, corporation, or labor organization to discharge employees for the grounds listed above.¹⁰¹

Discharge—national guard:

An employer may not discharge an employee solely because such employee is a member of the national guard.¹⁰²

Blacklisting:

It is unlawful for any person, agent, company, or corporation, after having discharged any employee from his or its service to prevent or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other employer except by furnishing in writing upon request a truthful statement as to the cause of the discharge.¹⁰³

Controlling vote of employee:

It is unlawful to discharge or threaten discharge of an employee in order to control or influence the employee as to how he shall vote.¹⁰⁴

FOOTNOTES

1. Stanislaus Implement & Hardware Co., Ltd., 91 N.L.R.B. No. 116 (1950).
2. Hollow Tree Lumber Co., 91 N.L.R.B. No. 113 (1950).
3. Federal Dairy Co., Inc., 91 N.L.R.B. No. 107 (1950).
4. Dorn's House of Miracles, 91 N.L.R.B. No. 82 (1950).
5. Rutledge Paper Products, Inc., 91 N.L.R.B. No. 115 (1950).
6. W.C. King d.b.a. Local Transit Lines, 91 N.L.R.B. No. 96 (1950).
7. W.B.S.R., Inc., 91 N.L.R.B. No. 110 (1950).
8. Borden Co., 91 N.L.R.B. No. 109 (1950).
9. Wesport Moving & Storage Co., 91 N.L.R.B. No. 149 (1950).
10. Iowa Code (1950) Sec. 736A.2.
11. Iowa Code (1950) Sec. 736A.3.
12. Iowa Code (1950) Sec. 29.5.
13. Iowa Code (1950) Sec. 92.11; Op. Atty. Gen., 1916, p. 78
14. Iowa Code (1950) Sec. 124.21.
15. Iowa Code (1950) Sec. 599.1.
16. Iowa Code (1950) Sec. 325.1.,29
17. Iowa Code (1950) Sec. 321.179.,220
18. Iowa Code (1950) Sec. 92.4.

19. "Street trades" include such things as peddling, selling or distributing newspapers, magazines, periodicals and circulars, and bootblacking, Iowa Code (1950) Sec. 92.12.
20. Iowa Code (1950) Sec. 92.12.
21. "Public places" does not mean hotels, office buildings, department stores or the like; but means unenclosed public places like a street, alley, park, open court or some place of the sort to which the whole public has access, Op. Atty. Gen., 1916, p. 78.
22. Iowa Code (1950) Sec. 92.12.
23. Iowa Code (1950) Sec. 92.14.
24. Iowa Code (1950) Sec. 327.1, 18.
25. Iowa Code (1950) Sec. 92.2.
26. Iowa Code (1950) Sec. 92.5; but no permit is required for a child under 16 to work in a store or mercantile establishment employing less than 9 persons, Op. Atty. Gen. 1938, p. 852.
27. "The present (child labor) laws are so obsolete, so ambiguous as to be of little use in the regulation of child welfare. The Attorney General, when attempting an interpretative ruling for our department, admits this to be true." Report of the Bureau of Labor, Iowa, (1950). The underlying policy provisions, as well as the statutory provisions, conflict on this point. See: Iowa Code (1950) Sec. 92.5, "A work permit shall be issued for every position obtained by a child between the ages of fourteen and sixteen years. The permit in no case shall be issued to the . . . parent . . . but to its prospective employer." Op. Atty. Gen., 1916, p. 78 to the effect that the limitation on hours applies even where the parent is the employer; State v. Erle, 210 Ia. 974 (1930) to the effect that hours may not be restricted, and a work permit may not be required where the parent is the employer.
28. Iowa Code (1950) Sec. 92.4(2).
29. Iowa Code (1950) Sec. 92.4(3).
30. Iowa Code (1950) Sec. 92.11; A person under 16 may not be employed in such establishments or occupations even though the establishment or occupation is owned and/or operated by his parents, Op. Atty. Gen. 1950, p. 169.
31. Iowa Code (1950) Sec. 321.375.
32. Iowa Code (1950) Sec. 92.4(1).
33. Iowa Code (1950) 92.13; See footnotes 19 and 21 supra, as to the meaning of "public places" and "street trades".
34. Iowa Code (1950) Sec. 92.1.
35. Even though the statute does not specifically require a permit when the parents are the employers, it is suggested that the parents apply for a work permit, thus protecting themselves no matter how the question is resolved. See footnote 27, supra.
36. Iowa Code (1950) Sec. 92.12.
37. Iowa Code (1950) Sec. 729.1. Though the statute still remains on the books unrepealed, it has, in effect, been repealed by obsolescence and desuetude.
38. Iowa Code (1950) Sec. 321.225, 226.
39. Iowa Code (1950) Sec. 477.45.
40. Iowa Code (1950) Sec. 477.46.
41. Iowa Code (1950) Sec. 49.109. These provisions must be interpreted in a reasonable manner. If an employee's shift or workday ends more than 2

