

hours per day violates Sec. 4, Art. XVIII, Montana Constitution, and Section 41-1118, R. C. M., 1947.

October 16, 1952.

Mr. Elmer A. Rude, Commissioner
Department of Labor and Industry
State Capitol Building
Helena, Montana

Dear Mr. Rude:

You have requested my opinion on the following question:

"Does Section 41-1118, R. C. M., 1947, apply to females engaged as operators of taxi-cabs?"

Section 41-1118 declares that:

"No female shall be employed in any manufacturing, mechanical, or mercantile establishment, telephone exchange room or office, or telegraph office, laundry, hotel, or restaurant, in this state, for more than eight hours in any one day. The hours of work may be so arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four of any one day; provided that females may be employed in retail stores to work not to exceed ten hours in any one day for one week immediately preceding Christmas day."

This statute was enacted in 1913, and its provisions are subject to provisions of Section 4, Article XVIII, of the Montana Constitution, amended in 1936 to read as follows:

"A period of eight hours shall constitute a day's work in all industries, occupations, undertakings, and employments, except farming and stock raising; provided, however, that the legislative assembly may by law reduce the number of hours constituting a day's work whenever in its opinion a reduction will better promote the general welfare, but it shall have no authority to increase the number of hours constituting a day's work beyond that herein provided."

This Constitutional section limits all statutory enactments upon the subject of maximum hours, and supersedes any

Opinion No. 126

**Hours of Labor—Women,
Employment of—Taxi-cabs, Women
as Drivers of—Constitutional
Enactment, Supersedes Conflicting
Statutes.**

Held: Employment of Women as taxi-cab drivers for more than eight

conflicting statutes or parts of statutes (In re Stuart, 53 Cal. 745, Arie vs. State, 100 Pac. 23 (Okla.), Wren vs. Dixon, 161 Pac. 722, (Nev.) People vs. Field, 181 Pac. 526, Hawley vs. Anderson, 195 Pac. 358). Thus, the operation of Section 41-1118, permitting employment of females for ten hours per day in the week immediately preceding Christmas was repealed by the subsequent Constitutional enactment. (see Vol. 18, Opinions of the Attorney General, Opinion No. 63, at page 69, with which I concur.)

This Constitutional provision applies to women in all branches of industry, including the taxi-cab industry. Taxi-cab companies are "mechanical establishments" within the meaning of Sec. 41-1118, and female taxi-cab drivers are within the scope of its protection. Statutes limiting hours of employment for women are not intended for the benefit of the employees only, but are for the protection of the public health.

Therefore, it is my opinion that the employment of women taxi-cab operators for more than eight hours a day is forbidden both by the Constitution and statute.

Very truly yours,
ARNOLD H. OLSEN
Attorney General