

13
H. B. No. 178 Introduced by:

William F. Craft

A BILL

for

AN ACT to amend and re-enact Subsection (d), Section 27-207, Wyoming Statutes 1957, Compiled 1967, pertaining to minimum wage and exemptions and to provide penalties for violation thereof; to repeal Subsection (a), Section 27-208, Wyoming Statutes 1957, Compiled 1967, which includes tips of employee as part of the minimum wage; to amend and re-enact Section 27-209, Wyoming Statutes 1957, Compiled 1967, providing authority to the Commissioner of Labor and Statistics to request additional information from employers; to amend and re-enact Section 27-210, Wyoming Statutes 1957, Compiled 1967, pertaining to the collection of unpaid minimum wages and further providing a penalty against such employers for discharge of employee, or discriminating against an employee exercising his rights under this act.

JAN 22 1969 Introduced
JAN 22 1969 Read first time
JAN 22 1969 Referred to Com. No. 13
JAN 22 1969 Delivered to Printing Com.
JAN 23 1969 Returned from Printing Com.
JAN 23 1969 Delivered to Com. No. 13

FEB 21 1969 RETURNED
RECOMMENDED DO NOT PASS
PLACED ON GENERAL FILE

Approved by House Attorney
Date 1/21/69 227

Craft

Date

1-22-69 Introduced, read first time, referred to Com. No. 13

_____ Standing Com. Report: Do _____ Do not _____ Amend _____

_____ Com. of Whole: Do _____ Do not _____ Amend _____ Indef. Postponed.

_____ 2nd: Amend _____ 3rd: Amend _____ Ayes _____ Noes _____

_____ Passed by Senate: Ayes _____ Noes _____

_____ HB-178 _____

Introduced by:

William F. Craft

**A BILL
for**

1 AN ACT to amend and re-enact Subsection (d) Section 27-207,
2 Wyoming Statutes 1957, Compiled 1967, pertaining to
3 minimum wage and exemptions and to provide penalties for vio-
4 lation thereof; to repeal Subsection (a) Section 27-208,
5 Wyoming Statutes 1957, Compiled 1967, which includes tips of
6 employee as part of the minimum wage; to amend and re-enact
7 Section 27-209, Wyoming Statutes 1957, Compiled 1967, providing
8 authority to the Commissioner of Labor and Statistics to request
9 additional information from employers; to amend and re-enact
10 Section 27-210, Wyoming Statutes 1957, Compiled 1967, pertaining
11 to the collection of unpaid minimum wages and further providing
12 a penalty against such employers for discharge of employee,
13 or discriminating against an employee exercising his rights
14 under this act.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WYOMING:

16 Section 1. That Subsection (d) Section 27-207, Wyoming
17 Statutes 1957, Compiled 1967, is amended and re-enacted to read
18 as follows:

19 (d) "Employee" includes any individual employed by an
20 employer but shall not include;

21 (1) Any individual employed in agriculture;

22 (2) Any individual employed in domestic service in
23 or about a private home;

1 ~~(3)--Any individual employed in a bonafide exe--~~
2 ~~cutive,--administrative,--or--professional capacity;~~

3 (4) Any individual employed by the United States,
4 or by the state or any political subdivision thereof; or

5 (5) Any individual engaged in the activities of
6 ~~an educational,--charitable,--religious,~~ or non-profit organization
7 where the employer-employee relationship does not, in fact,
8 exist or where the services rendered to such organization are
9 on a voluntary basis;

10 (6) All minors under 18 years of age and all part
11 time ~~and-piece~~ workers. PART TIME WORKERS BEING DEFINED AS 20
12 HOURS OR LESS A WEEK.

13 (7) Any individual employed as an outside sales-
14 man whose compensation is solely commission on sales.

15 (8) Any individual whose employment is driving
16 an ambulance or other vehicle from time to time as necessity
17 requires but who is on call at any time.