- hours before the closing of the polls, he would not necessarily be entitled to time off to vote during work hours.
42. Iowa Code (1950) Sec. 92.3. The statutory provisions regarding the establishment of part-time schools may be found in Chapter 289 of the Iowa Code (1950). It is suggested that, rather than consulting the Code to determine the existence of such part-time schools in the particular school district, the employer merely contact one of the local school officials.
 43. Iowa Code (1950) Sec. 92.2.
 44. Iowa Code (1950) Sec. 88.5.
 45. Iowa Code (1950) Sec. 88.6.
 46. Iowa Code (1950) Sec. 88.7.
 47. Iowa Code (1950) Sec. 88.8.
 48. Iowa Code (1950) Sec. 88.9.
 49. Iowa Code (1950) Sec. 88.2.
 50. Iowa Code (1950) Sec. 402.3(4).
 51. Iowa Code (1950) Sec. 88.3.
 52. Iowa Code (1950) Sec. 88.4.
 53. Iowa Code (1950) Sec. 294.6, 7.
 54. Iowa Code (1950) 477.51.
 55. Iowa Code (1950) Sec. 82.112.
 56. Iowa Code (1950) Sec. 82.113.
 57. "Minors" means all persons under 21 years of age, but all persons attain their majority by marriage, Iowa Code (1950) Sec. 599.1.
 58. Iowa Code (1950) Sec. 599.4.
 59. Iowa Code (1950) Sec. 597.16.
 60. Iowa Code (1950) Sec. 539.4.
 61. Iowa Code (1950) Sec. 736A.5.
 62. Iowa Code (1950) Sec. 82.111.
 63. R.C.P. Sec. 54b
 64. Iowa Code (1950) Sec. 642.13.
 65. Iowa Code (1950) Sec. 642.6.
 66. Iowa Code (1950) Sec. 642.5, 7.
 67. Iowa Code (1950) Sec. 642.9.
 68. Iowa Code (1950) Sec. 642.11.
 69. Iowa Code (1950) Sec. 642.10.
 70. Shepard v. Carnation Milk Co., 220 Ia. 466; 262 N.W. 110 (1935)
 71. Iowa Code (1950) Sec. 85.35.
 72. Iowa Code (1950) Sec. 85.36, 37
 73. Iowa Code (1950) Sec. 85.27.
 74. Iowa Code (1950) Sec. 85.28.
 75. Iowa Code (1950) Sec. 85.20.
 76. Iowa Code (1950) Sec. 85.1. The line between casual and non-casual employment is not clear and the courts construe the words strictly against the employer in order to increase the coverage of the Act. If the work performed is for the purpose of the employer's business or trade, it will probably be considered non casual, Dial v. Coleman's Lunch, 217 Ia. 945; 251 N.W. 33 (1934); Gardner v. Trustees of M.E. Church, 217 Ia. 1390, 250 N.W. 740 (1934).
 77. Iowa Code (1950) Sec. 85.3, 17
 78. Iowa Code (1950) Sec. 85.3. However, employers engaged in agriculture and also engaged in any other trade or business not excluded by the Act

must serve notice on the Industrial Commissioner as prescribed in Sec. 85.1(3) of the Iowa Code (1950) before they are presumed to have elected to come under the coverage of the Act.

79. Iowa Code (1950) Sec. 85.18.
80. Iowa Code (1950) Sec. 85.14,15.
81. Iowa Code (1950) Sec. 85.7,.8. Since if either party rejects the Act is not applicable and since the employer is in a better position in relation to available defenses when only the employee rejects; if both parties reject the employer may gain an advantage by waiving his rejection as provided in Sec. 85.13 of the Iowa Code (1950).
82. Iowa Code (1950) Sec. 85.3.
83. Iowa Code (1950) Sec. 85.16.
84. Iowa Code (1950) Sec. 86.11.
85. Iowa Code (1950) Sec. 85A.16.
86. Iowa Code (1950) Sec. 85A.3.
87. Iowa Code (1950) Sec. 87.1.
88. Iowa Code (1950) Sec. 87.11.
89. Iowa Code (1950) Sec. 87.2.
90. Iowa Code (1950) Sec. 85.54.
91. Iowa Code (1950) Sec. 553.11.
92. Iowa Code (1950) Sec. 736B.1,.2.
93. Iowa Code (1950) Sec. 736B.3.
94. Iowa Code (1950) Sec. 736A.7, 736B.5.
95. Carpenters & Joiners Union of America v. Ritters Cafe, 315 U.S. 722 (1942); N.L.R.B. v. Indiana Desk Co., 149 F. 2d 987 (CCA 7th, 1945); James v. Maranship Corp., 25 Calif. 2d 721, 155 Pac. 2d 329 (1944). See: Thornhill v. Alabama, 310 U.S. 88, 105 (1940).
96. 47 Stat. 70 (1932), 29 U.S.C. Sec. 107 (1946).
97. Iowa Code (1950) Sec. 90.1.
98. Iowa Code (1950) Sec. 90.5.
99. Iowa Code (1950) Sec. 90.14.
100. Iowa Code (1950) Sec. 90.12.
101. Iowa Code (1950) Sec. 736A,.1,.2,.3.
102. Iowa Code (1950) Sec. 29.5.
103. Iowa Code (1950) Sec. Ch. 736.
104. Iowa Code (1950) Sec. 49.110.

Additional copies of this publication may be obtained
for 25 cents. Orders should be addressed to:

BUREAU OF LABOR AND MANAGEMENT

STATE UNIVERSITY OF IOWA

15 Macbride Hall

Iowa City, Iowa

Karl E. Leib, Acting Director

3 1723 02106 2716



STATE LIBRARY OF IOWA