

2015 -- H 5938

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WAGES

Introduced By: Representatives Shekarchi, Regunberg, Fogarty, Tanzi, and Williams

Date Introduced: March 19, 2015

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-12-2 of the General Laws in Chapter 28-12 entitled "Minimum
2 Wages" is hereby amended to read as follows:

3 **28-12-2. Definitions.** -- As used in this chapter:

4 (1) "Advisory board" means a board created as provided in § 28-12-6;

5 (2) "Commissioner" means the minimum wage commissioner appointed by the director
6 of labor and training as chief of the division of labor standards;

7 (3) "Director" means the director of labor and training or his or her duly authorized
8 representative;

9 (4) "Employ" means to suffer or to permit to work;

10 (5) "Employee" includes any individual ~~employed~~ suffered or permitted to work by an
11 employer; ~~but shall not include:~~

12 (6) "Employee" shall not include:

13 (i) Any individual employed in domestic service or in or about a private home;

14 (ii) Any individual employed by the United States;

15 (iii) Any individual engaged in the activities of an educational, charitable, religious, or
16 nonprofit organization where the employer-employee relationship does not, in fact, exist, or
17 where the services rendered to the organizations are on a voluntary basis;

18 (iv) Newspaper deliverers on home delivery, shoe shiners in shoe shine establishments,
19 caddies on golf courses, pin persons in bowling alleys, ushers in theatres;

1 (v) Traveling salespersons or outside salespersons;

2 (vi) Service performed by an individual in the employ of his or her son, daughter, or
3 spouse and service performed by a child under the age of twenty-one (21) in the employ of his or
4 her father or mother;

5 (vii) Any individual employed between May 1 and October 1 in a resort establishment
6 which regularly serves meals to the general public and which is open for business not more than
7 six (6) months a year;

8 (viii) Any individual employed by an organized camp which does not operate for more
9 than seven (7) months in any calendar year. However, this exemption does not apply to
10 individuals employed by the camp on an annual, full-time basis. "Organized camp" means any
11 camp, except a trailer camp, having a structured program including, but not limited to, recreation,
12 education, and religious, or any combination of these.

13 (6) "Employer" includes any individual, partnership, association, corporation, business
14 trust, or any person or group of persons acting directly or indirectly in the interest of an employer,
15 in relation to an employee;

16 (7) "Occupation" means any occupation, service, trade, business, industry, or branch or
17 group of industries or employment or class of employment in which individuals are gainfully
18 employed;

19 (8) "Wage" means compensation due to an employee by reason of his or her
20 employment.

21 SECTION 2. Sections 28-14-17 and 28-14-20 of the General Laws in Chapter 28-14
22 entitled "Payment of Wages" are hereby amended to read as follows:

23 **28-14-17. Penalty for violations.** – (a) Any employer who violates or fails to comply
24 with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction of
25 the misdemeanor the employer shall be punished by a fine of not less than four hundred dollars
26 (\$400) for each separate offense, or by imprisonment of up to one year, or by both fine and
27 imprisonment. Each day of failure to pay wages due an employee at the time specified in this
28 chapter shall constitute a separate and distinct violation.

29 (b) Any employer found guilty of violations of this chapter who does not pay wages and
30 finances within thirty (30) days of a final decision and after notification by the department of labor
31 and training, may have their business license revoked by the state of Rhode Island until they pay
32 such wages and fines in full or enter into a payment agreement with which they stay in
33 compliance. If it is found that the violating employer in this case is illegally unlicensed and/or
34 unregistered to conduct business in the state of Rhode Island, said employer shall be charged with

1 larceny for theft of wages and punished accordingly under § 11-41-5.

2 ~~28-14-20. Filing of claims with director~~ **Filing of claims.** -- (a) ~~All claims for wages~~
3 ~~due must be filed with the director within three (3) years from time of services rendered by an~~
4 ~~employee to his or her employer.~~ All claims for wages may be filed with the director within three
5 (3) years from time of services rendered by an employee to his or her employer.

6 (b) ~~A claim may be filed by a person who is required to be paid wages for his or her~~
7 ~~labor; or if a minor, by his or her parent or guardian; or by the lawful collective bargaining~~
8 ~~representative of the person; or a representative authorized in writing by the employee.~~ A person
9 who alleges a violation of any provision of this chapter may bring a civil action for appropriate
10 injunctive relief or actual damages or both within three (3) years after the occurrence of the
11 alleged violation of this chapter.

12 (c) An action commenced pursuant to subsection (b) of this section may be brought in the
13 court for the county where the alleged violation occurred, the county where the complainant
14 resides, or the county where the person against whom the civil complaint is filed resides or has
15 his or her principal place of business.

16 (d) As used in subsection (b) of this section, damages include three (3) times the wages
17 owed to the employee for the first offense.

18 (e) Attorney's fees, including litigation expenses, may be granted to the plaintiff if he or
19 she prevails.

20 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO LABOR AND LABOR RELATIONS -- WAGES

1 This act would give employees several enhanced ways to help them collect their wages
2 from nonpaying employers, set forth penalties for nonpayment of wages by an employer, and
3 implements the procedure to be followed for filing of claims.

4 This act would take effect upon passage.

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