

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 75

Introduced by Hunt, 8.

Read first time January 09, 2025

Committee: Business and Labor

1 A BILL FOR AN ACT relating to the Wage and Hour Act; to amend sections
2 48-1202, 48-1203.01, 48-1205, 48-1206, 48-1207, 48-1208, and
3 48-1209, Reissue Revised Statutes of Nebraska, and section 48-1203,
4 Revised Statutes Cumulative Supplement, 2024; to define terms; to
5 clarify language regarding compensation for tipped employees; to
6 provide duties for employers; to change powers and duties of the
7 Department of Labor and the Commissioner of Labor; to prohibit acts
8 and provide a penalty; to provide for liquidated damages; to provide
9 for complaints; to harmonize provisions; and to repeal the original
10 sections.

11 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 48-1202, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 48-1202 For purposes of the Wage and Hour Act, unless the context
4 otherwise requires:

5 (1) Commissioner means the Commissioner of Labor;

6 (2) Department means the Department of Labor;

7 (3) (1) Employ includes shall ~~include~~ to permit to work;

8 (4) (2) Employer includes shall ~~include~~ any individual, partnership,
9 limited liability company, association, corporation, business trust,
10 legal representative, or organized group of persons employing four or
11 more employees at any one time except for seasonal employment of not more
12 than twenty weeks in any calendar year, acting directly or indirectly in
13 the interest of an employer in relation to an employee, but shall not
14 include the United States, the state, or any political subdivision
15 thereof;

16 (5) (3) Employee includes shall ~~include~~ any individual employed by
17 any employer but shall not include:

18 (a) Any individual employed in agriculture;

19 (b) Any individual employed as a baby-sitter in or about a private
20 home;

21 (c) Any individual employed in a bona fide executive,
22 administrative, or professional capacity or as a superintendent or
23 supervisor;

24 (d) Any individual employed by the United States or by the state or
25 any political subdivision thereof;

26 (e) Any individual engaged in the activities of an educational,
27 charitable, religious, or nonprofit organization when the employer-
28 employee relationship does not in fact exist or when the services
29 rendered to such organization are on a voluntary basis;

30 (f) Apprentices and learners otherwise provided by law;

31 (g) Veterans in training under supervision of the United States

1 Department of Veterans Affairs;

2 (h) A child in the employment of his or her parent or a parent in
3 the employment of his or her child; or

4 (i) Any person who, directly or indirectly, is receiving any form of
5 federal, state, county, or local aid or welfare and who is physically or
6 mentally disabled and employed in a program of rehabilitation, who shall
7 receive a wage at a level consistent with his or her health, efficiency,
8 and general well-being;

9 (6) (4) Occupational classification means ~~shall—mean~~ a
10 classification established by the Dictionary of Occupational Titles
11 prepared by the United States Department of Labor; and

12 (7) (5) Wages means ~~shall—mean~~ all remuneration for personal
13 services, including commissions and bonuses and the cash value of all
14 remunerations in any medium other than cash.

15 **Sec. 2.** Section 48-1203, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 48-1203 (1) Except as otherwise provided in this section and section
18 48-1203.01, every employer shall pay to each of his or her employees a
19 minimum wage of:

20 (a) Nine dollars per hour through December 31, 2022;

21 (b) Ten dollars and fifty cents per hour on and after January 1,
22 2023, through December 31, 2023;

23 (c) Twelve dollars per hour on and after January 1, 2024, through
24 December 31, 2024;

25 (d) Thirteen dollars and fifty cents per hour on and after January
26 1, 2025, through December 31, 2025; and

27 (e) Fifteen dollars per hour on and after January 1, 2026, through
28 December 31, 2026.

