

## WAGE PAYMENT COLLECTION

### 91A.1 Short title.

This chapter shall be known and may be referred to as the "*Iowa Wage Payment Collection Law*".

[C77, 79, 81, § 91A.1]

### 91A.2 Definitions.

As used in this chapter:

1. "*Commissioner*" means the labor commissioner or a designee.
2. "*Days*" means calendar days.
3. "*Employee*" means a natural person who is employed in this state for wages by an employer. Employee also includes a commission salesperson who takes orders or performs services on behalf of a principal and who is paid on the basis of commissions but does not include persons who purchase for their own account for resale. For the purposes of this chapter, the following persons engaged in agriculture are not employees:
  - a. The spouse of the employer and relatives of either the employer or spouse residing on the premises of the employer.
  - b. A person engaged in agriculture as an owner-operator or tenant-operator and the spouse or relatives of either who reside on the premises while exchanging labor with the operator or for other mutual benefit of any and all such persons.
  - c. Neighboring persons engaged in agriculture who are exchanging labor or other services.
4. "*Employer*" means a person, as defined in chapter 4, who in this state employs for wages a natural person. An employer does not include a client, patient, customer, or other person who obtains professional services from a licensed person who provides the services on a fee service basis or as an independent contractor.
5. "*Health benefit plan*" means a plan or agreement provided by an employer for employees for the provision of or payment for care and treatment of sickness or injury.
6. "*Liquidated damages*" means the sum of five percent multiplied by the amount of any wages that were not paid or of any authorized expenses that were not reimbursed on a regular payday or on another day pursuant to section 91A.3 multiplied by the total number of days, excluding Sundays, legal holidays, and the first seven days after the regular payday on which wages were not paid or expenses were not reimbursed. However, such sum shall not exceed the amount of the unpaid wages and shall not accumulate when an employer is subject to a petition filed in bankruptcy.
7. "*Wages*" means compensation owed by an employer for:
  - a. Labor or services rendered by an employee, whether determined on a time, task, piece, commission, or other basis of calculation.
  - b. Vacation, holiday, sick leave, and severance payments which are due an employee under an agreement with the employer or under a policy of the employer.
  - c. Any payments to the employee or to a fund for the benefit of the employee, including but not limited to

payments for medical, health, hospital, welfare, pension, or profit-sharing, which are due an employee under an agreement with the employer or under a policy of the employer. The assets of an employee in a fund for the benefit of the employee, whether such assets were originally paid into the fund by an employer or employee, are not wages.

*d.* Expenses incurred and recoverable under a health benefit plan.

[C77, 79, 81, § 91A.2]

84 Acts, ch 1129, § 2; 84 Acts, ch 1270, § 1; 85 Acts, ch 119, §1; 86 Acts, ch 1124, § 6, 7

### **91A.3 Mode of payment.**

1. An employer shall pay all wages due its employees, less any lawful deductions specified in section 91A.5, at least in monthly, semimonthly, or biweekly installments on regular paydays which are at consistent intervals from each other and which are designated in advance by the employer. However, if any of these wages due its employees are determined on a commission basis, the employer may, upon agreement with the employee, pay only a credit against such wages. If such credit is paid, the employer shall, at regular intervals, pay any difference between a credit paid against wages determined on a commission basis and such wages actually earned on a commission basis. These regular intervals shall not be separated by more than twelve months. A regular payday shall not be more than twelve days, excluding Sundays and legal holidays, after the end of the period in which the wages were earned. An employer and employee may, upon written agreement which shall be maintained as a record, vary the provisions of this subsection.

2. The wages paid under subsection 1 shall be paid in United States currency or by written instrument issued by the employer and negotiable on demand at full face value for such currency, unless the employee has agreed in writing to receive a part of or all wages in kind or in other form.

