

Sec. 36-432. Definitions.

"(a) 'Employer' includes any person, firm, corporation, partnership, stock association, agent, manager, representative, or foreman, or other persons having control or custody of any industrial employment, place of employment, or of any employee ...

"(d) 'Place of employment' means any place where industrial employment is carried on * * *

Sec. 36-433. Additional duties of Board under this subchapter.

"The Board * * * shall * * * have power to make such inspections and investigations * * *; collect and compile statistical information; require employers to keep their places of employment reasonably safe; require employers to keep such records * * *; determine and fix reasonable standards of safety in employment, places of employment, in the use of devices and safeguards, and in the use of practices, means, methods, operations, and processes of employment; promulgate general rules and regulations based upon such standards and fix the minimum safety requirements which shall be complied with by employers within the purview of this subchapter."

"Sec. 36-434. Rules and Regulations—Public hearing—Publication—Effective Date.

Before any rules or regulations of the Board shall become effective a public hearing shall be held by the Board for the purpose of investigating reasonable standards of safety in employment, places of employment, in the use of devices and safeguards, and in the use of practices, means, methods, operations, and processes of employment * * * If, after investigation, the Board is of the opinion that minimum standards of safety requirements are necessary to protect or safeguard the lives or health of employees covered by this subchapter, it may adopt and promulgate such rules and regulations as it may deem advisable * * *

"Sec. 36-438. Employers' duties—Furnish safe place of employment—Furnish required information—Report employees' injury, death, or disease—Record of employees.

(a) Every employer shall furnish a place of employment which shall be reasonably safe for employees, shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably safe and adequate to render such employment and place of employment reasonably safe.

"Sec. 36-439. Authority to examine place of employment.

(a) The Board, or any officer or employee acting under its authority, shall have the authority, at any reasonable time, to enter any place where an employment covered by this subchapter is being carried on, and to examine any structure, tool, appliance, machinery, or process used in or connected with such employment. No employer or other person shall refuse to admit any member of the Board or its authorized representative to any such place or to permit any such examination."

Although Section 36-431, "Purpose", is worded very broadly to include the welfare of all "wage earners" in the District of Columbia, other language seems to indicate that the Act is limited to "industrial employment." For instance, the subchapter is entitled "Industrial Safety", and the definitions of "employer" and "place of employment" refer to "industrial employment."

Admittedly, the act is not entirely free from ambiguity. Section 36-433 most directly defines the authority of the Board. A fair reading of this section indicates that the basic jurisdiction of the Board over employers is to require them to "keep their places of employment reasonably safe." Because "place of employment" by definition is limited to industrial employment, it would seem that the Board's jurisdiction is likewise limited. It is recognized that this section also defines the rule making authority of the Board by reference to "employment" without limitation and that in the definition of "employer" in Section 36-432(a) the words "or of any employee" appear also without limitation. From this it could be argued that, in light of the stated purpose of the act, the said act is not limited to industrial employment. However, where the words "employees" and "employment" appear in Sections 36-434 and 36-439, they are limited by the qualifying phrase "covered by this subchapter."

The legislative history of the act as reflected in Senate Report No. 675, 77th Congress, 1st Session (1941) contains the following language: