

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 31**

Introduced By: Nantkes, 46;  
Read first time: January 4, 2007  
Committee: Business and Labor

A BILL

1       FOR AN ACT relating to labor; to amend sections 48-1203,  
2               48-1203.01, and 48-1206, Reissue Revised Statutes of  
3       Nebraska; to change minimum wage and training wage  
4       provisions; to change penalty provisions; to harmonize  
5       provisions; and to repeal the original sections.  
6       Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 48-1203 Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           48-1203. (1) Except as otherwise provided in this section  
4 and section 48-1203.01, every employer shall pay to each of his or her  
5 employees who are seventeen years of age or older wages at the  
6 following minimum wage: rate of four dollars and twenty five  
7 cents per hour through August 31, 1997, and five dollars and fifteen  
8 cents per hour on and after September 1, 1997.

9           (a) Five dollars and fifteen cents per hour through  
10 September 30, 2007;

11           (b) Five dollars and fifty-two cents per hour on and after  
12 October 1, 2007, through September 30, 2008;

13           (c) Five dollars and eighty-nine cents on and after October  
14 1, 2008, through September 30, 2009;

15           (d) Six dollars and twenty-six cents on and after October  
16 1, 2009, through September 30, 2010; and

17           (e) The minimum wage set by the Department of Labor for  
18 wages beginning on October 1, 2010, through September 30, 2013. The  
19 department shall have such minimum wage calculated by June 15, 2010,  
20 and shall adjust the six dollars and twenty-six cents wage to reflect  
21 the changes in the Consumer Price Index for all-urban consumers  
22 published by the federal Department of Labor for 2007, 2008, and 2009  
23 plus the first quarter of 2010. Every three years thereafter, the  
24 department shall make an adjustment of the minimum wage to reflect  
25 the changes in such Consumer Price Index for the preceding three  
26 calendar years. For purposes of this section, calendar year begins on  
27 April 1 and ends on March 31 of the next year. The new minimum wage

1 shall be calculated by June 15 of the year that it will go into  
 2 effect on October 1.

3 (2) For persons who are seventeen years of age or older  
 4 compensated by way of gratuities such as waitresses, waiters, hotel  
 5 bellhops, porters, and shoeshine persons, the employer shall pay  
 6 wages at the minimum ~~rate of two dollars and thirteen cents per hour,~~  
 7 wage of fifty percent of the applicable minimum wage provided in  
 8 subsection (1) of this section, plus all gratuities given to them  
 9 for services rendered. The sum of wages and gratuities received by  
 10 each person compensated by way of gratuities shall equal or exceed the  
 11 minimum wage rate provided in subsection (1) of this section. In  
 12 determining whether or not the individual is compensated by way of  
 13 gratuities, the burden of proof shall be upon the employer.

14 (3) Any employer employing student-learners as part of a  
 15 bona fide vocational training program shall pay such  
 16 ~~student-learners'~~ student-learners who are seventeen years of age  
 17 or older wages at a rate of at least seventy-five percent of the  
 18 minimum wage rate which would otherwise be applicable.

19 Sec. 2. Section 48-1203.01 Reissue Revised Statutes of  
 20 Nebraska, is amended to read:

21 48-1203.01. (1) An employer may pay a new employee who is  
 22 ~~younger than~~ between seventeen and twenty years of age and is not  
 23 a seasonal or migrant worker a training wage ~~at a rate of four~~  
 24 ~~dollars and twenty five cents per hour~~ for ninety days from the date  
 25 the new employee was hired. An employer may pay such new employee the  
 26 training wage ~~rate~~ for an additional ninety-day period while the new  
 27 employee is participating in on-the-job training which ~~(1)~~ (a)

1 requires technical, personal, or other skills which are necessary for  
2 his or her employment and ~~(2)~~ (b) is approved by the Commissioner  
3 of Labor. No more than one-fourth of the total hours paid by the  
4 employer shall be at the training wage ~~rate~~.

5 (2) The training wage under subsection (1) of this section  
6 shall be a minimum of:

7 (a) Four dollars and twenty-five cents per hour through  
8 September 30, 2007;

9 (b) Four dollars and fifty-five cents per hour on and after  
10 October 1, 2007, through September 30, 2008;

11 (c) Four dollars and eighty-five cents on and after October  
12 1, 2008, through September 30, 2009;

13 (d) Five dollars and fifteen cents on and after October 1,  
14 2009, through September 30, 2010; and

15 (e) The training wage set by the Department of Labor for  
16 wages beginning on October 1, 2010, through September 30, 2013. The  
17 department shall have such training wage calculated by June 15, 2008,  
18 and shall adjust the five dollars and fifteen cents training wage to  
19 reflect the changes in the Consumer Price Index for all-urban  
20 consumers published by the federal Department of Labor for 2007,  
21 2008, and 2009 plus the first quarter of 2010. Every three years  
22 thereafter, the department shall make an adjustment of the training  
23 wage to reflect the changes in such Consumer Price Index for the  
24 preceding three calendar years. For purposes of this section,  
25 calendar year begins on April 1 and ends on March 31 of the next  
26 year. The new training wage shall be calculated by June 15 of the  
27 year that it will go into effect on October 1.

1           (3) An employer shall not pay the training wage ~~rate or~~  
2 hire an employee under 17 years of age if the hours of any other  
3 employee are reduced or if any other employee is laid off and the  
4 hours or position to be filled by the new employee is substantially  
5 similar to the hours or position of such other employee. An employer  
6 shall not dismiss or reduce the hours of any employee with the  
7 intention of replacing such employee or his or her hours with a new  
8 employee receiving the training wage or a new employee under  
9 seventeen years of age. ~~rate.~~

10           Sec. 3. Section 48-1206 Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           48-1206. (1) The Commissioner of Labor shall have the  
13 authority to subpoena records and witnesses related to the enforcement  
14 of ~~section 48-1203 and this section.~~ the Wage and Hour Act. The  
15 commissioner or his or her agent may inspect all related records and  
16 gather testimony on any matter relative to the enforcement of the Wage  
17 and Hour Act.

18           (2) Any employer who violates any of the provisions of  
19 section 48-1203 or 48-1203.01 shall be guilty of a Class IV  
20 misdemeanor.

21           (3) It shall be the duty of the county attorney for the  
22 county in which any violation of the Wage and Hour Act occurs to  
23 prosecute the same in the district court in the county where the  
24 offense occurred.

25           (4) Any employer who violates any provision of section  
26 48-1203 or 48-1203.01 shall be liable to the employees affected in  
27 the amount of their unpaid minimum wages or training wage, as the

1 case may be.

2 (5) Action to recover unpaid minimum wages as provided in  
3 subsection (4) of this section may be maintained in any court of  
4 competent jurisdiction by any one or more employees for and in behalf  
5 of himself, herself, or themselves and other employees similarly  
6 situated, or such employee or employees may designate an agent or  
7 representative to maintain such action for and in behalf of all  
8 employees similarly situated. The court in which any action is brought  
9 under this subsection shall, in addition to any judgment awarded to  
10 the plaintiff or plaintiffs, allow costs of the action and reasonable  
11 attorney's fees to be paid by the defendant. In any proceedings  
12 brought pursuant to this subsection, the employee shall not be  
13 required to pay any filing fee or other court costs necessarily  
14 incurred in such proceedings.

15 Sec. 4. Original sections 48-1203, 48-1203.01, and 48-1206,  
16 Reissue Revised Statutes of Nebraska, are repealed.