

CHAPTER 141.

[S. S. B. 257.]

WASHINGTON STATE INDUSTRIAL RECOVERY ACT.

AN ACT to encourage state and national industrial recovery by cooperating with the national government in fostering fair competition, to establish standards of fair competition in trade and industry, providing penalties for violations of this act, declaring an emergency and repealing chapter 50, Laws of Extraordinary Session 1933.

Be it enacted by the Legislature of the State of Washington:

National
emergency.

Statewide
emergency.

Purpose
of act.

Cooperation.

SECTION 1. The existence of a national emergency productive of widespread unemployment, and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare, and undermines the standards of living of the American people is hereby recognized, and it is hereby declared that such national emergency contributes to the existence of a similar statewide emergency productive of similar conditions in this state, which affect the industry and commerce of this state and the welfare of its citizens, and that the existence of the statewide emergency contributes to the existence of the national emergency. It is hereby declared to be the purpose of this act and the policies of this state, to supplement and to cooperate in effectuating national policy, to meet the emergency, to insure uniformity of state regulation of commerce with national regulation, to remove obstructions to the free flow of commerce which tend to diminish the amount thereof, and to provide for the general welfare; by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the full-

est possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products by increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and otherwise rehabilitating industry and conserving natural resources. The foregoing policies shall be the standards for, and limitations upon the exercise by the governor of powers provided for in the subsequent sections of this act.

Increasing purchasing power.

Standards and limitations.

SEC. 2. National codes of fair competition, agreements, orders, rules and regulations now in effect for trades or industries or sub-divisions thereof are presumed to effectuate the policy and requirements of this act, and shall be effective as state codes and as standards of fair competition for such trades or industries or sub-divisions thereof in all transactions within the State of Washington with the same force and effect as if applied for and approved pursuant to section 3 hereof, and any violation of such standards shall be deemed an unfair method of competition and a violation of this act.

National codes.

State codes.

Violation.

SEC. 3. (a) Upon application to the governor by one or more trade or industrial associations or groups, the governor shall approve a code or codes of fair competition for the trade or industry, or subdivision thereof, represented by the applicant or applicants, if the governor, after such hearing as he may deem necessary, finds: (1) That such associations or groups impose no inequitable restriction on admission to membership therein, and are truly representative of such trades or industries or subdivisions thereof, and (2) that such codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectu-

Governor's approval of codes.

No restriction on membership.

Monopolies.

ate the policy of this act: *Provided*, That such code or codes shall not permit monopolies or monopolistic practices: *And provided further*, That where such code or codes affect the services and welfare of persons engaged in other steps of the economic process, nothing in this section shall deprive such persons of the right to be heard prior to approval of such code or codes: *And provided further*, That such code, or codes, except as to administrative provisions, conforms to the corresponding national code of fair competition or agreement adopted as provided in sections 2 and 6 of this act upon all matters which are the subject of provisions of such national code or agreement, and that the administrative provisions do not provide for any agency duplicating, overlapping or conflicting with any provided for in such national code or agreement, and that no provision is contained therein for assessing costs of code administration on members of the trade or industry or subdivision thereof if assessment of costs of code administration is provided for in such national code or agreement. The governor may as a condition of his approval of any code impose such other conditions (including requirements for the making of reports and the keeping of accounts), for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and shall provide such exceptions to and exemptions from the provisions of such code as he finds necessary to effectuate the policy and requirements herein declared: *Provided*, That where there is a corresponding national code adopted as provided in sections 2 and 6 of this act he shall impose conditions and provide exceptions and exemptions to maintain the conformity of such code and of his approval thereof with corresponding conditions, exceptions and exemptions in and under such corresponding

Right of a hearing.

In conformity with national code.

Governor may impose other conditions.

Governor may provide exceptions and exemptions.

national code and the order of approval thereof respectively, so adopted.

(b) Every code of fair competition approved by the governor under the provisions of this act shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee, and no one seeking employment, shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the governor.

Code of fair competition, contents of.