3. The wages paid under subsection 1 shall be sent to the employee by mail or be paid at the employee's normal place of employment during normal employment hours or at a place and hour mutually agreed upon by the employer and employee, or the employee may elect to have the wages sent for direct deposit, on or by the regular payday of the employee, into a financial institution designated by the employee. An employee hired on or after July 1, 2005, may be required, as a condition of employment, to participate in direct deposit of the employee's wages in a financial institution of the employee's choice unless any of the following conditions exist:

*a.* The costs to the employee of establishing and maintaining an account for purposes of the direct deposit would effectively reduce the employee's wages to a level below the minimum wage provided under section 91D.1.

*b.* The employee would incur fees charged to the employee's account as a result of the direct deposit.

*c.* The provisions of a collective bargaining agreement mutually agreed upon by the employer and the employee organization prohibit the employer from requiring an employee to sign up for direct deposit as a condition of hire.

If the employer fails to send an employee's wages for direct deposit on or by the regular payday in accordance with this subsection, the employer is liable for the amount of any overdraft charge if the overdraft is created on the employee's account because of the employer's failure to send the wages on or by the regular payday.

4. The wages paid under subsection 1 may be delivered to a designee of the employee who is so designated in writing or may be sent to the employee by any reasonable means requested by the employee in writing. A

designee under this subsection shall not also be an assignee or buyer of wages under section 539.4 nor a garnisher of the employee under chapter 642, unless the designee complies with the provisions of section 539.4 and chapter 642.

5. If an employee is absent from the normal place of employment on the regular payday, the employer shall, upon demand of the employee made within the first seven days following the regular payday, pay the wages, less any lawful deductions specified in section 91A.5, which were due on that regular payday. However, if demand is not made within this seven-day period, the employer shall, upon demand of the employee, pay the wages which were due on a regular payday within the first seven days following the day on which demand is made.

6. Expenses by the employee which are authorized by the employer and incurred by the employee shall either be reimbursed in advance of expenditure or be reimbursed not later than thirty days after the employee's submission of an expense claim. If the employer refuses to pay all or part of each claim, the employer shall submit to the employee a written justification of such refusal within the same time period in which expense claims are paid under this subsection.

7. If a farm labor contractor contracts with a person engaged in the production of seed or feed grains to remove unwanted or genetically deviant plants or corn tassels or to hand pollinate plants, and fails to pay all wages due the employees of the farm labor contractor, the person engaged in the production of seed or feed grains shall also be liable to the employees for wages not paid by the farm labor contractor.

[C77, 79, 81, § 91A.3]

84 Acts, ch 1270, § 2; 99 Acts, ch 68, §18; 2005 Acts, ch 168, §19, 23; 2006 Acts, ch 1083, §1, 2, 4

2006 amendment to subsection 3, unnumbered paragraph 1, applies retroactively to July 1, 2005, for employees hired on or after that date; 2006 Acts, ch 1083, §4

#### **91A.4 Employment suspension or termination how wages are paid.**

When the employment of an employee is suspended or terminated, the employer shall pay all wages earned, less any lawful deductions specified in section 91A.5 by the employee up to the time of the suspension or termination not later than the next regular payday for the pay period in which the wages were earned as provided in section 91A.3. However, if any of these wages are the difference between a credit paid against wages determined on a commission basis and the wages actually earned on a commission basis, the employer shall pay the difference not more than thirty days after the date of suspension or termination. If vacations are due an employee under an agreement with the employer or a policy of the employer establishing pro rata vacation accrued, the increment shall be in proportion to the fraction of the year which the employee was actually employed.

[C77, 79, 81, § 91A.4]

95 Acts, ch 37, § 1

#### **91A.5 Deductions from wages.**

1. An employer shall not withhold or divert any portion of an employee's wages unless:

a. The employer is required or permitted to do so by state or federal law or by order of a court of competent jurisdiction; or

b. The employer has written authorization from the employee to so deduct for any lawful purpose accruing to

the benefit of the employee.

2. The following shall not be deducted from an employee's wages:

*a.* Cash shortage in a common money till, cash box, or register operated by two or more employees or by an employee and an employer. However, the employer and a full-time employee who is the manager of an establishment may agree in writing signed by both parties that the employee will be responsible for a cash shortage that occurs within forty-five days prior to the most recent regular payday. Not more than one such agreement shall be in effect per establishment.

