

**House File 180 - Introduced**

HOUSE FILE 180

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**A BILL FOR**

1 An Act concerning wage payment collection issues arising  
2 between employers and employees, providing penalties and  
3 remedies, and including effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 91A.5, subsection 1, unnumbered  
2 paragraph 1, Code 2021, is amended to read as follows:

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

6 Sec. 2. Section 91A.5, subsection 1, paragraph b, Code 2021,  
7 is amended to read as follows:

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

11 Sec. 3. Section 91A.6, subsection 1, Code 2021, is amended  
12 to read as follows:

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

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

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

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

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

35 ~~*d.*~~ *e.* Establish, maintain, and preserve for three

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

7 Sec. 4. Section 91A.6, subsection 2, Code 2021, is amended  
8 by striking the subsection.

9 Sec. 5. Section 91A.6, subsection 4, Code 2021, is amended  
10 by striking the subsection and inserting in lieu thereof the  
11 following:

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

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

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

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

25 b. The employer shall provide the statement using one of the  
26 following methods:

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

28 (2) Providing the statement to an employee by secure  
29 electronic transmission or by other secure electronic means.

30 If an employee is unable to receive the statement by this  
31 method, the employee shall notify the employer in writing at  
32 least one pay period in advance, and the employer shall provide  
33 the statement by one of the other methods listed in this  
34 paragraph "b".

35 (3) Providing the statement to the employee at the

1 employee's normal place of employment during normal employment  
2 hours.

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

7 Sec. 6. Section 91A.8, Code 2021, is amended to read as  
8 follows:

9 **91A.8 Damages recoverable by an employee.**

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

22 Sec. 7. Section 91A.10, subsection 5, Code 2021, is amended  
23 to read as follows:

24 ~~5. An employer shall not discharge or in any other manner~~  
25 ~~discriminate against any employee because the employee has~~  
26 ~~filed a complaint, assigned a claim, or brought an action under~~  
27 ~~this section or has cooperated in bringing any action against~~  
28 ~~an employer.~~

29 a. An employer or other person shall not discharge or in  
30 any other manner discriminate or retaliate against any of the  
31 following:

32 (1) An employee or other person for exercising any right  
33 provided under this chapter or any rules adopted pursuant to  
34 this chapter.

35 (2) Another employee or person for providing assistance to

1 an employee or providing information regarding the employee or  
2 person.

3 (3) Another employee or person for testifying or planning  
4 to testify in any investigation or proceeding regarding the  
5 employee or person.

6 b. Taking adverse action against an employee or other person  
7 within ninety days of an employee's or other person's engaging  
8 in any of the activities in paragraph "a" raises a presumption  
9 that such action was retaliation, which may be rebutted by  
10 evidence that such action was taken for other permissible  
11 reasons.

12 c. Any employee may file a complaint with the commissioner  
13 alleging discharge, ~~or~~ discrimination, or retaliation within  
14 thirty days after such violation occurs. Upon receipt of the  
15 complaint, the commissioner shall cause an investigation to be  
16 made to the extent deemed appropriate. If the commissioner  
17 determines from the investigation that the provisions of this  
18 subsection have been violated, the commissioner shall bring  
19 an action in the appropriate district court against such  
20 person. The district court shall have jurisdiction, for cause  
21 shown, to restrain violations of **this subsection** and order all  
22 appropriate relief including rehiring or reinstatement of the  
23 employee to the former position with back pay.

24 Sec. 8. Section 91A.10, Code 2021, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 6. A civil action to enforce subsection 5  
27 may also be maintained in any court of competent jurisdiction  
28 by the commissioner or by any party injured by a violation  
29 of subsection 5. An employer or other person who retaliates  
30 against an employee or other person in violation of subsection  
31 5 shall be required to pay the employee or other person  
32 an amount set by the commissioner or a court sufficient to  
33 compensate the employee or other person and to deter future  
34 violations, but not less than one hundred fifty dollars for  
35 each day that the violation occurred.

1     Sec. 9.     NEW SECTION.     **91A.16 Commissions earned date.**

2     An employer shall not require that a person be a current  
3 employee to be paid a commission that the person otherwise  
4 earned.

5     Sec. 10.   EFFECTIVE DATE.   This Act takes effect January 1,  
6 2022.

7                                       EXPLANATION

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

10     This bill relates to the collection of wages from employers  
11 by employees under Code chapter 91A, the "Iowa Wage Payment  
12 Collection Law".

13     The bill provides that an employer has the burden to  
14 establish that a deduction from employees' wages is lawful and  
15 that the employer must obtain written authorization for the  
16 deduction from the employee in advance.

17     The bill removes the requirement that an employer be  
18 notified by the division of labor services of the department  
19 of workforce development before the employer is required to  
20 fulfill requirements relating to employee wage and benefit  
21 information. The bill requires an employer to notify employees  
22 in writing whose wages are determined based on a task, piece,  
23 mile, or load basis about the method used to calculate wages  
24 and when wages are earned. The bill establishes a rebuttable  
25 presumption that an employer did not pay the minimum wage if  
26 the employer does not maintain proper payroll records.

27     The bill requires an employer to provide to each employee  
28 a statement of the employee's earnings, deductions made, and  
29 as applicable the following: for an employee paid hourly, the  
30 number of hours worked during the pay period; for an employee  
31 paid on a percentage of sales or revenue generated, a list of  
32 sales or amount of revenue during the pay period; and for an  
33 employee paid based on the number of miles or loads performed,  
34 the applicable number performed during the pay period.

35     The bill provides that when any specified violation of Code

1 chapter 91A occurs, even if unintentional, an employer shall be  
2 liable for unpaid wages or expenses plus liquidated damages,  
3 court costs, and attorney fees incurred in recovering wages.

4 Prohibitions on retaliatory actions by employers or  
5 others are expanded to cover persons other than employees who  
6 act under Code chapter 91A with respect to an employee. A  
7 90-day period is established during which any action against  
8 an employee or other person is rebuttably presumed to be  
9 retaliatory. The bill allows the labor commissioner or any  
10 injured party to maintain a civil action in any court of proper  
11 jurisdiction. An employer who retaliates against an employee  
12 or other person shall compensate the injured party an amount  
13 set by the labor commissioner or the court, but not less than  
14 \$150 for each day of the violation.

15 The bill prohibits an employer from requiring that  
16 an individual be a current employee to be paid an earned  
17 commission.

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

21 The bill takes effect January 1, 2022.