

**Senator Pete Suazo** proposes to substitute the following bill:

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**PAYMENT OF WAGES AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Pete Suazo**

**This act amends the Labor Code to address issues related to the payment of wages. This act requires notifying employees of rights. This act addresses penalties. This act takes effect on July 1, 2001.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**34-28-9**, as last amended by Chapter 375, Laws of Utah 1997

**34-28-12**, as enacted by Chapter 85, Laws of Utah 1969

ENACTS:

**34-28-4.5**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **34-28-4.5** is enacted to read:

**34-28-4.5. Notification of employees rights.**

(1) As used in this section:

(a) "employee rights notification form" means a form:

(i) developed by the commission; and

(ii) meeting the requirements of Subsection (3);

(b) "employee rights notification poster" means a poster:

(i) developed by the commission; and

(ii) meeting the requirements of Subsection (3); and

(c) "working day" means a day other than:

(i) Saturday;



- 26 (ii) Sunday; or
- 27 (iii) a legal holiday under Section 63-13-2.
- 28 (2) An employer shall:
- 29 (a) post an employee rights notification poster in a location meeting the requirements set
- 30 by rule made by the commission; or
- 31 (b) provide an employee an employee rights notification form:
- 32 (i) no later than three working days from the day the employee is hired by the employer;
- 33 and
- 34 (ii) at least annually with one of the employee's:
- 35 (A) wage payments; or
- 36 (B) if the employee receives wages through electronic transfer, notification of a wage
- 37 payment.
- 38 (3) The commission shall:
- 39 (a) develop an employee rights notification form that:
- 40 (i) provides a statement of an employee's rights under this chapter; and
- 41 (ii) can be sent to an employee by the employer with an employee's:
- 42 (A) wage payment; or
- 43 (B) if the employee receives wages through electronic transfer, notification of a wage
- 44 payment;
- 45 (b) develop an employee rights notification poster that provides a statement of an
- 46 employee's rights under this chapter;
- 47 (c) provide to an employer at the request of the employer:
- 48 (i) a copy of an employee rights notification form; or
- 49 (ii) a copy of an employee rights notification poster; and
- 50 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, make
- 51 rules regarding the location of where an employee rights notification poster is to be posted to
- 52 provide reasonable notice to employees.

53 Section 2. Section **34-28-9** is amended to read:

54 **34-28-9. Enforcement of chapter -- Rulemaking authority.**

55 (1) (a) The division shall:

- 56 (i) ensure compliance with this chapter;

57 (ii) investigate any alleged violations of this chapter; and  
58 (iii) determine the validity of any claim for any violation of this chapter filed with it by an  
59 employee.

60 (b) The commission may make rules consistent with this chapter governing wage claims  
61 and payment of wages.

62 (c) The minimum wage claim that the division may accept is \$50.

63 (d) The maximum wage claim that the division may accept is \$10,000.

64 (e) The wage claim shall be filed within one year of the date the wages were earned.

65 (2) (a) The division may assess against an employer who fails to pay an employee in  
66 accordance with this chapter, a penalty of 5% of the unpaid wages owing to the employee which  
67 shall be assessed daily until paid for a period not to exceed 20 days.

68 (b) The division shall:

69 (i) retain 50% of the money received from the penalty payments for the costs of  
70 administering this chapter;

71 (ii) pay all the sums retained under Subsection (2)(b)(i) to the state treasurer; and

72 (iii) pay the 50% not retained under Subsection (2)(b)(i) to the employee.

73 (3) (a) An abstract of any final award may be filed in the office of the clerk of the district  
74 court of any county in the state. If so filed, it shall be docketed in the judgment docket of that  
75 district court.

76 (b) The time of the receipt of the abstract shall be noted by the clerk and entered in the  
77 judgment docket.

78 (c) If filed and docketed, the award constitutes a lien from the time of the docketing upon  
79 the real property of the employer situated in the county for a period of eight years from the date  
80 of the award unless previously satisfied.

81 (d) Execution may be issued on the award within the same time and in the same manner  
82 and with the same effect as if the award were a judgment of the district court.

