

HB 1342 -- WAGE RELATED COMPLAINTS AND PAYMENTS

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This bill establishes the "Missouri Wage Theft Prevention and Wage Recovery Act".

The bill defines the term "wages" to include any compensation, salary or commission, or other form of remuneration paid to an employee or separated employee based upon employment, performance of services, or an employment contract. The definition of "wages" includes "final compensation", "gratuities", and "wage supplements" as such terms are defined in the bill. The bill also defines "wage theft" as failure to pay an employee for work performed including, but not limited to: violation of minimum wage requirements; failure to pay overtime compensation or final compensation payments; misclassification of employees as exempt from overtime compensation or as independent contractors; and improperly withholding gratuities. The term also includes a violation of Chapter 285, RSMo, when an employer intentionally or with willful disregard with intent to deceive, fails to pay an employee wages at the correct rate of pay; demands refund for wages owed under a contract of employment with an employee; or requests a receipt from an employee for wages paid that are greater amount than wages that were actually paid to employee for services provided.

This bill confers authority to the Missouri Department of Labor and Industrial Relations, Division of Labor Standards and the Missouri Attorney General's Office to:

- (1) Investigate, enforce, and attempt to resolve controversies with respect to wage claims or complaints arising under Chapter 290, or other wage-related laws under the purview of the Department or the Division;
- (2) Take assignments of wage claims and prosecute actions for collection for wages for employees or all employees of the class to whom payments are due, as a class action;
- (3) Bring a civil suit against the employer on behalf of the impacted employees;
- (4) Bring criminal charges for violations under the bill;
- (5) File a notice of lien on an employer's property for class-action lawsuits;

(6) Enter into agreements with other states to collect unpaid wages from out-of-state employers and perform reciprocal services for such states in Missouri;

(7) Take any other enforcement action to achieve compliance such as requesting cities or departments to revoke or suspend registration certificates, permits, or licenses held or requested by the employer until the violation is remedied.

The bill includes a complaint filing mechanism for an employee to file wage complaint violations that occur with the Division. Under the bill the following statutory period of limitations apply:

(1) Complaints to be filed within one year after the wages were due, however, the filing of a complaint does not bar an employee from bringing a civil action in the courts. If the Division issues a determination that is not a final determination that resolves the outstanding disputes or the Attorney General issues a notice declining to prosecute, the statute of limitations is three years from the date of determination or notice, where no final determination or final judgment is issued;

(2) If the Division's determination finds no violation occurred, the Division shall issue a final determination and the employee has one year from the date of final determination to appeal the final determination;

(3) The Attorney General has three years to prosecute violations under the bill based upon a complaint filed with the Division.

On or before January 1, 2025 and on or before each January first thereafter, the Attorney General shall send to the Division and the members of the General Assembly the costs associated with prosecuting violations under the bill.

Any reports, records, photographs or similar materials submitted to the Division or obtained by the Division to conduct the investigation are confidential and not subject to Chapter 610, with an exception for law enforcement authorities as stated in the bill.

The bill outlines the court's determination and discretionary authority to assess and award damages for recovery of wages based upon a wage claim or complaint filed; or for underpayment of wages by the employer. The bill also includes provisions relating to an employer's willful failure to pay based upon a duty to pay or falsely denying the amount or validity of wages to constitute an underpayment to an employee with intent to harass, delay or defraud the person to who indebtedness is owed, as follows:

(1) For unpaid wages in the amount of \$5000 or less, a class B misdemeanor; or

(2) For unpaid wages in the amount of more than \$5000, a class A misdemeanor.

Subsequent violations within 2 years of a prior conviction regarded as a class E felony.

The bill creates the "Wage Theft Enforcement Fund", which shall consist of moneys collected or recovered as fees and civil penalties, except those owing to the affected employee.