

**Senate File 107 - Introduced**

SENATE FILE 107

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**A BILL FOR**

1 An Act relating to wage payment collection issues arising  
2 between employers and individuals who provide services to  
3 employers, providing penalties and remedies, and including  
4 effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

WAGE PAYMENT COLLECTION

1  
2  
3 Section 1. Section 91A.5, subsection 1, unnumbered  
4 paragraph 1, Code 2019, is amended to read as follows:

5 An employer shall have the burden to establish that a  
6 deduction from employee wages is lawful. An employer shall not  
7 withhold or divert any portion of an employee's wages unless:

8 Sec. 2. Section 91A.5, subsection 1, paragraph b, Code 2019,  
9 is amended to read as follows:

10 *b.* The employer ~~has~~ obtains advance written authorization  
11 from the employee to so deduct for any lawful purpose accruing  
12 to the benefit of the employee.

13 Sec. 3. Section 91A.6, subsection 1, Code 2019, is amended  
14 to read as follows:

15 1. An employer shall ~~after being notified by the~~  
16 ~~commissioner pursuant to~~ subsection 2 do the following:

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

19 *b.* Notify its employees in writing whose wages are  
20 determined based on a task, piece, mile, or load basis about  
21 the method used to calculate wages and when the wages are  
22 earned by the employees.

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

29 ~~*c.*~~ *d.* Make available to its employees upon written request,  
30 a written statement enumerating employment agreements and  
31 policies with regard to vacation pay, sick leave, reimbursement  
32 for expenses, retirement benefits, severance pay, or other  
33 comparable matters with respect to wages. Notice of such  
34 availability shall be given to each employee in writing or by a  
35 notice posted at a place where employee notices are routinely

1 posted.

2 ~~d.~~ e. Establish, maintain, and preserve for three  
3 calendar years the payroll records showing the hours worked,  
4 wages earned, and deductions made for each employee and  
5 any employment agreements entered into between an employer  
6 and employee. Failure to do so shall raise a rebuttable  
7 presumption that the employer did not pay the required minimum  
8 wage under section 91D.1.

9 Sec. 4. Section 91A.6, subsection 2, Code 2019, is amended  
10 by striking the subsection.

11 Sec. 5. Section 91A.6, subsection 4, Code 2019, is amended  
12 by striking the subsection and inserting in lieu thereof the  
13 following:

14 4. a. On each regular payday, the employer shall provide  
15 to each employee a statement showing the wages earned by  
16 the employee, the deductions made for the employee, and the  
17 following information, as applicable:

18 (1) For each employee paid in whole or in part on an hourly  
19 basis, the statement shall show the hours the employee worked.

20 (2) For each employee paid based on a percentage of sales or  
21 based on a percentage of revenue generated for the employer,  
22 the statement shall include a list of the amount of each sale  
23 or the amount of revenue during the pay period.

24 (3) For each employee whose pay is based on the number  
25 of miles or loads performed, the statement shall include the  
26 applicable number performed during the pay period.

27 b. The employer shall provide the statement using one of the  
28 following methods:

29 (1) Sending the statement to an employee by mail.

30 (2) Providing the statement to an employee by secure  
31 electronic transmission or by other secure electronic means.  
32 If an employee is unable to receive the statement by this  
33 method, the employee shall notify the employer in writing at  
34 least one pay period in advance, and the employer shall provide  
35 the statement by one of the other methods listed in this

1 paragraph "b".

2 (3) Providing the statement to the employee at the  
3 employee's normal place of employment during normal employment  
4 hours.

5 (4) Providing each employee access to view a statement  
6 of the employee's earnings electronically and providing the  
7 employee free and unrestricted access to a printer to print the  
8 statement.

9 Sec. 6. Section 91A.8, Code 2019, is amended to read as  
10 follows:

11 **91A.8 Damages recoverable by an employee.**

12 When it has been shown that an employer has intentionally  
13 failed to pay an employee wages or reimburse expenses pursuant  
14 to [section 91A.3](#), whether as the result of a wage dispute or  
15 otherwise, the employer shall be liable to the employee for  
16 ~~any the unpaid wages or unreimbursed expenses that are so~~  
17 ~~intentionally failed to be paid or reimbursed~~, plus liquidated  
18 damages, court costs, and any attorney's attorney fees incurred  
19 in recovering the unpaid wages or unreimbursed expenses  
20 and determined to have been usual and necessary. ~~In other~~  
21 ~~instances the employer shall be liable only for unpaid wages or~~  
22 ~~expenses, court costs and usual and necessary attorney's fees~~  
23 ~~incurred in recovering the unpaid wages or expenses.~~

24 Sec. 7. Section 91A.9, subsection 3, Code 2019, is amended  
25 to read as follows:

26 3. The commissioner may employ such qualified personnel  
27 as are necessary for the enforcement of [this chapter](#). Such  
28 personnel shall be employed pursuant to chapter 8A, subchapter  
29 IV. The commissioner shall employ wage investigators for the  
30 enforcement of this chapter.

