

This Article provides that a punishment may be inflicted upon any person who obtains profit unlawfully by putting false information and incorrect instruction into electronic computers.

Whether such provisions regarding computer crimes efficiently function to meet the expectations of the legislators may be determined only through the evaluation of many future judicial decisions.

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4. Labor Law

Partial Amendment of the Labor Standards Act.

Promulgated on September 26, 1987. Effective as of April 1, 1988.

[Outline of the Amendment]

1. Normal working hours are set at 8 hours a day and 40 hours a week (46 hours a week for an unspecified period). For certain kinds and sizes of enterprises, normal working hours are 48 hours a week effective until March 31, 1991. Regarding more limited kinds of enterprises, the hours are as follows: For an enterprise employing fewer than 10 workers, normal hours are 48 hours a week; for an enterprise employing not more than 4 workers, normal hours are 54 hours a week effective until March 31, 1991.

2. If an employer makes work rules which provide that the working hours shall not exceed the legal hours (see above, para. 1), averaged for a period of a month or less, the employer may extend the working hours beyond the legal hours on the days or weeks specified in the work rules.

3. If an employer and the trade union or person that represents a majority of the employees of an establishment reach an agreement which provides that the working hours shall not exceed 40 hours a

week (44 hours for enterprises employing not more than 300 workers), averaged for a period of three months or less, the employer may extend the working hours beyond the legal hours (see above, para. 1) on the days or weeks specified in the agreement.

4. There are certain kinds of enterprises whose business amount changes considerably from day to day. The employer of such an enterprise who also employs not more than 30 workers and limits weekly working hours to 44, may extend the daily working hours to a maximum of 10 hours a day if the employer reaches an agreement with the trade union or person that represents a majority of the employees of the establishment.

5. If an employer makes work rules which provide that the working hours shall not exceed the legal hours (see above, para. 1), averaged for a period of a month or less, the employer may allow the workers specified in the work rules to organize his/her own working time. In this case, the employer shall reach an agreement with the trade union or person that represents a majority of the employees of the establishment. The agreement shall include which workers are covered, the length of the period involved and the total working hours in the period.

6. When it is difficult to estimate hours worked by a worker outside of the establishment, the worker shall be considered to have worked the normal working hours. For the work of research and development, if it is necessary to leave the manner of accomplishing the work and the distribution of working hours to the discretion of each worker, the worker shall be considered to have worked for the hours provided in the agreement reached between the employer and the trade union or person that represents a majority of the employees of the establishment.

7. The employer shall grant 10 days annual vacation with pay to the workers who have been employed continuously for a year and were present over 80% of all the working days (for the enterprises employing not more than 300 workers, 6 days until March 31, 1991, and 8 days until March 31, 1994). In addition to the above-mentioned days of vacation, the employer shall grant to the workers an increase in the paid annual vacation amounting to 1 day per each continuous

working year, total days of vacation not to exceed 20 days. If the employer and the trade union or person that represents a majority of the employees of the establishment reach an agreement which permits the employer to do so, the employer may fix the vacation date(s) which exceed 5 days allotted to each worker.

[Comment]

Japanese workers average over 2,100 working hours per year. This is one of the reasons why developed countries criticized Japanese economic activities as being unfair. Under these circumstances, the Labor Standards Act was amended.

In Japan, almost all of the trade unions are organized at the enterprise level. Consequently, there are few national union agreements. Also, the percentage of organized union workers is small. For these reasons, work rules play a much more important role in determining working hours than collective bargaining agreements. An employer may make and alter work rules if he/she asks the opinion of the trade union or person that represents a majority of the employees of the establishment. Under these conditions, it is hard for most workers to reduce their working hours through trade unions. As a consequence, we think that legislation should be the principal means of reducing working hours.

Taking into account these facts peculiar to Japan, the amendment of the Labor Standards Act is not sufficient. According to the amended law, the weekly working hours are 46 in principle and the length of annual vacation with pay is a minimum of 10 days. There are no legal limits on the extent of overtime work. Regarding the establishment where neither a union nor an organized majority of the workers exists, the Act says nothing on how to determine who will represent a majority of the workers of the establishment. In our opinion, the Act needs to be amended even further.

Regarding the flexibility of working hours organization, it is not proper to have introduced these very flexible systems while the legal working hours remain so long.

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