Senate File 2046 - Introduced

SENATE FILE 2046
BY DONAHUE, STAED, HARDMAN, DREY, BLAKE, KNOX, BISIGNANO, TOWNSEND, PETERSEN, ZIMMER, WINCKLER, QUIRMBACH, DOTZLER, WEINER, TRONE GARRIOTT, and BENNETT

A BILL FOR

An Act relating to wage payment collection issues arising between employers and employees, providing penalties and remedies, and including effective date provisions.

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

DIVISION I

WAGE PAYMENT COLLECTION

Section 1. Section 91A.5, subsection 1, unnumbered paragraph 1, Code 2026, is amended to read as follows:

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

Sec. 2. Section 91A.5, subsection 1, paragraph b, Code 2026, is amended to read as follows:

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

Sec. 3. Section 91A.6, subsection 1, Code 2026, is amended to read as follows:

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

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

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

~~*b.*~~ *c.* Notify, at least one pay period prior to the initiation of any changes, its employees of any changes in the arrangements specified in this 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.*~~ *d.* 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.*~~ *e.* 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. Failure to do so shall raise a rebuttable presumption that the employer did not pay the required minimum wage under section 91D.1.

Sec. 4. Section 91A.6, subsection 2, Code 2026, is amended by striking the subsection.

Sec. 5. Section 91A.6, subsection 4, Code 2026, is amended by striking the subsection and inserting in lieu thereof the following:

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

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

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

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

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

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

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

paragraph "b".

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

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

Sec. 6. Section 91A.8, Code 2026, is amended to read as follows:

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~~ the unpaid wages or unreimbursed expenses ~~that are so intentionally failed to be paid or reimbursed~~, plus liquidated damages, court costs, and any ~~attorney's~~ attorney fees incurred in recovering the unpaid wages or unreimbursed expenses 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.~~

Sec. 7. Section 91A.9, subsection 3, Code 2026, is amended to read as follows:

3. The director 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. The director shall employ wage investigators for the enforcement of this chapter.

Sec. 8. Section 91A.10, subsections 1 and 5, Code 2026, are amended to read as follows:

1. Upon the written complaint of the employee involved, the director ~~may~~ shall determine whether wages have not been paid and may constitute an enforceable claim. ~~If for any reason the~~

~~director decides not to make such determination, the director shall so notify the complaining employee within fourteen days of receipt of the complaint.~~ The director shall ~~otherwise~~ notify the employee of such determination within a reasonable time and if it is determined that there is an enforceable claim, the director 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 director shall not accept any complaint for unpaid wages and liquidated damages after ~~one year~~ three years from the date the wages became due and payable.

~~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.~~

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

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

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

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

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

c. Any employee may file a complaint with the director alleging discharge, ~~or~~ discrimination, or retaliation within thirty days after such violation occurs. Upon receipt of the complaint, the director shall cause an investigation to be made to the extent deemed appropriate. If the director determines from the investigation that the provisions of this subsection have been violated, the director 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.

Sec. 9. Section 91A.10, Code 2026, is amended by adding the following new subsection:

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

Sec. 10. Section 91A.12, subsections 1 and 2, Code 2026, are amended to read as follows:

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 five hundred dollars per pay period for each violation. The director ~~may~~ shall recover such civil money penalty according to the provisions of subsections 2 through 5. Any civil money penalty recovered shall be deposited in the general fund of the state.

2. The director ~~may~~ shall 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.

Sec. 11. NEW SECTION. **91A.12A Inadvertent violations.**

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

1. The director determines that the violation was inadvertent and that the employer attempted in good faith to comply with the provisions of this chapter and the rules adopted pursuant to this chapter.

2. The director, after considering any history of violations of this chapter or the rules adopted pursuant to this chapter by the employer, determines that the violation was isolated in nature.

3. The employer corrects the violation to the satisfaction of the director within fourteen days of the occurrence of the violation.

Sec. 12. NEW SECTION. **91A.16 Commissions earned date.**

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

Sec. 13. NEW SECTION. **91A.17 Inconsistency with federal law.**

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

Sec. 14. EFFECTIVE DATE. This division of this Act takes

effect January 1, 2027.

DIVISION II

NOTIFICATION REQUIREMENTS

Sec. 15. NOTIFICATION REQUIREMENTS. The director of the department of inspections, appeals, and licensing shall provide for the notification of each employer in this state of the requirements for employers provided in this Act by September 1, 2026. Such notification shall include suggested forms and procedures that employers may use for purposes of compliance with the notice and recordkeeping requirements of section 91A.6, as amended by this Act.

EXPLANATION

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

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

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

The bill removes the requirement that an employer be notified by the director of the department of inspections, appeals, and licensing before the employer is required to fulfill requirements relating to employee wage and benefit information. The bill requires an employer to notify employees in writing whose wages are determined based on a task, piece, mile, or load basis about the method used to calculate wages and when wages are earned. The bill establishes a rebuttable presumption that an employer did not pay the minimum wage if the employer does not maintain proper payroll records.

The bill requires an employer to provide to each employee a statement of the employee's earnings, deductions made, and as applicable the following: for an employee paid hourly, the number of hours worked during the pay period; for an employee

paid on a percentage of sales or revenue generated, a list of sales or amount of revenue during the pay period; and for an employee paid based on the number of miles or loads performed, the applicable number performed during the pay period.

The bill provides that when any specified violation of Code chapter 91A occurs, even if unintentional, an employer shall be liable for unpaid wages or expenses plus liquidated damages, court costs, and attorney fees incurred in recovering wages.

The bill requires the director to employ wage investigators for the enforcement of Code chapter 91A.

The bill requires the director, upon the written complaint of the employee involved, to determine whether wages have not been paid and may constitute an enforceable claim. Under current law, making such a determination is discretionary. The bill increases the period after which the director is prohibited from accepting complaints for unpaid wages and liquidated damages to three years from the date the wages became due and payable. Under current law, the period is one year from that date.

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

The bill modifies language relating to procedures for the director to impose civil penalties on an employer for violations of Code chapter 91A by making certain actions by the director mandatory.

The bill provides that if an employer inadvertently violates

the provisions of Code chapter 91A or the rules adopted pursuant to Code chapter 91A, the employer shall not be subject to certain penalty provisions provided in Code chapter 91A if certain conditions are met. The first condition is that the director determines that the violation was inadvertent and that the employer attempted in good faith to comply with the provisions of Code chapter 91A and the rules adopted pursuant to Code chapter 91A. The second condition is that the director, after considering any history of violations by the employer, determines that the violation was isolated in nature. The third condition is that the employer corrects the violation to the satisfaction of the director within 14 days of the occurrence of the violation.

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

The bill stipulates that a provision of Code chapter 91A shall not apply to any employer or employee if such provision would conflict with federal law or regulation.

The bill requires the director to provide for the notification of each employer in Iowa of the requirements for employers provided in the bill by September 1, 2026. Such notification shall include suggested forms and procedures that employers may use for purposes of compliance with the notice and recordkeeping requirements of Code chapter 91A as amended by the bill.

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

The bill, except for the provision providing for notification of employees in Iowa by the director, takes effect January 1, 2027.