31 Sec. 8. Section 91A.9, Code 2019, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 4A. The commissioner shall establish a  
34 statewide, toll-free telephone hotline for the purpose of  
35 receiving reports of violations of this chapter.

1     Sec. 9. Section 91A.10, subsection 5, Code 2019, is amended  
2 to read as follows:

3     ~~5. An employer shall not discharge or in any other manner~~  
4 ~~discriminate against any employee because the employee has~~  
5 ~~filed a complaint, assigned a claim, or brought an action under~~  
6 ~~this section~~ or has cooperated in bringing any action against  
7 an employer.

8     5. a. An employer or other person shall not discharge or  
9 in any other manner discriminate or retaliate against any of  
10 the following:

11     (1) An employee or other person for exercising any right  
12 provided under this chapter or any rules adopted pursuant to  
13 this chapter.

14     (2) Another employee or person for providing assistance to  
15 an employee or providing information regarding the employee or  
16 person.

17     (3) Another employee or person for testifying or planning  
18 to testify in any investigation or proceeding regarding the  
19 employee or person.

20     b. Taking adverse action against an employee or other person  
21 within ninety days of an employee's or other person's engaging  
22 in any of the activities in paragraph "a" raises a presumption  
23 that such action was retaliation, which may be rebutted by  
24 evidence that such action was taken for other permissible  
25 reasons.

26     c. Any employee may file a complaint with the commissioner  
27 alleging discharge, or discrimination, or retaliation within  
28 thirty days after such violation occurs. Upon receipt of the  
29 complaint, the commissioner shall cause an investigation to be  
30 made to the extent deemed appropriate. If the commissioner  
31 determines from the investigation that the provisions of this  
32 subsection have been violated, the commissioner shall bring  
33 an action in the appropriate district court against such  
34 person. The district court shall have jurisdiction, for cause  
35 shown, to restrain violations of this subsection and order all

1 appropriate relief including rehiring or reinstatement of the  
2 employee to the former position with back pay.

3 Sec. 10. Section 91A.10, Code 2019, is amended by adding the  
4 following new subsection:

5 NEW SUBSECTION. 6. A civil action to enforce subsection 5  
6 may also be maintained in any court of competent jurisdiction  
7 by the commissioner or by any party injured by a violation  
8 of subsection 5. An employer or other person who retaliates  
9 against an employee or other person in violation of subsection  
10 5 shall be required to pay the employee or other person  
11 an amount set by the commissioner or a court sufficient to  
12 compensate the employee or other person and to deter future  
13 violations, but not less than one hundred fifty dollars for  
14 each day that the violation occurred.

15 Sec. 11. NEW SECTION. 91A.12A **Erroneous violations.**

16 If an employer erroneously violates the provisions of this  
17 chapter or the rules adopted pursuant to this chapter, the  
18 employer shall not be subject to liability to an employee  
19 pursuant to section 91A.8, the violation shall not constitute  
20 an enforceable claim as provided in section 91A.10, and the  
21 employer shall not be subject to a civil money penalty pursuant  
22 to section 91A.12, if all of the following conditions are met:

23 a. The commissioner determines that the violation was  
24 erroneous and that the employer attempted in good faith to  
25 comply with the provisions of this chapter and the rules  
26 adopted pursuant to this chapter.

27 b. The commissioner, after considering any history of  
28 violations of this chapter or the rules adopted pursuant to  
29 this chapter by the employer, determines that the violation was  
30 isolated in nature.

31 c. The employer corrects the violation to the satisfaction  
32 of the labor commissioner within fourteen days of the  
33 occurrence of the violation.

34 Sec. 12. NEW SECTION. 91A.15 **Commissions earned date.**

35 An employer shall not require that a person be a current

1 employee to be paid a commission that the person otherwise  
2 earned.

3 Sec. 13. NEW SECTION. 91A.16 Inconsistency with federal  
4 law.

5 A provision of this chapter shall not apply to any employer  
6 or employee if such provision would conflict with federal law  
7 or regulation.

8 Sec. 14. EFFECTIVE DATE. This division of this Act takes  
9 effect January 1, 2020.

10

DIVISION II

11

NOTIFICATION REQUIREMENTS

12 Sec. 15. NOTIFICATION REQUIREMENTS. The labor commissioner  
13 shall provide for the notification of each employer in this  
14 state of the requirements for employers provided in this Act by  
15 September 2, 2019. Such notification shall include suggested  
16 forms and procedures that employers may use for purposes of  
17 compliance with the notice and recordkeeping requirements of  
18 section 91A.6, as amended by this Act.

