

shall be construed to prohibit United States communication common carriers from rendering free communication services to official participants in the world telecommunications conferences to be held in the United States in 1947, subject to such rules and regulations as the Federal Communications Commission may prescribe.

Approved May 13, 1947.

[CHAPTER 52]

AN ACT

May 14, 1947
[H. R. 2157]
[Public Law 49]

To relieve employers from certain liabilities and punishments under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act, and for other purposes.

Portal-to-Portal Act
of 1947.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PART I

FINDINGS AND POLICY

52 Stat. 1060.
29 U. S. C. §§ 201-
219.
Post, p. 87.

SECTION 1. (a) The Congress hereby finds that the Fair Labor Standards Act of 1938, as amended, has been interpreted judicially in disregard of long-established customs, practices, and contracts between employers and employees, thereby creating wholly unexpected liabilities, immense in amount and retroactive in operation, upon employers with the results that, if said Act as so interpreted or claims arising under such interpretations were permitted to stand, (1) the payment of such liabilities would bring about financial ruin of many employers and seriously impair the capital resources of many others, thereby resulting in the reduction of industrial operations, halting of expansion and development, curtailing employment, and the earning power of employees; (2) the credit of many employers would be seriously impaired; (3) there would be created both an extended and continuous uncertainty on the part of industry, both employer and employee, as to the financial condition of productive establishments and a gross inequality of competitive conditions between employers and between industries; (4) employees would receive windfall payments, including liquidated damages, of sums for activities performed by them without any expectation of reward beyond that included in their agreed rates of pay; (5) there would occur the promotion of increasing demands for payment to employees for engaging in activities no compensation for which had been contemplated by either the employer or employee at the time they were engaged in; (6) voluntary collective bargaining would be interfered with and industrial disputes between employees and employers and between employees and employees would be created; (7) the courts of the country would be burdened with excessive and needless litigation and champertous practices would be encouraged; (8) the Public Treasury would be deprived of large sums of revenues and public finances would be seriously deranged by claims against the Public Treasury for refunds of taxes already paid; (9) the cost to the Government of goods and services heretofore and hereafter purchased by its various departments and agencies would be unreasonably increased and the Public Treasury would be seriously affected by consequent increased cost of war contracts; and (10) serious and adverse effects upon the revenues of Federal, State, and local governments would occur.

The Congress further finds that all of the foregoing constitutes a substantial burden on commerce and a substantial obstruction to the free flow of goods in commerce.

The Congress, therefore, further finds and declares that it is in the national public interest and for the general welfare, essential to national defense, and necessary to aid, protect, and foster commerce, that this Act be enacted.

The Congress further finds that the varying and extended periods of time for which, under the laws of the several States, potential retroactive liability may be imposed upon employers, have given and will give rise to great difficulties in the sound and orderly conduct of business and industry.

The Congress further finds and declares that all of the results which have arisen or may arise under the Fair Labor Standards Act of 1938, as amended, as aforesaid, may (except as to liability for liquidated damages) arise with respect to the Walsh-Healey and Bacon-Davis Acts and that it is, therefore, in the national public interest and for the general welfare, essential to national defense, and necessary to aid, protect, and foster commerce, that this Act shall apply to the Walsh-Healey Act and the Bacon-Davis Act.

(b) It is hereby declared to be the policy of the Congress in order to meet the existing emergency and to correct existing evils (1) to relieve and protect interstate commerce from practices which burden and obstruct it; (2) to protect the right of collective bargaining; and (3) to define and limit the jurisdiction of the courts.

PART II

EXISTING CLAIMS

SEC. 2. RELIEF FROM CERTAIN EXISTING CLAIMS UNDER THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED, THE WALSH-HEALEY ACT, AND THE BACON-DAVIS ACT.—

(a) No employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act (in any action or proceeding commenced prior to or on or after the date of the enactment of this Act), on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any activity of an employee engaged in prior to the date of the enactment of this Act, except an activity which was compensable by either—

(1) an express provision of a written or nonwritten contract in effect, at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer; or

(2) a custom or practice in effect, at the time of such activity, at the establishment or other place where such employee was employed, covering such activity, not inconsistent with a written or nonwritten contract, in effect at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer.

(b) For the purposes of subsection (a), an activity shall be considered as compensable under such contract provision or such custom or practice only when it was engaged in during the portion of the day with respect to which it was so made compensable.

(c) In the application of the minimum wage and overtime compensation provisions of the Fair Labor Standards Act of 1938, as amended, of the Walsh-Healey Act, or of the Bacon-Davis Act, in determining the time for which an employer employed an employee there shall be counted all that time, but only that time, during which the employee engaged in activities which were compensable within the meaning of subsections (a) and (b) of this section.

