

87TH CONGRESS
1ST SESSION

H. R. 5704

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1961

Mr. FOGARTY introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To establish standards for hours of work and overtime pay of laborers and mechanics employed on work done under contract for, or with the financial aid of, the United States, for any territory, or for the District of Columbia, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Work Hours Act of 1961"
4 and title I may be cited as the "Contract Work Hours
5 Standards Act".

6 SEC. 2. As used in this Act, the term "this Act" means
7 the Work Hours Act of 1961 except in title I, where it means
8 the Contract Work Hours Standards Act.

1 TITLE I—CONTRACT WORK HOURS STANDARDS
2 ACT

3 SEC. 101. As used herein, the term "Secretary" means
4 the Secretary of Labor, United States Department of Labor.

5 SEC. 102. (a) Notwithstanding any other provision of
6 law, the wages of every laborer and mechanic employed
7 by any contractor or subcontractor in his performance of
8 work on any contract of the character specified in section
9 103 shall be computed on the basis of a standard workday
10 of eight hours and a standard workweek of forty hours,
11 and work in excess of such standard workday or workweek
12 shall be permitted subject to the provisions of this section.
13 For each workweek in which any such laborer or mechanic
14 is so employed, such wages shall include compensation, at
15 a rate not less than one and one-half times the basic rate
16 of pay, for all hours worked in excess of eight hours in any
17 calendar day or in excess of forty hours in the workweek,
18 as the case may be.

19 (b) The following provisions shall be a condition of
20 every contract of the character specified in section 103 and
21 of any obligation of the United States, any Territory, or
22 the District of Columbia in connection therewith:

23 (1) No contractor or subcontractor contracting for any
24 part of the contract work which may require or involve the
25 employment of laborers or mechanics shall require or permit

1 any laborer or mechanic, in any workweek in which he is
2 employed on such work, to work in excess of eight hours
3 in any calendar day or in excess of forty hours in such
4 workweek except in accordance with the provisions of this
5 Act; and

6 (2) In the event of violation of the provisions of para-
7 graph (1), the contractor and any subcontractor responsible
8 therefor shall be liable to such affected employee for his
9 unpaid wages and shall, in addition, be liable to the United
10 States (or, in the case of work done under contract for the
11 District of Columbia or a territory, to such District or to
12 such territory) for liquidated damages as provided therein.
13 Such liquidated damages shall be computed, with respect
14 to each individual employed as a laborer or mechanic in
15 violation of any provision of this Act, in the sum of \$10 for
16 each calendar day on which such individual was required or
17 permitted to work in excess of eight hours or in excess of the
18 standard workweek of forty hours without payment of the
19 overtime wages required by this Act. The governmental
20 agency for which the contract work is done or by which
21 financial assistance for the work is provided may withhold
22 or cause to be withheld, subject to the provisions of section
23 104, from any moneys payable on account of work performed
24 by a contractor or subcontractor, such sums as may adminis-
25 tratively be determined to be necessary to satisfy any liabili-

1 ties of such contractor or subcontractor for unpaid wages and
2 liquidated damages as herein provided.

3 SEC. 103. (a) The provisions of this Act shall apply,
4 except as otherwise provided, to any contract which may re-
5 quire or involve the employment of laborers or mechanics
6 upon a public work of the United States, of any territory,
7 or of the District of Columbia, and to any other contract
8 which may require or involve the employment of laborers
9 or mechanics if such contract is one (1) to which the United
10 States or any agency or instrumentality thereof, any terri-
11 tory, or the District of Columbia is a party, or (2) which is
12 made for or on behalf of the United States, any agency or
13 instrumentality thereof, any territory, or the District of
14 Columbia, or (3) which is a contract for work financed in
15 whole or in part by loans or grants from, or loans insured
16 or guaranteed by, the United States or any agency or instru-
17 mentality thereof under any statute of the United States pro-
18 viding wage standards for such work. Except as otherwise
19 expressly provided, the provisions of the Act shall apply to
20 all laborers and mechanics, including watchmen and guards,
21 employed by any contractor or subcontractor in the per-
22 formance of any part of the work contemplated by any such
23 contract, and for purposes of this Act laborers and mechanics
24 shall include workmen performing services in connection with
25 dredging or rock excavation in any river or harbor of the

1 United States or of any territory or of the District of Colum-
2 bia, but shall not include any employee employed as a sea-
3 man.