18 (9) ANY INDIVIDUAL WHO IS ENROLLED AND PARTICIPATING
19 IN ANY TRAINING OR APPRENTICESHIP PROGRAM APPROVED BY THE COM-
20 MISSIONER OF LABOR AND STATISTICS.

21 Section 2. That Subsection (a) Section 27-208, Wyoming
22 Statutes 1957, Compiled 1967, is hereby repealed.

23 Section 3. That Section 27-209, Wyoming Statutes 1957,
24 Compiled 1967, be amended and re-enacted to read as follows:

25 Every employer subject to this act shall make, and keep
26 for a period of not less than two (2) years in or about the pre-
27 mises wherein any employee is employed, a record of the name,
28 address and occupation of each of his employees, the rate of pay,
29 and the amount paid each pay period to each such employee, the
30 hours worked each day and each work week by such employee AND OTHER
31 SUCH EMPLOYMENT INFORMATION AS MAY BE DEEMED NECESSARY BY THE
32 COMMISSIONER OF LABOR AND STATISTICS.

33 THE COMMISSIONER OF LABOR AND STATISTICS OR HIS AUTHORIZED
34 REPRESENTATIVE SHALL HAVE THE AUTHORITY TO INSPECT SUCH RECORDS
35 AND DATA.

1 Section 4. That Section 27-210, Wyoming Statutes 1957,
2 Compiled 1967, is amended and re-enacted as follows:

3 ~~(A)-Any-employer-who-shall-pay-to-any-employee-wages~~
4 ~~at-a-rate-less-than-that-prescribed-in-the-foregoing-section-shall~~
5 ~~be-liable-in-a-civil-action,-to-the-employee-in-the-amount-of-his-or~~
6 ~~her-unpaid-minimum-wage,-and-the-aggrieved-employee-may-bring-~~
7 ~~a-civil-action-for-enforcement-of-this-act-and-the-recovery-of-his~~
8 ~~or-her-unpaid-wages-together-with-reasonable-attorney-fees-and~~
9 ~~the-costs-of-the-action.-~~

10 ~~(B)-The-commissioner-of-labor-and-statistics-is-hereby~~
11 ~~empowered-to-take-assignments-of-unpaid-minimum-wage-claims-~~
12 ~~and-prosecute-actions-for-the-collection-of-unpaid-minimum-wages~~
13 ~~for-persons-financially-unable-to-prosecute-such-claims-when;~~
14 ~~in-the-judgment-of-the-commissioner,-such-claims-are-valid-and~~
15 ~~enforceable-in-the-courts.--It-shall-be-the-duty-of-the-county-and~~
16 ~~prosecuting-attorney-of-the-county-wherein-the-action-is-commenced;~~
17 ~~to-assist-the-commissioner-of-labor-and-statistics,-in-such-cause.~~
18 ~~In-all-suits-commenced-by-the-commissioner-of-labor-and-statis--~~
19 ~~ties-no-court-costs-or-any-fees-for-necessary-writs,-process-and~~
20 ~~proceedings-shall-be-payable-in-advance.--In-the-event-there-is-a~~
21 ~~judgment-rendered-against-the-defendant,-the-court-shall-assess-~~
22 ~~as-part-of-such-judgment-the-costs-of-such-proceedings.--Upon~~
23 ~~collection-of-such-judgment-the-commissioner-of-labor-and-statis-~~
24 ~~ties-shall-pay-from-the-proceeds-of-such-judgment-such-costs-to~~
25 ~~such-person-who-is-by-law-entitled-to-same.--The-commissioner-~~
26 ~~of-labor-and-statistics-may-join-in-single-proceeding-any-number-~~
27 ~~of-minimum-wage-claims-against-the-same-employer,-but-the-~~
28 ~~court-shall-have-the-discretionary-power-to-order-a-severance~~
29 ~~or-separate-trials.-Nothing-in-Section-(B)-hereof-shall-be-construed~~
30 ~~to-prevent-any-employee-from-making-complaint-or-prosecuting~~
31 ~~his-own-claim-for-unpaid-minimum-wages-pursuant-to-section-(A)-hereof.~~