*b.* Losses due to acceptance by an employee on behalf of the employer of checks which are subsequently dishonored if the employee has been given the discretion to accept or reject such checks and the employee does not abuse the discretion given.

*c.* Losses due to breakage, damage to property, default of customer credit, or nonpayment for goods or services rendered so long as such losses are not attributable to the employee's willful or intentional disregard of the employer's interests.

*d.* Lost or stolen property, unless the property is equipment specifically assigned to, and receipt acknowledged in writing by, the employee from whom the deduction is made.

*e.* Gratuities received by an employee from customers of the employer.

*f.* Costs of personal protective equipment, other than items of clothing or footwear which may be used by an employee during nonworking hours, needed to protect an employee from employment-related hazards, unless provided otherwise in a collective bargaining agreement.

*g.* Costs of more than twenty dollars for an employee's relocation to the place of employment. This paragraph shall apply only to an employer as defined in section 91E.1.

[C77, 79, 81, § 91A.5]

90 Acts, ch 1134, §1; 90 Acts, ch 1136, § 7, 8

## **Footnotes**

Central employee registry, see chapter 252G

### **91A.6 Notice and recordkeeping requirements.**

1. An employer shall after being notified by the commissioner pursuant to subsection 2:

*a.* Notify its employees in writing at the time of hiring what wages and regular paydays are designated by the employer.

*b.* Notify, at least one pay period prior to the initiation of any changes, its employees of any changes in the arrangements specified in subsection 1 that reduce wages or alter the regular paydays. The notice shall either be in writing or posted at a place where employee notices are routinely posted.

*c.* Make available to its employees upon written request, a written statement enumerating employment agreements and policies with regard to vacation pay, sick leave, reimbursement for expenses, retirement

benefits, severance pay, or other comparable matters with respect to wages. Notice of such availability shall be given to each employee in writing or by a notice posted at a place where employee notices are routinely posted.

*d.* Establish, maintain, and preserve for three calendar years the payroll records showing the hours worked, wages earned, and deductions made for each employee and any employment agreements entered into between an employer and employee.

2. The commissioner shall notify an employer to comply with subsection 1 if the employer has paid a claim for unpaid wages or nonreimbursed authorized expenses and liquidated damages under section 91A.10 or if the employer has been assessed a civil money penalty under section 91A.12. However, a court may, when rendering a judgment for wages or nonreimbursed authorized expenses and liquidated damages or upholding a civil money penalty assessment, order that an employer shall not be required to comply with the provisions of subsection 1 or that an employer shall be required to comply with the provisions of subsection 1 for a particular period of time.

3. Within ten working days of a request by an employee, an employer shall furnish to the employee a written, itemized statement or access to a written, itemized statement as provided in subsection 4, listing the earnings and deductions made from the wages for each pay period in which the deductions were made together with an explanation of how the wages and deductions were computed.

4. On each regular payday, the employer shall send to each employee by mail or shall provide at the employee's normal place of employment during normal employment hours a statement showing the hours the employee worked, the wages earned by the employee, and deductions made for the employee. However, the employer need not provide information on hours worked for employees who are exempt from overtime under the federal Fair Labor Standards Act, as defined in 29 C.F.R. pt. 541, unless the employer has established a policy or practice of paying to or on behalf of exempt employees overtime, a bonus, or a payment based on hours worked, whereupon the employer shall send or otherwise provide a statement to the exempt employees showing the hours the employee worked or the payments made to the employee by the employer, as applicable. An employer who provides each employee access to view an electronic statement of the employee's earnings and provides the employee free and unrestricted access to a printer to print the employee's statement of earnings, if the employee chooses, is in compliance with this subsection.

