

LEGISLATIVE BILL 884

Approved by the Governor April 12, 2010

Introduced by McGill, 26.

FOR AN ACT relating to labor; to amend sections 29-431 and 48-1231, Reissue Revised Statutes of Nebraska, and sections 48-1230 and 48-1232, Revised Statutes Cumulative Supplement, 2008; to require employers to provide employees with wage and deduction information as prescribed; to provide a penalty; to harmonize sections; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 29-431, Reissue Revised Statutes of Nebraska, is amended to read:

29-431 As used in sections 28-416, 29-422, 29-424, 29-425, and 29-431 to 29-434, and 48-1231, unless the context otherwise requires, ~~infraction shall mean~~ means the violation of any law, ordinance, order, rule, or regulation, not including those related to traffic, which is not otherwise declared to be a misdemeanor or a felony. ~~Infraction shall include~~ includes violations of section 60-6,267.

Sec. 2. Section 48-1230, Revised Statutes Cumulative Supplement, 2008, is amended to read:

48-1230 (1) Except as otherwise provided in this section, each employer shall pay all wages due its employees on regular days designated by the employer or agreed upon by the employer and employee. Thirty days' written notice shall be given to an employee before regular paydays are altered by an employer. An employer may deduct, withhold, or divert a portion of an employee's wages only when the employer is required to or may do so by state or federal law or by order of a court of competent jurisdiction or the employer has written agreement with the employee to deduct, withhold, or divert.

(2) Within ten working days after a written request is made by an employee, an employer shall furnish such employee with an itemized statement listing the wages earned and the deductions made from the employee's wages under subsection (1) of this section for each pay period that earnings and deductions were made. The statement may be in print or electronic format.

~~(2)~~ (3) Except as otherwise provided in section 48-1230.01:

(a) Whenever an employer, other than a political subdivision, separates an employee from the payroll, the unpaid wages shall become due on the next regular payday or within two weeks of the date of termination, whichever is sooner; and

(b) Whenever a political subdivision separates an employee from the payroll, the unpaid wages shall become due within two weeks of the next regularly scheduled meeting of the governing body of the political subdivision if such employee is separated from the payroll at least one week prior to such meeting, or if an employee of a political subdivision is separated from the payroll less than one week prior to the next regularly scheduled meeting of the governing body of the political subdivision, the unpaid wages shall be due within two weeks of the following regularly scheduled meeting of the governing body of the political subdivision.

Sec. 3. Section 48-1231, Reissue Revised Statutes of Nebraska, is amended to read:

48-1231 (1) An employee having a claim for wages which are not paid within thirty days of the regular payday designated or agreed upon may institute suit for such unpaid wages in the proper court. If an employee establishes a claim and secures judgment on the claim, such employee shall be entitled to recover ~~(1)~~ (a) the full amount of the judgment and all costs of such suit and ~~(2)~~ (b) if such employee has employed an attorney in the case, an amount for attorney's fees assessed by the court, which fees shall not be less than twenty-five percent of the unpaid wages. If the cause is taken to an appellate court and the plaintiff recovers a judgment, the appellate court shall tax as costs in the action, to be paid to the plaintiff, an additional amount for attorney's fees in such appellate court, which fees shall not be less than twenty-five percent of the unpaid wages. If the employee fails to recover a judgment in excess of the amount that may have been tendered within thirty days of the regular payday by an employer, such employee shall not recover the attorney's fees provided by this section. If the court finds that no reasonable dispute existed as to the fact that wages were owed or as to the amount of such wages, the court may order the employee to pay the employer's attorney's fees and costs of the action as assessed by the court.

(2) An employer who fails to furnish an itemized statement requested by an employee under subsection (2) of section 48-1230 shall be guilty of an infraction as defined in section 29-431 and shall be subject to a fine pursuant to section 29-436.

Sec. 4. Section 48-1232, Revised Statutes Cumulative Supplement, 2008, is amended to read:

48-1232 If an employee establishes a claim and secures judgment on such claim under subsection (1) of section 48-1231: (1) An amount equal to the judgment may be recovered from the employer; or (2) if the nonpayment of wages is found to be willful, an amount equal to two times the amount of unpaid wages shall be recovered from the employer. Any amount recovered pursuant to subdivision (1) or (2) of this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 5. Original sections 29-431 and 48-1231, Reissue Revised Statutes of Nebraska, and sections 48-1230 and 48-1232, Revised Statutes Cumulative Supplement, 2008, are repealed.