4 (b) This Act shall not apply to contracts for transporta-
5 tion by land, air, or water, or for the transmission of intelli-
6 gence, or for the purchase of supplies or materials or articles
7 ordinarily available in the open market. This Act shall not
8 apply with respect to any work required to be done in ac-
9 cordance with the provisions of the Walsh-Healey Public
10 Contracts Act (49 Stat. 2036; 41 U.S.C. 35-45).

11 SEC. 104. (a) Any officer or person designated as in-
12 spector of the work to be performed under any contract of
13 the character specified in section 103, or to aid in the en-
14 forcement or fulfillment thereof shall, upon observation or
15 investigation, forthwith report to the proper officer of the
16 United States, of any territory or possession, or of the
17 District of Columbia, all violations of the provisions of this
18 Act occurring in the performance of such work, together
19 with the name of each laborer or mechanic who was required
20 or permitted to work in violation of such provisions and the
21 day or days of such violation. The amount of unpaid wages
22 and liquidated damages owing under the provisions of this
23 Act shall be administratively determined and the officer or
24 person whose duty it is to approve the payment of moneys

1 by the United States, the territory, or the District of Colum-
2 bia in connection with the performance of the contract work
3 shall direct the amount of such liquidated damages to be with-
4 held for the use and benefit of the United States, said terri-
5 tory, or said District, and shall direct the amount of such un-
6 paid wages to be withheld for the use and benefit of the
7 laborers and mechanics who were not compensated as re-
8 quired under the provisions of this Act. The Comptroller
9 General of the United States is hereby authorized and di-
10 rected to pay directly to such laborers and mechanics, from
11 the sums withheld on account of underpayments of wages,
12 the respective amounts administratively determined to be
13 due, if the funds withheld are adequate, and if not, an equi-
14 table proportion of such amounts.

15 (b) If the accrued payments withheld under the terms
16 of the contracts, as aforesaid are insufficient to reimburse all
17 the laborers and mechanics with respect to whom there has
18 been a failure to pay the wages required pursuant to this
19 Act, such laborers and mechanics shall in the case of a
20 department or agency of the Federal Government, have the
21 right of action and/or of intervention against the contractor
22 and his sureties conferred by law upon persons furnishing
23 labor or materials, and in such proceedings it shall be no
24 defense that such laborers and mechanics accepted or agreed

1 to accept less than the required rate of wages or voluntarily
2 made refunds.

3 (c) Any contractor or subcontractor aggrieved by the
4 withholding of a sum as liquidated damages as provided in
5 this Act shall have the right within sixty days thereafter to
6 appeal to the head of the agency of the United States or of
7 the territory for which the contract work is done or by which
8 financial assistance for the work is provided, or to the Com-
9 missioners of the District of Columbia in the case of liqui-
10 dated damages withheld for the use and benefit of said Dis-
11 trict. Such agency head or Commissioners, as the case may
12 be, shall have authority to review the administrative deter-
13 mination of liquidated damages and to issue a final order
14 affirming such determination; or, if it is found that the sum
15 determined is incorrect or that the contractor or subcon-
16 tractor violated the provisions of this Act inadvertently not-
17 withstanding the exercise of due care on his part and that
18 of his agents, recommendations may be made to the Secre-
19 tary that an appropriate adjustment in liquidated damages
20 be made, or that the contractor or subcontractor be relieved
21 of liability for such liquidated damages. The Secretary shall
22 review all pertinent facts in the matter and may conduct
23 such investigations as he deems necessary, so as to affirm or
24 reject the recommendation. The decision of the Secretary

1 shall be final. In all such cases in which a contractor or
2 subcontractor may be aggrieved by a final order for the with-
3 holding of liquidated damages as hereinbefore provided, such
4 contractor or subcontractor may, within sixty days after
5 such final order, file a claim in the Court of Claims: *Provided,*
6 *however,* That final orders of the agency head, the Commis-
7 sioners of the District of Columbia or the Secretary, as the
8 case may be, shall be conclusive with respect to findings of
9 fact if such findings are supported by substantial evidence.