29 (2) The minimum wage established in subdivision (1)(e) of this
30 section shall be increased on January 1, 2027, and on January 1 of
31 successive years, by the increase in the cost of living. The increase in

1 the cost of living shall be measured by the percentage increase, if any,
2 as of August of the previous year over the level as of August of the year
3 preceding that year in the consumer price index for all urban consumers
4 (CPI-U) for the Midwest Region, or its successor index, as published by
5 the U.S. Department of Labor, or its successor agency, with the amount of
6 the minimum wage increase rounded up to the nearest multiple of five
7 cents. No later than October 15 of each year, commencing October 15,
8 2026, the Nebraska Department of Labor shall calculate and publish the
9 minimum wage rate that will take effect the following January 1.

10 (3) For persons compensated by way of gratuities such as waitresses,
11 waiters, hotel bellhops, porters, and shoeshine persons, the employer
12 shall pay wages at the minimum rate of two dollars and thirteen cents per
13 hour, plus all gratuities given to them for services rendered. For each
14 payment of wages made, the employer shall ensure that the ~~The~~ sum of
15 wages and gratuities received by each person compensated by way of
16 gratuities shall equal or exceed the applicable minimum wage rate
17 provided in subsection (1) or (2) of this section. In determining whether
18 or not the individual is compensated by way of gratuities, the burden of
19 proof shall be upon the employer.

20 (4) Any employer employing student-learners as part of a bona fide
21 vocational training program shall pay such student-learners' wages at a
22 rate of at least seventy-five percent of the minimum wage rate which
23 would otherwise be applicable.

24 **Sec. 3.** Section 48-1203.01, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 48-1203.01 (1) An employer may pay a new employee who is younger
27 than twenty years of age and is not a seasonal or migrant worker a
28 training wage of at least seventy-five percent of the federal minimum
29 wage for ninety days from the date the new employee was hired. An
30 employer may pay such new employee the training wage rate for an
31 additional ninety-day period while the new employee is participating in

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

6 (2) An employer shall not pay the training wage rate if the hours of
7 any other employee are reduced or if any other employee is laid off and
8 the hours or position to be filled by the new employee is substantially
9 similar to the hours or position of such other employee. An employer
10 shall not dismiss or reduce the hours of any employee with the intention
11 of replacing such employee or his or her hours with a new employee
12 receiving the training wage rate.

13 **Sec. 4.** (1)(a) Every employer of persons compensated by way of
14 gratuities as described in subsection (3) of section 48-1203 shall make
15 and keep for a period of not less than three years a record of each
16 employee's:

17 (i) Name, address, and occupation;

18 (ii) Rate of pay;

19 (iii) Amount of pay received each pay period; and

20 (iv) Hours worked each day and each workweek.

21 (b) The record required by this section shall be kept on or about
22 the premises wherein any employee is employed or at some other premises
23 which is suitable to the employer. The records shall be open for
24 inspection by the commissioner by appointment. If the records required
25 under this section are kept outside of this state, the records shall be
26 made available upon demand of the commissioner.

27 (2) Every employer of persons compensated by way of gratuities as
28 described in subsection (3) of section 48-1203 shall, on demand by the
29 commissioner, provide a sworn statement of any information required to be
30 maintained under this section. The statement shall be made upon forms and
31 in a manner prescribed by the commissioner.

1 (3) All records and information obtained by the department under
2 this section are confidential, are not public records, and shall only be
3 disclosed by court order.

4 **Sec. 5.** (1) An employee who has a reasonable belief that an
5 employer is in violation of the Wage and Hour Act may submit a complaint
6 to the department in a manner prescribed by the department.

7 (2) The department shall forward complaints it determines to be
8 credible to the appropriate county attorney or take its own enforcement
9 actions, as the commissioner deems appropriate.

10 (3) The department shall develop forms and adopt and promulgate
11 rules and regulations as necessary to carry out this section.