(c) Every such code shall further specify and prohibit any unfair methods of competition, unjust, unreasonable, improper, insufficient, inefficient, or inadequate method or methods of carrying on said trade or industry, and any practices which will tend to demoralize trade or industry, oppress or prejudice employees, increase unemployment, lower standards of labor, obstruct or impede the rehabilitation of industry or in any other manner tend to defeat the carrying out of the declared purposes of this act.

Prohibition of unfair methods.

(d) The governor shall prescribe such orders, rules and regulations as he finds necessary to carry out the purposes and provisions of this act, and to maintain conformity of such codes to the corresponding national codes and agreements adopted as provided in sections 2 and 6 of this act, and any vio-

Governor to prescribe rules and regulations.

lation of such order, rule or regulation shall be a violation of this act.

Governor
may cancel
or modify.

(e) The governor may from time to time, after such hearing as he may deem necessary, cancel or modify any code, order, approval, rule or regulation approved or issued by him to effectuate the policy herein declared or to maintain conformity to the corresponding national code, agreement, order, approval, rule or regulation, and to national legislation designed to effectuate policies corresponding to those set forth in section 1 of this act, and such code of fair competition approved by the governor shall contain an express provision to this effect, in lieu of any similar corresponding provisions in the corresponding national code, if any.

Approval
by
governor.

(f) When any existing national code of fair competition or agreement shall have been amended, or any additional national code shall have become effective in accordance with the provisions of any national legislation, the governor shall within twenty (20) days after filing with him of an application for adoption of same, after such hearing as he may deem necessary, approve said code, agreement or amendment by order based upon findings that such application and code, agreement or amendment conform to the requirements of subdivisions (a), (b), and (c) of this section, or shall upon his own motion or upon petition of any person affected by such code, agreement or amendment, suspend the effective date thereof pending hearing. If said code, agreement or amendment be so suspended the governor shall enter upon a hearing concerning said code, agreement or amendment, and upon conclusion of such hearing shall make findings of fact and enter an order based thereon approving or rejecting, in whole or in part, said code, agreement or amendment. Said code, agreement or amendment shall become effective upon approval by the governor: *Pro-*

Suspension.

Code
effective
when.

vided, however, That if said code or amendment is suspended the findings and order herein provided to be made shall be entered within thirty (30) days from the date of suspension thereof. Thirty days.

(g) Hearings provided in this act may be conducted by the governor personally or by his representative or any agency appointed or designated by him for that purpose. Any representative of the governor conducting a hearing in any proceeding shall, upon conclusion thereof, submit to the governor proposed findings of fact and order to be entered in such proceeding, together with the exhibits and a transcript of the testimony received at such hearing: *Provided, however,* That the governor may, in lieu of a transcript, direct that an abstract of testimony be submitted, such abstract to be certified by such representative as a full, true and correct abstract of such testimony. The governor is authorized thereupon to adopt or reject, in whole or in part, said proposed findings of fact and order and to make such findings of fact and order, based upon the testimony and exhibits received at said hearing, as he may deem just and proper in the premises to carry out the declared purposes of this act. Hearings :
conduction
of.

(h) After the governor shall have approved any code or amendment or part thereof or shall have prescribed any order, rule or regulation as herein provided, the same shall be filed with the director of labor and industries, and the provisions thereof shall be the standards of fair competition for such trade or industry or subdivision thereof in all transactions within the State of Washington, and any violation of such standards shall be deemed an unfair method of competition and a violation of this act. Code or
amendment
filed with
director of
labor and
industries.

Violation.

SEC. 4. Every code, rule, order or regulation, approved, issued or promulgated by the governor under the provisions of this act may be reviewed as provided in the laws of this state governing writs May be
reviewed
upon
petition.

of review upon petition filed by any person, (including, but without limitation, any code authority or its authorized representative) in the superior court for Thurston county within ten days after said code, rule, order or regulation shall have been filed with the director of labor and industries.

Ten days
after filing.

