

November 18, 1939.

Mr. Tom C. Foster,
State Mine Inspector,
Phoenix, Arizona.

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mr. Foster:

We have your letter of November 17th in which you set out a letter from Mr. Orville Larson of Cottonwood, Arizona. Mr. Larson's letter is as follows:

"I wish to call your attention to section 1356 Revised Code of Arizona headed Hours of labor per day for miners; if I read this section and interpret it correctly all men who labor underground must be paid from the time they descend into the mine until the time they ascend from underground, such time except in case of emergency not to exceed 8 hours a day.

"Since the advent of the National Wages and Hours law I have received numerous complaints from miners that they are being paid on a basis of $7\frac{1}{2}$ hours a day, 6 days a week or 45 hours per week. The time in descending and ascending into the mine is not paid for. You can clearly see the purpose of such a subterfuge on the part of the operators in dodging the wages and hours law. In other words the miners are not getting paid for the $\frac{1}{2}$ hour spent in going in and coming out of the shaft. This to me is a clear violation of Section 1356 of the mining code of Arizona. I therefore make the request that your office investigate this and take the proper steps to rectify this condition.

"I have received numerous complaints from men working at the Golden Turkey Mining Co. Cordes, Arizona, and from men at the Iron King mine at Humboldt, Arizona. If the above is a violation of the law, please inform me as to what action you have taken."

You will note that Section 1356 of the Revised Code of 1928 does not deal with wages nor rates of pay per hour but only deals with the hours of labor of miners in mines and underground workings.

Mr. Tom C. Foster

-2-

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The offense provided for in said Section 1356 is working men in mines and underground workings for more than eight hours except in case of emergency and the act provides that eight hours shall include the time occupied in ascending and descending to and from work. The question of pay for such work is determined by contract between the employer and employee.

We believe this fully answers your question.

Yours very truly,

JOE CONWAY,
Attorney General.

EARL ANDERSON,
Special Assistant
Attorney General.