19

EXPLANATION

20

The inclusion of this explanation does not constitute agreement with  
21 the explanation's substance by the members of the general assembly.

21

22 This bill relates to employers and individuals who perform  
23 labor and wage payment collection.

24 Code section 91A.5 is amended to provide that the employer  
25 has the burden to establish that a deduction from employees'  
26 wages is lawful and that the employer must obtain written  
27 authorization for the deduction from the employee in advance.

28 Code section 91A.6(1) is amended to remove the requirement  
29 that an employer be notified by the division of labor services  
30 of the department of workforce development before the employer  
31 is required to fulfill the requirements in subsection 1  
32 relating to employee wage and benefit information. In new  
33 Code section 91A.6(1)(b), the employer is required to notify  
34 employees in writing whose wages are determined based on a  
35 task, piece, mile, or load basis about the method used to

1 calculate wages and when wages are earned. Code section  
2 91A.6(1)(e) is amended to establish a rebuttable presumption  
3 that an employer did not pay the minimum wage if the employer  
4 does not maintain proper payroll records.

5 Current Code section 91A.6(2), setting out certain employer  
6 compliance procedures, is stricken.

7 Code section 91A.6(4) is amended so that the employer  
8 must provide to each employee a statement of the employee's  
9 earnings, deductions made, and as applicable the following:  
10 for an employee paid hourly, the number of hours worked during  
11 the pay period; for an employee paid on a percentage of sales  
12 or revenue generated, a list of sales or amount of revenue  
13 during the pay period; and for an employee paid based on the  
14 number of miles or loads performed, the applicable number  
15 performed during the pay period.

16 In amended Code section 91A.8, when any specified violation  
17 of Code chapter 91A occurs, even if unintentional, an employer  
18 shall be liable for unpaid wages or expenses plus liquidated  
19 damages, court costs, and attorney fees incurred in recovering  
20 wages.

21 The bill amends Code section 91A.9 to require the labor  
22 commissioner to employ wage investigators for the enforcement  
23 of Code chapter 91A, and to establish a statewide, toll-free  
24 telephone hotline for the purpose of receiving reports of  
25 violations of Code chapter 91A.

26 Code section 91A.10(5), which covers retaliatory actions  
27 by employers or others, is expanded to cover persons other  
28 than employees who act under Code chapter 91A with respect  
29 to an employee. A 90-day period is established during which  
30 any action against an employee or other person is rebuttably  
31 presumed to be retaliatory. New subsection 6 is created in  
32 Code section 91A.10 to allow the labor commissioner or any  
33 injured party to maintain a civil action in any court of proper  
34 jurisdiction. An employer who retaliates against an employee  
35 or other person shall compensate the injured party an amount



1 set by the labor commissioner or the court, but not less than  
2 \$150 for each day of the violation.

3 The bill creates new Code section 91A.12A to provide that  
4 if an employer erroneously violates the provisions of Code  
5 chapter 91A or the rules adopted pursuant to Code chapter  
6 91A, the employer shall not be subject to certain penalty  
7 provisions provided in Code chapter 91A if certain conditions  
8 are met. The first condition is that the labor commissioner  
9 determines that the violation was erroneous and that the  
10 employer attempted in good faith to comply with the provisions  
11 of Code chapter 91A and the rules adopted pursuant to Code  
12 chapter 91A. The second condition is that the commissioner,  
13 after considering any history of violations by the employer,  
14 determines that the violation was isolated in nature. The  
15 third condition is that the employer corrects the violation  
16 to the satisfaction of the commissioner within 14 days of the  
17 occurrence of the violation.

18 In new Code section 91A.15, an employer shall not require  
19 that an individual be a current employee to be paid an earned  
20 commission.

21 The bill creates new Code section 91A.16 to stipulate that a  
22 provision of Code chapter 91A shall not apply to any employer  
23 or employee if such provision would conflict with federal law  
24 or regulation.

25 The bill requires the labor commissioner to provide for the  
26 notification of each employer in Iowa of the requirements for  
27 employers provided in the bill by September 2, 2019. Such  
28 notification shall include suggested forms and procedures  
29 that employers may use for purposes of compliance with the  
30 notice and recordkeeping requirements of Code section 91A.6,  
31 as amended by the bill.

32 An employer who violates Code chapter 91A is subject to a  
33 civil penalty of not more than \$500 per pay period for each  
34 violation.

35 The bill, except for the provision providing for

S.F. 107

1 notification of employees in Iowa by the labor commissioner,  
2 takes effect January 1, 2020.