SEC. 5. Any code authority, or its duly authorized representative, administering a national code of fair competition effective under this act as a state code shall have powers and duties for the administration of such code corresponding to the powers and duties vested in it as a code authority for the administration of a national code. When a state code, or a national code effective as a state code, contains provisions for the levy of assessments upon members of the trade or industry of subdivisions thereof, to support the administration of said code and such levy has been duly approved pursuant to the provisions of the applicable code, orders, rules and regulations, the code authority, or its representative, administering such code is empowered to levy such assessment against all members of such trade or industry or subdivision thereof engaged in business, whether interstate or intrastate, within the State of Washington and to institute actions for the collection thereof in its own name in the courts of this state having jurisdiction over the amount involved: *Provided, however,* That no person who shall have paid any assessment levied under the provisions of a national code adopted as a state code, or who shall have been duly exempted from such payment, shall be liable for the same assessment by reason of such adoption.

Powers and
duties for ad-
ministration
of code.

Levy of
assessments.

Collection
of.

Liability.

SEC. 6. Agreements, as hereinafter defined and adopted as herein provided are presumed to effectuate the policies declared in section 1 of this act and shall be effective as the standards of fair competition for the persons, organizations, or groups,

Effective as
standards of
fair competi-
tion.

parties thereto in all transactions within the State of Washington, and any violation of any such standards shall be deemed an unfair method of competition and a violation of this act. Violation.

SEC. 7. (a) Any person who shall violate any national code of fair competition adopted as herein provided or any provision of this act shall upon conviction thereof be subject to a fine of not more than five hundred (\$500.00) dollars for each offense, and each day such violation continues shall be deemed a separate offense. A judgment of conviction or acquittal on the merits under the laws of the United States shall be a bar to any prosecution hereunder for the same act or acts. Acquittal on the ground that the defendant was not engaged in a transaction subject to federal regulation shall not be deemed an acquittal on the merits for the purpose of this section. Violation. Penalty.

(b) Any person whose interest may be affected, including, but without limitation, any code authority or its duly authorized representative, the attorney-general or any prosecuting attorney of the state, may institute a suit to prevent and restrain any violation of this act. The superior courts of this state shall have jurisdiction of such suits. Attorney general or prosecuting attorney.

(c) It shall be the duty of the attorney general and also of the several prosecuting attorneys of this state to enforce this act by proceedings as herein provided for, to be brought in the name of the state: *Provided, however,* That nothing herein contained shall be construed as abridging the right of any person to institute any suit or action under the provisions of subdivision (b) of this section. Enforcement of act.

SEC. 8. Any employer subject to the provisions of any code of fair competition or agreement who pays an employee wages at a rate below the minimum provided for therein shall be liable to pay and shall pay to any such employee the difference be- Liability of employer.

Payments.

tween the wages actually received by such employee and those to which such employee would have been entitled if paid at the minimum rate provided for by such code or agreement, and such employee may bring an action to recover such sum. In any such action the employer shall be liable to pay and shall pay in addition to the costs now allowed by law reasonable attorney fees to be set by the court together with a per diem allowance to plaintiff for attendance in court equal to the daily rate of wage found due such employee.

Copy admissible in evidence.

SEC. 9. Any copy of a national code of fair competition, any amendment thereof or any order, rule or regulation relating thereto, and any agreement which bears the imprint of the United States Government Printing Office, Washington, D. C., or of the state printer, shall be admissible in evidence in the courts of this state, without certification or exemplification of any kind, as prima facie evidence of the contents of the original.

Utilize national agencies.

SEC. 10. To effectuate the policy and requirements of this act, the governor is hereby authorized, with the consent of the national government to utilize such national agencies, officials and employees and to consent to the utilization of such state and local officers and employees by the president and agencies of the United States as the governor may deem necessary for the administration of national codes of fair competition and agreements insofar as they are effective in this state under this act.

Certified bids.