52 Stat. 1060.
29 U. S. C. §§ 201-219.

Post, p. 87.
49 Stat. 2036, 1011.
41 U. S. C. §§ 35-45;
40 U. S. C. §§ 276a-276a-5.
Post, p. 454.

Policy of Congress.

Infra.

52 Stat. 1060; 49 Stat. 2036, 1011.
29 U. S. C. §§ 201-219; 41 U. S. C. §§ 35-45; 40 U. S. C. §§ 276a-276a-5.
Post, pp. 87, 454.

Compensable activity.

Determination of compensable time.

52 Stat. 1060; 49 Stat. 2036, 1011.
29 U. S. C. §§ 201-219; 41 U. S. C. §§ 35-45; 40 U. S. C. §§ 276a-276a-5.
Post, pp. 87, 454.

Court jurisdiction.

52 Stat. 1060; 49 Stat. 2036, 1011.

29 U. S. C. §§ 201-219; 41 U. S. C. §§ 35-45; 40 U. S. C. §§ 276a-276a-5.

Post, pp. 87, 454.
Assignability of designated causes of action.

Supra.

Supra.

Supra.

Exception.

Waiver by employee.

52 Stat. 1060.
29 U. S. C. §§ 201-219.

Post, p. 87.

"Compromise."

Infra.

52 Stat. 1060; 49 Stat. 2036, 1011.

29 U. S. C. §§ 201-219; 41 U. S. C. §§ 35-45; 40 U. S. C. §§ 276a-276a-5.

Post, pp. 87, 454.

(d) No court of the United States, of any State, Territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any action or proceeding, whether instituted prior to or on or after the date of the enactment of this Act, to enforce liability or impose punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, under the Walsh-Healey Act, or under the Bacon-Davis Act, to the extent that such action or proceeding seeks to enforce any liability or impose any punishment with respect to an activity which was not compensable under subsections (a) and (b) of this section.

(e) No cause of action based on unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, which accrued prior to the date of the enactment of this Act, or any interest in such cause of action, shall hereafter be assignable, in whole or in part, to the extent that such cause of action is based on an activity which was not compensable within the meaning of subsections (a) and (b).

SEC. 3. COMPROMISE OF CERTAIN EXISTING CLAIMS UNDER THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED, THE WALSH-HEALEY ACT, AND THE BACON-DAVIS ACT.—

(a) Any cause of action under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, which accrued prior to the date of the enactment of this Act, or any action (whether instituted prior to or on or after the date of the enactment of this Act) to enforce such a cause of action, may hereafter be compromised in whole or in part, if there exists a bona fide dispute as to the amount payable by the employer to his employee; except that no such action or cause of action may be so compromised to the extent that such compromise is based on an hourly wage rate less than the minimum required under such Act, or on a payment for overtime at a rate less than one and one-half times such minimum hourly wage rate.

(b) Any employee may hereafter waive his right under the Fair Labor Standards Act of 1938, as amended, to liquidated damages, in whole or in part, with respect to activities engaged in prior to the date of the enactment of this Act.

(c) Any such compromise or waiver, in the absence of fraud or duress, shall, according to the terms thereof, be a complete satisfaction of such cause of action and a complete bar to any action based on such cause of action.

(d) The provisions of this section shall also be applicable to any compromise or waiver heretofore so made or given.

(e) As used in this section, the term "compromise" includes "adjustment", "settlement", and "release".

PART III

FUTURE CLAIMS

SEC. 4. RELIEF FROM CERTAIN FUTURE CLAIMS UNDER THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED, THE WALSH-HEALEY ACT, AND THE BACON-DAVIS ACT.—

(a) Except as provided in subsection (b), no employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any of the following activities of such employee engaged in on or after the date of the enactment of this Act—

(1) walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and

(2) activities which are preliminary to or postliminary to said principal activity or activities, which occur either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities.

(b) Notwithstanding the provisions of subsection (a) which relieve an employer from liability and punishment with respect to an activity, the employer shall not be so relieved if such activity is compensable by either—

Restriction.

(1) an express provision of a written or nonwritten contract in effect, at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer; or

(2) a custom or practice in effect, at the time of such activity, at the establishment or other place where such employee is employed, covering such activity, not inconsistent with a written or nonwritten contract, in effect at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer.

(c) For the purposes of subsection (b), an activity shall be considered as compensable under such contract provision or such custom or practice only when it is engaged in during the portion of the day with respect to which it is so made compensable.

Compensable activity.

(d) In the application of the minimum wage and overtime compensation provisions of the Fair Labor Standards Act of 1938, as amended, of the Walsh-Healey Act, or of the Bacon-Davis Act, in determining the time for which an employer employs an employee with respect to walking, riding, traveling, or other preliminary or postliminary activities described in subsection (a) of this section, there shall be counted all that time, but only that time, during which the employee engages in any such activity which is compensable within the meaning of subsections (b) and (c) of this section.