10 (d) Reorganization Plan Numbered 14 of 1950 (15
11 F.R. 3175; 64 Stat. 1267) shall be applicable with respect
12 to the provisions of this Act, and section 2 of the Act of
13 June 13, 1934, as amended (48 Stat. 948; 54 Stat. 1236;
14 63 Stat. 108; 40 U.S.C. 276c), shall be applicable with re-
15 spect to those contractors and subcontractors referred to
16 therein who are engaged in the performance of contracts
17 subject to the provisions of this Act.

18 SEC. 105. The Secretary may provide such reasonable
19 limitations and may make such rules and regulations allow-
20 ing reasonable variations, tolerances, and exemptions to and
21 from any or all provisions of this Act as he may find neces-
22 sary and proper in the public interest to prevent injustice
23 or undue hardship or to avoid serious impairment of the con-
24 duct of Government business.

25 SEC. 106. Any contractor or subcontractor whose duty

1 it shall be to employ, direct, or control any laborer or me-
2 chanic employed in the performance of any work contem-
3 plated by any contract to which this Act applies, who shall
4 intentionally violate any provision of this Act, shall be
5 deemed guilty of a misdemeanor, and for each and every such
6 offense shall, upon conviction, be punished by a fine of not
7 to exceed \$1,000 or by imprisonment for not more than six
8 months, or by both such fine and imprisonment, in the dis-
9 cretion of the court having jurisdiction thereof.

10 TITLE II—MISCELLANEOUS AND EFFECTIVE
11 DATE

12 SEC. 201. The proviso of section 23 of the Act of March
13 28, 1934 (48 Stat. 509, 522), as amended, is hereby
14 amended to read as follows: "*Provided*, That the regular
15 hours of labor are hereby established at not more than
16 eight per day or forty per week, but work in excess of such
17 hours shall be permitted when administratively determined
18 to be in the public interest: *Provided further*, That overtime
19 work in excess of eight hours per day or in excess of forty
20 hours per week shall be compensated for at not less than
21 time and one-half the basic rate of compensation, except
22 that employees subject to this section who are regularly
23 required to remain at or within the confines of their post
24 of duty in excess of eight hours per day in a standby or
25 on-call status shall be paid overtime rates only for hours

1 of duty, exclusive of eating and sleeping time, in excess
2 of forty per week.”

3 SEC. 202. (a) Section 1499 of title 28, United States
4 Code, is hereby amended to read as follows:

5 **“§ 1499. Liquidated damages withheld from contractors**
6 **under Contract Work Hours Standards Act**

7 “The Court of Claims shall have jurisdiction to render
8 judgment upon any claim for liquidated damages withheld
9 from a contractor or subcontractor under section 104 of
10 the Contract Work Hours Standards Act.”

11 (b) The Court of Claims shall continue to have juris-
12 diction to render judgment upon any claim for a penalty
13 withheld from a contractor or subcontractor under section
14 324 of title 40, United States Code, in connection with any
15 contract subject to said section existing on the effective
16 date of this Act, or thereafter entered into pursuant to
17 invitations for bids that are outstanding at the time of the
18 enactment of this Act.

19 SEC. 203. The following statutes are hereby repealed:
20 Sections 1 and 2 of the Act of August 1, 1892 (27 Stat.
21 340; 40 U.S.C. 321, 322), as amended by the Act of March
22 3, 1913 (37 Stat. 726); the Act of June 18, 1912 (37
23 Stat. 137; 40 U.S.C. 324, 325), as amended by the Act
24 of June 25, 1948 (62 Stat. 989); that portion of the Naval
25 Service Appropriation Act, 1918 (Act of March 4, 1917,

1 39 Stat. 1192), which is codified as section 326 of title 40
2 of the United States Code (1952 edition); and section 303
3 of the Second Supplemental Defense Appropriations Act,
4 1941 (54 Stat. 884; 40 U.S.C. 325a). The provisions of
5 such statutes shall, notwithstanding, continue to apply with
6 respect to contracts existing on the effective date of this Act
7 or entered into pursuant to invitations for bids that are
8 outstanding at the time of the enactment of this Act.

9 SEC. 204. This Act shall take effect sixty days after
10 its enactment, but shall not affect any contract then existing
11 or any contract that may thereafter be entered into pursuant
12 to invitations for bids that are outstanding at the time of the
13 enactment of this Act.

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