SEC. 11. (a) In furtherance of the purposes of this act all invitations to bidders hereafter made by this state, any political subdivision thereof, or any municipal corporation, by any institution, agency, or department of any of them, shall contain a provision to the effect that no bid shall be considered unless it is accompanied by a certificate, duly executed by the

bidder, stating that the bidder is complying with and will continue to comply with each approved code of fair competition to which he is subject, or, if he is engaged in any trade or industry for which there is no such code, stating that as to such trade or industry he has become a party to and is complying with and will continue to comply with an agreement as hereinafter defined. All contracts and purchase orders authorized by this state or any political subdivision thereof, or any municipal corporation, or by any department, agency or institution of any of them, shall contain a provision to the effect that the party awarded any such contract or purchase order shall comply with each approved code of fair competition to which he is subject and if engaged in a trade or industry for which there is no such code, then as to such trade or industry, with an agreement as aforesaid, and a provision to the effect that such party, in the fulfillment of such contracts or purchase orders, shall require certificates that all articles, materials, services and supplies used therein have been mined, produced, manufactured or supplied in full compliance with the applicable codes of fair competition or with an agreement as aforesaid.

Contracts
and purchase
orders.

(b) Any person who shall make or procure or cause to be made or procured any false certificate in this section provided to be made or procured shall be guilty of a violation of this act, and in event of any such false certificate by any such person, any contract, subcontract or purchase order to which he is party, in connection with which such false certificate is made or procured, shall be cancelled by the other party thereto.

False
certificates.

Violation.

Sec. 12. This act shall not apply to agricultural, horticultural or viticultural industries, or any parts or subdivisions thereof: *Provided*, That any such industry or subdivision thereof may upon the approval of 65% of the volume of business and 51%

Exceptions.

of the persons, firms or corporations engaged in such industry or subdivision thereof make application to the governor for a code of fair competition as provided in this act: *Provided*, That the provisions of this section shall not apply to the owner or operator of any motor vehicle operated for hire, or to the livestock, or meat packing industries, or to the oyster industry: *Provided, further*, That this act shall not be construed to modify, repeal, amend, or effect [affect] any of the provisions of the Washington agricultural adjustment act.

Does not affect Washington agricultural adjustment act.

In effect until.

SEC. 13. This act shall remain in effect until and including June 30, 1937.

Defining: "national code of fair competition."

SEC. 14. As used in this act: The term "national code of fair competition" means a code of fair competition which has been or may be approved, issued or prescribed by the president of the United States or by any national agency duly authorized for that purpose, as the standards of fair competition for any trade, industry, or subdivision thereof, if such code meets the requirements set forth in the clauses numbered (1) and (2) of subdivisions (a) and the clauses numbered (1), (2), and (3) of subdivision (b) and subdivision (c) of section 3 of this act, and said term includes any limited code of fair competition so approved, issued or prescribed.

"Agreement."

The word "agreement" means any agreement which the president of the United States, or any national agency duly authorized for the purpose, has entered into with, or approved between and among, persons engaged in a trade or industry, labor organizations and trade or industrial organizations, or groups, relating to any trade or industry, to aid in effectuating the policy of this act, if such agreement meets the requirements set forth in clauses numbered (1), (2) and (3) of subdivision (b) and subdivision (c) of section 3 of this act.

The term "code of fair competition," "limited code of fair competition" or "agreement" include all supplements, amendments, modifications, exemptions and exceptions and all orders, rules and regulations applying to such code or agreement, or affecting its application or construction.

"Code of fair competition."
"Limited code of fair competition."
"Agreement."

The word "person" includes, but without limitation, any individual, partnership, association, trustee, receiver, assignee for the benefit of creditors, or corporation.

"Person."

The word "conformity" means the imposition of identical duties, obligations, rights, and powers by the use of identical language, as near as may be.

"Conformity."

SEC. 15. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of this act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Partial invalidity.

SEC. 16. This act may be known and cited as the Washington Industrial Recovery Act.

Washington industrial recovery act.

SEC. 17. That chapter 50, Laws of Extraordinary Session, 1933, be, and it is hereby repealed, but such repeal shall not be construed or operate to abate any action heretofore instituted in any court of this state under said chapter 50, and all said actions shall be prosecuted and judgment rendered as though said chapter 50 were in full force and effect.

Repeals ch. 50, Laws of 1933.

Exception.

SEC. 18. This act is necessary for the immediate preservation of the public peace, health and safety, for the support of the state government and its existing public institutions and shall take effect immediately upon approval by the governor.

Effective immediately.

Passed the Senate March 5, 1935.

Passed the House March 13, 1935.

Approved by the Governor March 21, 1935.