

Section 4. This act shall take effect immediately.

Act effective  
immediately.

APPROVED—The 14th day of July, A. D. 1961.

DAVID L. LAWRENCE

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No. 329

AN ACT

Relating to the payment of wages or compensation for labor or services; providing for regular pay days; conferring powers and duties upon the Department of Labor and Industry, including powers and duties with respect to the civil collection of wages; providing civil and criminal penalties for violations of the act; providing for their collection and disposition and providing for additional civil damages.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Wage Payment and Collection Law.”

Wage Payment  
and Collection  
Law.

Section 2. Definitions.—As used in this act—

(1) “Employer” includes every person, firm, partnership, association, corporation, receiver or other officer of a court of this Commonwealth and any agent or officer of any of the above-mentioned classes employing any person in this Commonwealth.

(2) “Wages” includes all amounts at which the labor or service rendered is recompensed whether the amount is fixed or ascertained on a time, task, piece, commission or other method of calculation.

(3) “Check” means a draft drawn on a bank and payable on demand.

(4) “Secretary” means the Secretary of Labor and Industry.

(5) “Department” means the Department of Labor and Industry.

Section 3. Regular Payday.—Every employer shall pay all wages due to his employes on regular paydays designated in advance by the employer. Overtime wages may be considered as wages earned and payable in the next succeeding pay period. All wages earned in any pay period shall be due and payable within the number of days after the expiration of said pay period as provided in a written contract of employment or, if not so specified, within the standard time lapse customary in the trade or within 15 days from the end of such pay period. The wages shall be paid in lawful money of the

United States or check, except that deductions provided by law, or as authorized by regulation of the Department of Labor and Industry for the convenience of the employe, may be made including deductions of contributions to employes' welfare and pension plans which are subject to the "Federal Welfare and Pension Plans Disclosure Act."

Section 4. Notification.—It shall be the duty of every employer to notify his employes at the time of hiring of the time and place of payment and the rate of pay and any change with respect to any of these items prior to the time of said change. Alternatively, however, every employer may give such notification by posting the aforementioned facts and keeping them posted conspicuously at the employer's place of business.

Section 5. Employes Who Are Separated from Payroll before Paydays.—

(a) Separated Employes. Whenever an employer separates an employe from the payroll, or whenever an employe quits or resigns his employment, the wages or compensation earned shall become due and payable not later than the next regular payday of his employer on which such wages would otherwise be due and payable.

(b) Industrial Disputes. In the event of the suspension of work as the result of an industrial dispute, the wages and compensation earned and unpaid at the time of said suspension shall become due and payable not later than the next regular payday of his employer on which such wages would otherwise be due and payable: Provided, That if the employer is unable to prepare the payroll due to industrial disputes or for other reasons beyond the control of the employer, the employer shall not be deemed in violation of section 3 of this act.

Section 6. Unconditional Payment of Wages Conceded to Be Due.—In case of a dispute over wages, the employer shall give written notice to the employe or his counsel of the amount of wages which he concedes to be due and shall pay such amount without condition within the time set by this act. Acceptance by the employe of any payment made hereunder shall not constitute a release as to the balance of his claim.

Section 7. Provisions of Law May Not Be Waived by Agreement.—Nothing contained in this act shall in any way limit or prohibit the payment of wages or compensation at more frequent intervals or in greater amounts or in full when or before due. No provision of this act shall in any way be contravened or set aside by a private agreement.

Section 8. Enforcement.—It shall be the duty of the Secretary of Labor and Industry to enforce and administer the provisions of this act, to investigate any alleged violations of this act and to institute prosecutions and actions as provided hereunder. Nothing in this act shall authorize an \*employee or the secretary to initiate a civil action for unpaid wages which are subject to disposition under grievance and arbitration procedures of a collective bargaining agreement. The Department of Labor and Industry shall have the power to make rules and regulations for the administration of this act.

Section 9. Notice to Employer and Penalties.—

(a) Notice to employer of wage claim penalty for failure to respond. Upon being informed of the wage claim against an employer or former employer, the Secretary shall, if the claim appears to be just, immediately notify the employer or former employer of such claim by registered or certified mail. If the employer or former employer fails to pay the claim or make satisfactory explanation to the secretary of his failure to do so within 10 days after receipt of such registered or certified notification, thereafter, the employer or former employer shall be liable to a penalty of ten percent (10%) of that portion of the claim found to be justly due. A good faith dispute or contest as to the amount of wages due or the good faith assertion of a right of set-off or counter-claim shall be deemed a satisfactory explanation for non-payment of such amount in dispute or claimed as a set-off or counter-claim. The secretary shall have a cause of action against the employer or former employer for the recovery of such penalty and the same may be included in any subsequent action by the secretary on said wage claim or may be exercised separately after adjustment of such wage claim without court action.

