

CHAPTER 137

Original Senate File No. 53

CLAIMS FOR UNPAID WAGES

AN ACT to amend W.S. 27-4-104, 27-4-105, 27-4-504 and 27-4-505 relating to collection of unpaid wages; providing for payment of interest on unpaid wages; increasing penalties for violation of W.S. 27-4-104; requiring the commissioner of labor and the county attorney to assist with collection of unpaid wages in certain circumstances; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 27-4-104, 27-4-105, 27-4-504 and 27-4-505 are amended to read:

27-4-104. Payment of employee quitting or discharged; suit for wages.

(a) Whenever an employee quits the service or is discharged therefrom, the employee shall be paid whatever wages are due him or her in lawful money of the United States of America, or by check or draft which can be cashed at a bank, within a period of seventy-two (72) hours when he or she voluntarily quits the service, or within twenty-four (24) hours after his or her involuntary discharge or termination. This section does not apply to employees working for employers where the payroll records of the employees are kept at a location outside the state of Wyoming. In such instances the employee shall be paid within seventy-two (72) hours after the termination of his or her employment. The employer may offset from any monies due the employee as wages, any sums due the employer from the employee which have been incurred by the employee during his employment. This section does not apply to the earnings of a sales agent employed on a commission basis and having custody of accounts, money or goods of his principal where the net amount due the agent may not be determinable except after an audit or verification of sales, accounts, funds or stocks.

(b) Whenever an employee who has quit or has been discharged from service has cause to bring suit for wages earned and due, and shall establish in court the amount which is justly due, the court shall allow to the plaintiff interest on the past due wages at the rate of eighteen percent (18%) per annum from the date of discharge or termination, together with a reasonable attorney fee and all costs of suit. Prosecution of a civil action to recover unpaid wages does not preclude prosecution under W.S. 27-4-105.

27-4-105. Penalty for violation of W.S. 27-4-104. Every person, firm or corporation violating the provisions of W.S. 27-4-104 is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than seven hundred fifty dollars (\$750.00) for each offense.

27-4-504. Assignment of claim to commissioner for collection; settlement or adjustment of claim assignment. Whenever an employee files an affidavit with the commissioner stating that he is unable to obtain the services of a private attorney to assist him in collection of his unpaid wages, the commissioner shall investigate the efforts made by the employee to obtain the services of an attorney. If he determines that diligent effort has been made and services of a private attorney cannot be obtained, the commissioner shall promptly notify the county attorney of the county in which the wage claim arose. The county attorney, with the assistance of the commissioner or his representative shall investigate the claim and make a determination as to the merits of the claim within thirty (30) days after notice from the commissioner. Upon a finding by the county attorney or his representative that the claim may be valid and enforceable in the courts, the commissioner shall take an assignment of the claim in trust for the employee and shall prosecute promptly, with the assistance of the county attorney, whatever legal proceedings are necessary to insure collection of the unpaid wages. With the written consent of the employee the commissioner may settle or adjust any claim assigned.

27-4-505. County attorney to assist in collection of wage claim; court costs and fees; liability for employer's costs of investigation and defense of claim. In pursuing the collection of any assigned wage claim, the commissioner shall be assisted by the county attorney or his representative. In suits commenced under this act no court costs or fees for writs, process and proceedings shall be payable in advance. If judgment is rendered against the defendant the court shall assess as part of the judgment reasonable attorneys fees if the case was prosecuted by a private attorney and the costs of the proceedings. If judgment is rendered for the defendant employer, the office of the commissioner of labor and statistics shall be liable to the defendant employer for his court costs and reasonable attorney fees. An action brought under authority of and in compliance with this article is not subject to challenge or dismissal for failure to exhaust administrative remedies.

Section 2. This act is effective May 20, 1981.

Approved March 4, 1981.