[C77, 79, 81, § 91A.6]

2005 Acts, ch 168, §20, 21, 23; 2006 Acts, ch 1083, §3

#### **91A.7 Wage disputes.**

If there is a dispute between an employer and employee concerning the amount of wages or expense reimbursement due, the employer shall, without condition and pursuant to section 91A.3, pay all wages conceded to be due and reimburse all expenses conceded to be due, less any lawful deductions specified in section 91A.5. Payment of wages or reimbursement of expenses under this section shall not relieve the employer of any liability for the balance of wages or expenses claimed by the employee.

[C77, 79, 81, § 91A.7]

#### **91A.8 Damages recoverable by an employee.**

When it has been shown that an employer has intentionally failed to pay an employee wages or reimburse expenses pursuant to section 91A.3, whether as the result of a wage dispute or otherwise, the employer shall be liable to the employee for any wages or expenses that are so intentionally failed to be paid or reimbursed, plus liquidated damages, court costs and any attorney's fees incurred in recovering the unpaid wages and

determined to have been usual and necessary. In other instances the employer shall be liable only for unpaid wages or expenses, court costs and usual and necessary attorney's fees incurred in recovering the unpaid wages or expenses.

[C77, 79, 81, § 91A.8]

### **91A.9 General powers and duties of the commissioner.**

1. The commissioner shall administer and enforce the provisions of this chapter. The commissioner may hold hearings and investigate charges of violations of this chapter.
2. The commissioner may, consistent with due process of law, enter any place of employment to inspect records concerning wages and payrolls, to question the employer and employees, and to investigate such facts, conditions or matters as are deemed appropriate in determining whether any person has violated the provisions of this chapter. However, such entry by the commissioner shall only be in response to a written complaint.
3. The commissioner may employ such qualified personnel as are necessary for the enforcement of this chapter. Such personnel shall be employed pursuant to chapter 8A, subchapter IV.
4. The commissioner shall promulgate, pursuant to chapter 17A, any rules necessary to carry out the provisions of this chapter.

[C77, 79, 81, § 91A.9]

2003 Acts, ch 145, §163

### **91A.10 Settlement of claims and suits for wages prohibition against discharge of employee.**

1. Upon the written complaint of the employee involved, the commissioner may determine whether wages have not been paid and may constitute an enforceable claim. If for any reason the commissioner decides not to make such determination, the commissioner shall so notify the complaining employee within fourteen days of receipt of the complaint. The commissioner shall otherwise notify the employee of such determination within a reasonable time and if it is determined that there is an enforceable claim, the commissioner shall, with the consent of the complaining employee, take an assignment in trust for the wages and for any claim for liquidated damages without being bound by any of the technical rules respecting the validity of the assignment. However, the commissioner shall not accept any complaint for unpaid wages and liquidated damages after one year from the date the wages became due and payable.
2. The commissioner, with the assistance of the office of the attorney general if the commissioner requests such assistance, shall, unless a settlement is reached under this subsection, commence a civil action in any court of competent jurisdiction to recover for the benefit of any employee any wage, expenses, and liquidated damages' claims that have been assigned to the commissioner for recovery. The commissioner may also request reasonable and necessary attorneys' fees. With the consent of the assigning employee, the commissioner may also settle a claim on behalf of the assigning employee. Proceedings under this subsection and subsection 1 that precede commencement of a civil action shall be conducted informally without any party having a right to be heard before the commissioner. The commissioner may join various assignments in one claim for the purpose of settling or litigating their claims.
3. The provisions of subsections 1 and 2 shall not be construed to prevent an employee from settling or bringing an action for damages under section 91A.8 if the employee has not assigned the claim under subsection 1.

4. Any recovery of attorney's fees, in the case of actions brought under this section by the commissioner, shall be remitted by the commissioner to the treasurer of state for deposit in the general fund of the state. Also, the commissioner shall not be required to pay any filing fee or other court costs.

5. An employer shall not discharge or in any other manner discriminate against any employee because the employee has filed a complaint, assigned a claim, or brought an action under this section or has cooperated in bringing any action against an employer. Any employee may file a complaint with the commissioner alleging discharge or discrimination within thirty days after such violation occurs. Upon receipt of the complaint, the commissioner shall cause an investigation to be made to the extent deemed appropriate. If the commissioner determines from the investigation that the provisions of this subsection have been violated, the commissioner shall bring an action in the appropriate district court against such person. The district court shall have jurisdiction, for cause shown, to restrain violations of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to the former position with back pay.