52 Stat. 1060; 49 Stat. 2036, 1011.
29 U. S. C. §§ 201-219; 41 U. S. C. §§ 35-45; 40 U. S. C. §§ 270a-270a-5.
Infra, post, p. 454.

PART IV

MISCELLANEOUS

SEC. 5. REPRESENTATIVE ACTIONS BANNED.—

(a) The second sentence of section 16 (b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows: "Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought."

52 Stat. 1069.
29 U. S. C. § 216 (b).

(b) The amendment made by subsection (a) of this section shall be applicable only with respect to actions commenced under the Fair Labor Standards Act of 1938, as amended, on or after the date of the enactment of this Act.

52 Stat. 1060.
29 U. S. C. §§ 201-219.

SEC. 6. STATUTE OF LIMITATIONS.—Any action commenced on or after the date of the enactment of this Act to enforce any cause of action for unpaid minimum wages, unpaid overtime compensation, or

52 Stat. 1060; 49 Stat. 2036, 1011.
 29 U. S. C. §§ 201-219; 41 U. S. C. §§ 35-45; 40 U. S. C. §§ 276a-276a-5.
Ante, p. 87; *post*, p. 454.

liquidated damages, under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act—

(a) if the cause of action accrues on or after the date of the enactment of this Act—may be commenced within two years after the cause of action accrued, and every such action shall be forever barred unless commenced within two years after the cause of action accrued;

(b) if the cause of action accrued prior to the date of the enactment of this Act—may be commenced within whichever of the following periods is the shorter: (1) two years after the cause of action accrued, or (2) the period prescribed by the applicable State statute of limitations; and, except as provided in paragraph (c), every such action shall be forever barred unless commenced within the shorter of such two periods;

(c) if the cause of action accrued prior to the date of the enactment of this Act, the action shall not be barred by paragraph (b) if it is commenced within one hundred and twenty days after the date of the enactment of this Act unless at the time commenced it is barred by an applicable State statute of limitations.

SEC. 7. DETERMINATION OF COMMENCEMENT OF FUTURE ACTIONS.—

In determining when an action is commenced for the purposes of section 6, an action commenced on or after the date of the enactment of this Act under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, shall be considered to be commenced on the date when the complaint is filed; except that in the case of a collective or class action instituted under the Fair Labor Standards Act of 1938, as amended, or the Bacon-Davis Act, it shall be considered to be commenced in the case of any individual claimant—

(a) on the date when the complaint is filed, if he is specifically named as a party plaintiff in the complaint and his written consent to become a party plaintiff is filed on such date in the court in which the action is brought; or

(b) if such written consent was not so filed or if his name did not so appear—on the subsequent date on which such written consent is filed in the court in which the action was commenced.

SEC. 8. PENDING COLLECTIVE AND REPRESENTATIVE ACTIONS.—The statute of limitations prescribed in section 6 (b) shall also be applicable (in the case of a collective or representative action commenced prior to the date of the enactment of this Act under the Fair Labor Standards Act of 1938, as amended) to an individual claimant who has not been specifically named as a party plaintiff to the action prior to the expiration of one hundred and twenty days after the date of the enactment of this Act. In the application of such statute of limitations such action shall be considered to have been commenced as to him when, and only when, his written consent to become a party plaintiff to the action is filed in the court in which the action was brought.

SEC. 9. RELIANCE ON PAST ADMINISTRATIVE RULINGS, ETC.—In any action or proceeding commenced prior to or on or after the date of the enactment of this Act based on any act or omission prior to the date of the enactment of this Act, no employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any administrative regulation, order, ruling, approval, or interpretation, of any agency of the United States, or any administrative practice or enforcement policy of any such agency with respect to the

Supra.

52 Stat. 1060; 49 Stat. 1011.
 29 U. S. C. §§ 201-219; 40 U. S. C. §§ 276a-276a-5.
Ante, p. 87; *post*, p. 454.

52 Stat. 1060.
 29 U. S. C. §§ 201-219.
Ante, p. 87.

52 Stat. 1060; 49 Stat. 2036, 1011.
 29 U. S. C. §§ 201-219; 41 U. S. C. §§ 35-45; 40 U. S. C. §§ 276a-276a-5.
Ante, p. 87; *post*, p. 454.

class of employers to which he belonged. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice, or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

SEC. 10. RELIANCE IN FUTURE ON ADMINISTRATIVE RULINGS, ETC.—

(a) In any action or proceeding based on any act or omission on or after the date of the enactment of this Act, no employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval, or interpretation, of the agency of the United States specified in subsection (b) of this section, or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice, or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) The agency referred to in subsection (a) shall be—

(1) in the case of the Fair Labor Standards Act of 1938, as amended—the Administrator of the Wage and Hour Division of the Department of Labor;

(2) in the case of the Walsh-Healey Act—the Secretary of Labor, or any Federal officer utilized by him in the administration of such Act; and

(3) in the case of the Bacon-Davis Act—the Secretary of Labor.