12 **Sec. 6.** Section 48-1205, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 48-1205 Every employer subject to the Wage and Hour Act provisions
15 of sections 48-1201 to 48-1209 shall keep a summary of the act sections
16 48-1201 to 48-1209, furnished by the commissioner Commissioner of Labor
17 without charge, posted in a conspicuous place on or about the premises
18 wherein any person subject to the act provisions of sections 48-1201 to
19 48-1209 is employed. Such summary shall include an advisement that an
20 employee who has a reasonable belief that an employer is in violation of
21 the Wage and Hour Act may submit a complaint to the department and
22 details on how to make such a complaint.

23 **Sec. 7.** Section 48-1206, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 48-1206 (1) The commissioner Commissioner of Labor shall have the
26 authority to subpoena records and witnesses related to the enforcement of
27 the Wage and Hour Act section 48-1203 and this section. The commissioner
28 or his or her agent may inspect all related records and gather testimony
29 on any matter relative to the enforcement of the Wage and Hour Act.

30 (2)(a) An employer shall not:

31 (i) Refuse to admit the commissioner to any place of employment;

1 (ii) Fail to make, keep, and preserve any records as required by
2 section 4 of this act;

3 (iii) Falsify any record required under section 4 of this act;

4 (iv) Refuse to make any record available to the commissioner as
5 required under section 4 of this act;

6 (v) Refuse to provide a sworn statement as required under section 4
7 of this act;

8 (vi) Refuse to provide other nonprivileged information to the
9 commissioner necessary for the enforcement of the Wage and Hour Act;

10 (vii) Fail to comply with section 48-1205;

11 (viii) Discharge or in any other manner discriminate or retaliate
12 against an employee who has:

13 (A) Notified the commissioner that an employee has not been paid
14 wages as required by the act;

15 (B) Caused to be instituted any proceeding under the act; or

16 (C) Testified or is about to testify in any such proceeding;

17 (ix) Pay or agree to pay wages at a rate less than that required by
18 the Wage and Hour Act. Payment at such rate for any week or portion of a
19 week constitutes a separate offense as to each employee; or

20 (x) Otherwise violate any provision of section 48-1203.

21 (b) A violation of this subsection is (2) Any employer who violates
22 any of the provisions of section 48-1203 shall be guilty of a Class IV
23 misdemeanor.

24 (c) Except as provided in subdivision (2)(a)(ix) of this section,
25 each day of violation shall constitute a separate offense.

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

29 (4) Any employer who violates any provision of section 48-1203 shall
30 be liable to the employees affected in the amount of their unpaid minimum
31 wages and liquidated damages equal to the amount of such unpaid wages 7

1 ~~as the case may be.~~

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

14 **Sec. 8.** Section 48-1207, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 48-1207 Nothing in the Wage and Hour Act ~~sections 48-1201 to 48-1209~~
17 shall be deemed to interfere with, impede, or in any way diminish the
18 right of employees to bargain collectively with their employers through
19 representatives of their own choosing in order to establish wages or
20 other conditions of work in excess of the applicable minimum under the
21 Wage and Hour Act ~~provisions of sections 48-1201 to 48-1209.~~

22 **Sec. 9.** Section 48-1208, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 48-1208 Any standards relating to minimum wage, maximum hours, or
25 other working conditions in effect on October 23, 1967, by or under any
26 other law of this state, which are more favorable to employees than those
27 applicable to such employees under the Wage and Hour Act ~~provisions of~~
28 ~~sections 48-1201 to 48-1209,~~ shall not be deemed to be amended,
29 rescinded, or otherwise affected by the Wage and Hour Act ~~sections~~
30 ~~48-1201 to 48-1209~~ but shall continue in full force and effect.

31 **Sec. 10.** Section 48-1209, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 48-1209 Sections 48-1201 to 48-1209 and sections 4 and 5 of this act
3 shall be known and may be cited as the Wage and Hour Act.

4 **Sec. 11.** Original sections 48-1202, 48-1203.01, 48-1205, 48-1206,
5 48-1207, 48-1208, and 48-1209, Reissue Revised Statutes of Nebraska, and
6 section 48-1203, Revised Statutes Cumulative Supplement, 2024, are
7 repealed.