
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 billion 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 billion 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 million in minimum wage and overtime-pay violations. Major
16 corporations across the United States have collectively taken
17 \$22 million 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 Colorado, Minnesota, 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;

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 thereof,
19 shall be ~~[punished by]~~ subject to a fine of ~~[no]~~ not less than
20 \$500 nor more than \$5,000, or by imprisonment for a period not
21 to exceed one year, or by both fine and imprisonment~~[+]~~;



1 provided that a violation of subsection (a) (4) shall constitute
2 a class C felony and, notwithstanding section 706-640, be
3 subject to a fine of not less than \$500 per offense; provided
4 further that each violation shall be deemed a separate offense."

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

7 "(b) Criminal.

8 (1) Any employer who does not pay the wages of any of the
9 employer's employees in accordance with this chapter,
10 or any officer of any corporation who knowingly
11 permits the corporation to violate this chapter by
12 failing to pay wages of any of its employees in
13 accordance with this chapter[~~—or any~~] shall be guilty
14 of a class C felony and, notwithstanding section
15 706-640, be subject to a fine of not less than \$500
16 per offense. Each violation shall be deemed a
17 separate offense.

18 (2) Any employer or the employer's agent or any officer or
19 agent of a corporation who discharges or in any other
20 manner discriminates against any employee because the
21 employee has made a complaint to the employee's



1 employer, or to the director, or to any other person
2 that the employee has not been paid wages in
3 accordance with this chapter, or has instituted or
4 caused to be instituted any proceeding under or
5 related to this chapter, or has testified or is about
6 to testify in any such proceedings, or any employer
7 who wilfully fails to comply with any other
8 requirements of this chapter shall be fined not less
9 than \$100 nor more than \$10,000 or imprisoned for not
10 more than one year, or punished by both fine and
11 imprisonment for each such offense."

12 SECTION 4. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 2050.



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.
Effective 7/1/2050. (SD2)

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