32 (a) ANY EMPLOYER WHO SHALL PAY TO ANY EMPLOYEE WAGES AT A
33 RATE LESS THAN PRESCRIBED IN THIS ACT SHALL BE LIABLE IN A CIVIL
34 ACTION, TO THE EMPLOYEE IN THE AMOUNT OF HIS OR HER MINIMUM WAGE,
35 AND THE WYOMING LABOR COMMISSIONER THROUGH THE ATTORNEY GENERAL
36 OR MEMBER OF HIS STAFF, UPON RECEIPT OF A COMPLAINT OR UPON HIS OWN

1 INVESTIGATION, MAY BRING A CIVIL ACTION ON BEHALF OF THE EMPLOYEE
2 FOR THE ENFORCEMENT OF THIS SECTION AND THE RECOVERY OF THE
3 EMPLOYEE'S UNPAID MINIMUM WAGES. IN ALL SUITS COMMENCED BY THE
4 COMMISSIONER UNDER THIS ACT NO COURT COSTS OR ANY FEES FOR NECESSARY
5 WRITS, PROCESS AND PROCEEDINGS SHALL BE PAYABLE IN ADVANCE.

6 IN THE EVENT THERE IS A JUDGMENT RENDERED AGAINST THE
7 EMPLOYER THE COURT SHALL ASSESS AS PART OF THE JUDGMENT RENDERED
8 AGAINST THE EMPLOYER COSTS OF SUCH PROCEEDINGS AND REASONABLE
9 ATTORNEY FEE. SUCH REASONABLE ATTORNEY FEE AS ASSESSED SHALL
10 BE RETAINED BY THE DEPARTMENT OF LABOR AND STATISTICS IN IT'S
11 MINIMUM WAGE COLLECTION ACCOUNT TO BE USED FOR THE ADMINISTRATION
12 OF THIS ACT.

13 (b) THE COMMISSIONER SHALL ATTEMPT FOR A PERIOD OF NOT LESS
14 THAN TWO (2) YEARS, FROM THE DATE OF THE COLLECTION, TO MAKE PAYMENTS
15 OF WAGES COLLECTED UNDER THIS ACT TO THE PERSONS ENTITLED THERETO.
16 WAGES COLLECTED BY COMMISSIONER WHICH REMAIN UNCLAIMED FOR A
17 PERIOD OF MORE THAN TWO (2) YEARS FROM THE DATE OF COLLECTION,
18 SHALL ON JULY 1st OF EACH YEAR BE FORFEITED, AND SHALL BE RETAINED
19 IN THE DEPARTMENT'S ACCOUNT AND USED FOR THE ADMINISTRATION OF THIS
20 ACT.

21 (c) ANY EMPLOYER WHO WILLFULLY VIOLATES ANY PROVISION OF
22 THIS ACT OR WHO DISCHARGES OR IN ANY OTHER MANNER DISCRIMINATES
23 AGAINST ANY EMPLOYEE BECAUSE SUCH EMPLOYEE HAS MADE ANY COMPLAINT
24 TO HIS EMPLOYER, THE COMMISSIONER OR ANY OTHER PERSON, OR
25 INSTITUTES OR CAUSED TO BE INSTITUTED ANY PROCEEDING UNDER OR
26 RELATED TO THIS ACT, OR HAS TESTIFIED OR IS ABOUT TO TESTIFY
27 IN ANY SUCH PROCEEDINGS, SHALL, UPON CONVICTION THEREOF, BE
28 PUNISHED BY A FINE OF NOT LESS THAN TWENTY-FIVE DOLLARS (\$25.00),
29 NOR MORE THAN TWO HUNDRED DOLLARS (\$200.00), OR BY IMPRISONMENT
30 FOR NOT MORE THAN SIXTY (60) DAYS, OR BY BOTH SUCH FINE AND
31 IMPRISONMENT. EACH DAY SUCH A VIOLATION CONTINUES SHALL
32 CONSTITUTE A SEPARATE OFFENSE.