SEC. 11. LIQUIDATED DAMAGES.—In any action commenced prior to or on or after the date of the enactment of this Act to recover unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, if the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that he had reasonable grounds for believing that his act or omission was not a violation of the Fair Labor Standards Act of 1938, as amended, the court may, in its sound discretion, award no liquidated damages or award any amount thereof not to exceed the amount specified in section 16 (b) of such Act.

SEC. 12. APPLICABILITY OF "AREA OF PRODUCTION" REGULATIONS.—No employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of an activity engaged in by such employee prior to December 26, 1946, if such employer—

(1) was not so subject by reason of the definition of an "area of production", by a regulation of the Administrator of the Wage and Hour Division of the Department of Labor, which regulation was applicable at the time of performance of the activity even though at that time the regulation was invalid; or

(2) would not have been so subject if the regulation signed on December 18, 1946 (Federal Register, Vol. 11, p. 14648) had been in force on and after October 24, 1938.

Infra.

52 Stat. 1060.
29 U. S. C. §§ 201-219.
Ante, p. 87.

49 Stat. 2036.
41 U. S. C. §§ 35-45.

49 Stat. 1011.
40 U. S. C. §§ 270a-270a-5.
Post, p. 454.

52 Stat. 1060.
29 U. S. C. §§ 201-219.
Ante, p. 87.

52 Stat. 1069.
29 U. S. C. § 216 (b).
Ante, p. 87.

Supra.

SEC. 13. DEFINITIONS.—

52 Stat. 1060.
29 U. S. C. §§ 201-
219.
Ante, p. 87.

(a) When the terms "employer", "employee", and "wage" are used in this Act in relation to the Fair Labor Standards Act of 1938, as amended, they shall have the same meaning as when used in such Act of 1938.

49 Stat. 2036, 1011.
41 U. S. C. §§ 35-45;
40 U. S. C. §§ 276a-
276a-5.
Post, p. 454.
Supra.

(b) When the term "employer" is used in this Act in relation to the Walsh-Healey Act or Bacon-Davis Act it shall mean the contractor or subcontractor covered by such Act.

(c) When the term "employee" is used in this Act in relation to the Walsh-Healey Act or the Bacon-Davis Act it shall mean any individual employed by the contractor or subcontractor covered by such Act in the performance of his contract or subcontract.

41 U. S. C. §§ 35-45.

(d) The term "Wash-Healey Act" means the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (49 Stat. 2036), as amended; and the term "Bacon-Davis Act" means the Act entitled "An Act to amend the Act approved March 3, 1931, relating to the rate of wages for laborers and mechanics employed by contractors and subcontractors on public buildings", approved August 30, 1935 (49 Stat. 1011), as amended.

40 U. S. C. §§ 276a-
276a-5.
Post, p. 454.

(e) As used in section 6 the term "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States.

Short title.

SEC. 14. SEPARABILITY.—If any provision of this Act or the application of such provision 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.

SEC. 15. SHORT TITLE.—This Act may be cited as the "Portal-to-Portal Act of 1947".

Approved May 14, 1947.

[CHAPTER 53]

JOINT RESOLUTION

May 15, 1947
[H. J. Res. 90]
[Public Law 50]

To correct an error in the Act approved August 10, 1946 (Public Law 720, Seventy-ninth Congress, second session), relating to the composition of the Naval Reserve.

60 Stat. 993.
34 U. S. C. § 853b.
Ante, p. 51.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act approved August 10, 1946 (Public Law 720, Seventy-ninth Congress, second session), is hereby amended by striking out the phrase "including citizens of the Philippine Islands who are members of the naval service at the time independence of the Philippine Islands becomes effective," and inserting in lieu thereof the following: "including citizens of the Philippine Islands who were in the naval service on July 4, 1946, or, who having been discharged from the naval service on or prior to that date, reenlisted therein subsequent thereto but before the expiration of three months following discharge,".

Approved May 15, 1947.

[CHAPTER 54]

AN ACT

May 15, 1947
[H. R. 173]
[Public Law 51]

To authorize the sale of certain public land in Alaska to Victory Bible Camp Ground, Incorporated.

Victory Bible Camp
Ground, Inc.
Purchase of land in
Alaska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Victory Bible Camp Ground, Incorporated, is hereby authorized for a period of one year from and after the effective date of this Act to file with