(b) Penalties. Any employer who wilfully violates any provision of this act shall be guilty of a summary offense and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) or by imprisonment of not less than ten days or more than sixty days, or by both, for each offense. The good faith contest or dispute by any employer of any wage claim or the good faith assertion of a right of set-off or counter-claim shall not be considered a wilful violation of this act: Provided, That the employer has paid the employe all wages due in excess of the amount in dispute or asserted to be subject to a right of set-off or counter-claim. Violation as to each employe shall constitute a separate offense. Nothing in

\* "employee" in original.

this paragraph shall be construed to apply to any employer, once said employer is the subject of a petition in bankruptcy in a Federal district court; such petition may be either voluntary or involuntary.

(c) Disposition of Fines or Penalties. All fines or penalties collected under this act shall be paid into the State Treasury through the Department of Revenue to the credit of the General Fund.

Section 10. Liquidated Damages.—Where wages remain unpaid for thirty days beyond the regularly scheduled payday and no good faith contest or dispute of any wage claim including the good faith assertion of a right of set-off or counter-claim exists accounting for such non-payment, the employe shall be entitled to claim, in addition, as liquidated damages an amount equal to the amount of the claim still unpaid and not in contest or disputed: Provided, however, That the amount of such liquidated damages shall not exceed two hundred dollars (\$200) or six percent (6%) of the claim, whichever is greater.

Section 11. Civil Remedies.—

(a) Action by an employe to recover unpaid wages and liquidated damages may be maintained in any court of competent jurisdiction (or any magistrate, alderman or justice of the peace) under section 1 of the act of December 9, 1955 (P. L. 817) and section 2 of the act of May 10, 1927 (P. L. 866), by any one or more employes for and in behalf of himself or themselves and other employes similarly situated, or such employe or employes may designate an agent or representative to maintain such action for and on behalf of all employes similarly situated. Any employe or his representative shall have the power to settle and adjust his claim for unpaid wages.

(b) If the Secretary of Labor and Industry determines that wages due have not been paid and that such unpaid wages constitute an enforceable claim, the secretary shall, upon the request of the employe, take an assignment in trust for the assigning employe of such claim for wages without being bound by any of the technical rules respecting the validity of any such assignments and may bring any legal action necessary to collect such claim, subject to any right by the employer to set-off or counter-claim against the assigning employe. Upon any such assignment, the Secretary of Labor and Industry shall have the power to settle and adjust any such claim to the same extent as might the assigning employe.

(c) The court in any action brought under this subsection shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of the action, including costs or fees including reasonable counsel fees of any nature to be paid by the defendant. The Secretary of Labor and Industry shall not be required to pay the filing fee or other costs or fees of any nature or to file bond or other security of any nature in connection with such action or with proceedings supplementary thereto or as a condition precedent to the availability to the Secretary of Labor and Industry of any process in aid of such action or proceedings. The Secretary of Labor and Industry shall have power to join various claimants in one claim or lien, and in case of suit to join them in one cause of action.

(d) In any civil action brought by the Secretary of Labor and Industry or his representative under the provisions of this act, the secretary may require the employer to post bond or security to secure payment of the entire claim of the employe with credit in the amount of any good faith assertion of a right of set-off or counter-claim. Such bond or security shall be posted in the court where the civil action is brought. The request for bond or security shall be signed by the Secretary of Labor and Industry and shall provide that such bond or security in the amount stated shall be posted within thirty days of service thereof on the employer. If such bond or security is not posted within the thirty day period, the employer will be deemed to have admitted his liability and execution may immediately ensue.

(e) No administrative proceedings or legal action shall be instituted under the provisions of this act for the collection of unpaid wages or liquidated damages more than three years after the day on which such wages were due and payable as provided in section 3 and section 5 of this act.

Section 12. All acts or parts of acts are repealed in so far as they are inconsistent herewith except any act enacted in this session of the Legislature providing for different standards concerning payment of wages.

Section 13. This act shall become effective thirty days after final enactment.

APPROVED—The 14th day of July, A. D. 1961.

DAVID L. LAWRENCE