
A BILL FOR AN ACT

RELATING TO WAGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that state labor laws
2 should vigorously protect workers from employers who fail to pay
3 their employees. Wage theft accounts for \$15,000,000,000 stolen
4 each year, which totals more than all stolen money from physical
5 burglaries in the United States combined.

6 In the ten most populous states in the United States, 2.4
7 million workers lose \$8,000,000,000 annually in minimum wage
8 violations. The average year-round worker lost \$3,300 per year,
9 which amounts to one-quarter of their yearly salary. Minimum
10 wage theft affects seventeen per cent of low-wage workers, and
11 workers in all demographic categories face effects of stolen
12 wages.

13 In 2019, the United States Department of Labor cited about
14 eight thousand five hundred employers for taking approximately
15 \$287,000,000 in minimum wage and overtime-pay violations. Major
16 corporations across the United States have collectively taken
17 \$22,000,000 from employees since 2005.



1 The United States Census Bureau's current population survey
2 found that minorities are disproportionately affected by wage
3 theft. Immigrants and Latino workers were twice as likely to
4 earn less than the minimum wage from 2009 to 2019, compared to
5 white American workers. Additionally, African American workers
6 were nearly fifty per cent more likely to be victims of wage
7 theft in comparison to other races.

8 Other states have recently increased penalties for
9 employers who wilfully commit wage theft. In 2019, Minnesota
10 passed the Wage Theft Prevention Act to create additional
11 protections for workers, including adding criminal penalties for
12 employers that commit this offense. Now, in Minnesota, an
13 employer may be criminally charged based on the amount of money
14 withheld from the employee. This escalating penalty scale is
15 analogous to the various theft charges in which stealing a \$10
16 item could result in a misdemeanor charge and a \$1,000 item
17 could result in a felony charge.

18 In 2019, Colorado passed the Human Right to Work with
19 Dignity Act, which reclassified the intentional nonpayment of
20 over \$2,000 in wages as a felony theft. The purpose of the
21 Colorado law was to ensure accountability for unscrupulous



1 employers who purposefully withhold wages, underpay workers,
2 engage in tax fraud, and deny workers fair compensation and
3 ultimately hurt the economy by undercutting the bids of lawful
4 employers.

5 The legislature further finds that Hawai'i should provide
6 workers with similar protections as Minnesota, Colorado, and
7 other states that have increased penalties for employers who
8 fail to pay their employees their lawfully earned wages.

9 Accordingly, the purpose of this Act is to increase the
10 penalty for employers who fail to pay the wages of their
11 employees in accordance with chapter 387, Hawaii Revised
12 Statutes, the wage and hour law, and chapter 388, Hawaii Revised
13 Statutes, governing payment of wages and other compensation, to
14 a class C felony.

15 SECTION 2. Section 387-12, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Criminal.

18 (1) Any person divulging information in violation of
19 section 387-8;



- 1 (2) Any employer who wilfully violates this chapter or of
2 any rule, regulation, or order issued under the
3 authority of this chapter; or
- 4 (3) Any employer or the employer's agent or any officer or
5 agent of a corporation who discharges or in any other
6 manner discriminates against any employee because the
7 employee has made a complaint to the employee's
8 employer, to the director, or to any other person that
9 the employee has not been paid wages in accordance
10 with this chapter, or has instituted or caused to be
11 instituted any proceeding under or related to this
12 chapter, or has testified or is about to testify in
13 any such proceedings [~~or~~
- 14 ~~(4) Any employer or the employer's agent or any officer or~~
15 ~~agent of a corporation who pays or agrees to pay any~~
16 ~~employee compensation less than that which the~~
17 ~~employee is entitled to under this chapter],~~
- 18 shall be guilty of a misdemeanor and, upon conviction
19 thereof, shall be [~~punished by~~] subject to a fine of [~~no~~
20 not less than \$500 nor more than \$5,000, or by imprisonment



1 for a period not to exceed one year, or by both fine and
2 imprisonment [-]; and

3 (4) Any employer or the employer's agent or any officer or
4 agent of a corporation who pays or agrees to pay any
5 employee compensation less than that which the
6 employee is entitled to under this chapter, shall be
7 guilty of a class C felony and, notwithstanding
8 section 706-640, be subject to a fine of not less than
9 \$500 per offense; provided that each violation shall
10 be deemed a separate offense."

11 SECTION 3. Section 388-10, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Criminal.

14 (1) Any employer who does not pay the wages of any of the
15 employer's employees in accordance with this chapter,
16 or any officer of any corporation who knowingly
17 permits the corporation to violate this chapter by
18 failing to pay wages of any of its employees in
19 accordance with this chapter [~~, or any~~] shall be guilty
20 of a class C felony and, notwithstanding section
21 706-640, be subject to a fine of not less than \$500



1 per offense. Each violation shall be deemed a
2 separate offense.

3 (2) Any employer or the employer's agent or any officer or
4 agent of a corporation who discharges or in any other
5 manner discriminates against any employee because the
6 employee has made a complaint to the employee's
7 employer, or to the director, or to any other person
8 that the employee has not been paid wages in
9 accordance with this chapter, or has instituted or
10 caused to be instituted any proceeding under or
11 related to this chapter, or has testified or is about
12 to testify in any such proceedings, or any employer
13 who wilfully fails to comply with any other
14 requirements of this chapter shall be fined not less
15 than \$100 nor more than \$10,000 or imprisoned for not
16 more than one year, or punished by both fine and
17 imprisonment for each such offense."

18 SECTION 4. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Wages; Wage Theft; Penalties

Description:

Increases the penalty for employers who fail to pay the wages of their employees in accordance with the State's wage and hour law and payment of wages and other compensation law, to a class C felony. Adds a minimum penalty of \$500 per violation. (CD1)

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