83 (4) (a) The commission may employ counsel, appoint a representative, or request the  
84 attorney general, or the county attorney for the county in which the plaintiff or the defendant  
85 resides, depending on the district in which the final award is docketed, to represent the commission  
86 on all appeals and to enforce judgments.

87 (b) The counsel employed by the commission, the attorney general, or the county

88 representing the commission, shall be awarded:

89 (i) reasonable attorneys' fees, as specified by the commission; and

90 (ii) costs for:

91 (A) appeals when the plaintiff prevails; and

92 (B) judgment enforcement proceedings.

93 (5) (a) If an employer fails to pay a final award issued under this chapter within 30 days  
94 of the day the final award is no longer subject to further administrative or judicial appeal, the  
95 division may impose a penalty on the employer not to exceed an amount equal to three times the  
96 amount of the wage claim.

97 (b) The penalty imposed and received under this Subsection (5) shall be retained by the  
98 division and distributed to the employee as provided in Subsection (2)(b).

99 ~~[(5)]~~ (6) (a) The commission may enter into reciprocal agreements with the labor  
100 department or corresponding agency of any other state or with the person, board, officer, or  
101 commission authorized to act on behalf of that department or agency, for the collection in any  
102 other state of claims or judgments for wages and other demands based upon claims previously  
103 assigned to the commission.

104 (b) The commission may, to the extent provided by any reciprocal agreement entered into  
105 under Subsection ~~[(5)]~~(6)(a), or by the laws of any other state, maintain actions in the courts of the  
106 other states for the collection of any claims for wages, judgments, and other demands and may  
107 assign the claims, judgments, and demands to the labor department or agency of any other state  
108 for collection to the extent that may be permitted or provided by the laws of that state or by  
109 reciprocal agreement.

110 (c) The commission may maintain actions in the courts of this state upon assigned claims  
111 for wages, judgments, and demands arising in any other state in the same manner and to the same  
112 extent that the actions by the commission are authorized when arising in this state if:

113 (i) the labor department or other corresponding agency of any other state or of any person,  
114 board, officer, or commission of that state authorized to act on behalf of the labor department or  
115 corresponding agency requests in writing that the commission commence and maintain the action;  
116 and

117 (ii) the other state by legislation or reciprocal agreement extends the same comity to this  
118 state.

119 Section 3. Section **34-28-12** is amended to read:

120 **34-28-12. Violations.**

121 (1) ~~[Any]~~ (a) In accordance with Title 63, Chapter 46b, Administrative Procedures Act,  
122 the division may for an employer who [shall violate, or fail to comply with any of the provisions  
123 of] violates this chapter [shall be guilty of a misdemeanor.] or that the division reasonably believes  
124 has violated this chapter:

125 (i) conduct an administrative hearing;

126 (ii) issue an order to cease and desist the conduct that is a violation of this chapter;

127 (iii) impose a fine not to exceed \$500 for each violation; or

128 (iv) any combination of Subsections (1)(a)(i) through (iii).

129 (b) For purposes of Subsection (1)(a), a single violation of this chapter may be conduct that  
130 an employer engaged in that involved all of the employer's employees or any portion of the  
131 employer's employees if the division determines that the violation constituted a single event or act.

132 (2) ~~[Any]~~ An employer [who shall refuse] violates this chapter if the employer refuses to  
133 pay the wages due and payable when demanded as provided in this chapter [provided], or who  
134 [shall] falsely [deny] denies the amount [thereof,] of wages due or payable or that [the same is] the  
135 wages are due, with intent to secure for [himself] the employer or any other person any discount  
136 upon such indebtedness or with intent to annoy, harass, oppress, hinder, delay or defraud the  
137 person to whom [such] the indebtedness is due[, or who hires additional employees without  
138 advising each of them of every wage claim due and unpaid and of every judgment that the  
139 employer has failed to satisfy, shall be guilty of a misdemeanor].

140 Section 4. **Effective date.**

141 This act takes effect on July 1, 2001.