[C77, 79, 81, § 91A.10]

84 Acts, ch 1270, § 3; 90 Acts, ch 1136, § 9

#### **91A.11 Wage claims brought under reciprocity.**

1. The commissioner may enter into reciprocal agreements with the labor department or corresponding agency of any other state or its representatives for the collection in such other states of claims or judgments for wages and other demands based upon claims assigned to the commissioner.

2. The commissioner may, to the extent provided for by any reciprocal agreement entered into by law or with an agency of another state as provided in this section, maintain actions in the courts of such other state to the extent permitted by the laws of that state for the collection of claims for wages, judgments and other demands and may assign such claims, judgments and demands to the labor department or agency of such other state for collection to the extent that such an assignment may be permitted or provided for by the laws of such state or by reciprocal agreement.

3. The commissioner may, upon the written consent of the labor department or other corresponding agency of any other state or its representatives, maintain actions in the courts of this state upon assigned claims for wages, judgments and demands arising in such other state in the same manner and to the same extent that such actions by the commissioner are authorized when arising in this state. However, such actions may be maintained only in cases in which such other state by law or reciprocal agreement extends a like comity to cases arising in this state.

[C77, 79, 81, § 91A.11]

#### **91A.12 Civil penalties.**

1. Any employer who violates the provisions of this chapter or the rules promulgated under it shall be subject to a civil money penalty of not more than one hundred dollars for each violation. The commissioner may recover such civil money penalty according to the provisions of subsections 2 to 5. Any civil money penalty recovered shall be deposited in the general fund of the state.

2. The commissioner may propose that an employer be assessed a civil money penalty by serving the employer with notice of such proposal in the same manner as an original notice is served under the rules of civil procedure. Upon service of such notice, the proposed assessment shall be treated as a contested case under chapter 17A. However, an employer must request a hearing within thirty days of being served.

3. If an employer does not request a hearing pursuant to subsection 2 or if the commissioner determines, after

an appropriate hearing, that an employer is in violation of this chapter, the commissioner shall assess a civil money penalty which is consistent with the provisions of subsection 1 and which is rendered with due consideration for the penalty amount in terms of the size of the employer's business, the gravity of the violation, the good faith of the employer, and the history of previous violations.

4. An employer may seek judicial review of any assessment rendered under subsection 3 by instituting proceedings for judicial review pursuant to chapter 17A. However, such proceedings must be instituted in the district court of the county in which the violation or one of the violations occurred and within thirty days of the day on which the employer was notified that an assessment has been rendered. Also, an employer may be required, at the discretion of the district court and upon instituting such proceedings, to deposit the amount assessed with the clerk of the district court. Any moneys so deposited shall either be returned to the employer or be forwarded to the commissioner for deposit in the general fund of the state, depending on the outcome of the judicial review, including any appeal to the supreme court.

5. After the time for seeking judicial review has expired or after all judicial review has been exhausted and the commissioner's assessment has been upheld, the commissioner shall request the attorney general to recover the assessed penalties in a civil action.

[C77, 79, 81, § 91A.12]

#### **91A.13 Travel time to worksite when compensable.**

Unless a collective bargaining agreement provides otherwise, an employee is not entitled to compensation for the time that an employee spends traveling to and from the worksite on transportation provided by the employer, when during that time, the employee performs no work, the transportation is provided by the employer as a convenience for the employee, and the employee is not required by the employer to use that means of transportation to the worksite. An employee is entitled to compensation for the time that an employee spends traveling between worksites if the travel is done during working hours.

2001 Acts, ch 121, §1

#### **91A.14 Former employees.**

The rights and obligations outlined in this chapter continue until they are fulfilled, even though the employer-employee relationship has been severed.

2000 Acts, ch 1097, §3