

Matt MacPherson proposes the following substitute bill:

Utah Payment of Wages Act Statute of Limitations

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill modifies the private cause of action for the payment of wages.

Highlighted Provisions:

This bill:

- defines terms;
- enacts a four-year statute of limitations period for a lawsuit against an employer under the Utah Payment of Wages Act;
- enacts a one-year statute of limitations period for a lawsuit against an executive under the Utah Payment of Wages Act; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

34-28-2, as last amended by Laws of Utah 2018, Chapter 386

34-28-9.5, as last amended by Laws of Utah 2024, Chapter 158

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

Section 1. Section **34-28-2** is amended to read:

34-28-2 . Definitions -- Unincorporated entities -- Joint employers -- Franchisors.

(1) As used in this chapter:

- (a) "Commission" means the Labor Commission.
- (b) "Division" means the Division of Antidiscrimination and Labor.

- 29 (c)(i) "Employer" means the same as that term is defined in 29 U.S.C. Sec. 203.
- 30 (ii) "Employer" does not include an individual who is not^[z] an executive.
- 31 (d) "Executive" means an individual who is:
- 32 [~~A~~] (i) an officer;
- 33 [~~B~~] (ii) a manager of a manager-managed limited liability company;
- 34 [~~C~~] (iii) a member of a member-managed limited liability company;
- 35 [~~D~~] (iv) a general partner of a limited partnership; or
- 36 [~~E~~] (v) a partner of a partnership.
- 37 [~~d~~] (e) "Federal executive agency" means an executive agency, as defined in 5 U.S.C.
- 38 Sec. 105, of the federal government.
- 39 [~~e~~] (f) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 40 [~~f~~] (g) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 41 [~~g~~] (h) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 42 [~~h~~] (i) "Unincorporated entity" means an entity organized or doing business in the state
- 43 that is not:
- 44 (i) an individual;
- 45 (ii) a corporation; or
- 46 (iii) publicly traded.
- 47 [~~i~~] (j) "Wages" means the amounts due the employee for labor or services, whether the
- 48 amount is fixed or ascertained on a time, task, piece, commission basis or other
- 49 method of calculating such amount.
- 50 (2)(a) For purposes of this chapter, an unincorporated entity that is required to be
- 51 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is
- 52 presumed to be the employer of each individual who, directly or indirectly, holds an
- 53 ownership interest in the unincorporated entity.
- 54 (b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,
- 55 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the
- 56 presumption under Subsection (2)(a) for an individual by establishing by clear and
- 57 convincing evidence that the individual:
- 58 (i) is an active manager of the unincorporated entity;
- 59 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
- 60 entity; or
- 61 (iii) is not subject to supervision or control in the performance of work by:
- 62 (A) the unincorporated entity; or

- 63 (B) a person with whom the unincorporated entity contracts.
- 64 (c) As part of the rules made under Subsection (2)(b), the commission may define:
- 65 (i) "active manager";
- 66 (ii) "directly or indirectly holds at least an 8% ownership interest"; and
- 67 (iii) "subject to supervision or control in the performance of work."
- 68 (d) The commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 69 Administrative Rulemaking Act, may establish a procedure, consistent with Section
- 70 34-28-7, under which an unincorporated entity may seek approval of a mutual
- 71 agreement to pay wages on non-regular paydays.
- 72 (3) For purposes of determining whether two or more persons are considered joint
- 73 employers under this chapter, an administrative ruling of a federal executive agency may
- 74 not be considered a generally applicable law unless that administrative ruling is
- 75 determined to be generally applicable by a court of law, or adopted by statute or rule.
- 76 (4)(a) For purposes of this chapter, a franchisor is not considered to be an employer of:
- 77 (i) a franchisee; or
- 78 (ii) a franchisee's employee.
- 79 (b) With respect to a specific claim for relief under this chapter made by a franchisee or
- 80 a franchisee's employee, this Subsection (4) does not apply to a franchisor under a
- 81 franchise that exercises a type or degree of control over the franchisee or the
- 82 franchisee's employee not customarily exercised by a franchisor for the purpose of
- 83 protecting the franchisor's trademarks and brand.
- 84 Section 2. Section **34-28-9.5** is amended to read:
- 85 **34-28-9.5 . Private cause of action.**
- 86 [~~(1) Except as provided in Subsection (2), for a wage claim that is less than or equal to~~
- 87 ~~\$10,000, the employee shall exhaust the employee's administrative remedies described~~
- 88 ~~in Section 34-28-9 and rules made by the commission under Section 34-28-9 before the~~
- 89 ~~employee may file an action in a court with jurisdiction under Title 78A, Judiciary and~~
- 90 ~~Judicial Administration.]~~
- 91 [~~(2) An employee may file an action for a wage claim in a court without exhausting the~~
- 92 ~~administrative remedies described in Section 34-28-9 and rules made by the commission~~
- 93 ~~under Section 34-28-9 if:]~~
- 94 [~~(a) the employee's wage claim is over \$10,000;]~~
- 95 [~~(b)(i) the employee's wage claim is less than or equal to \$10,000;]~~
- 96 [~~(ii) the employee asserts one or more additional claims against the same employer;~~

- 97 and]
- 98 ~~[(iii) the aggregate amount of damages resulting from the claims described in this~~
- 99 ~~Subsection (2)(b) is greater than \$10,000; or]~~
- 100 ~~[(e)(i) in the same civil action, more than one employee files a wage claim against~~
- 101 ~~an employer; and]~~
- 102 ~~[(ii) the aggregate amount of the employees' combined wage claim is greater than~~
- 103 ~~\$10,000.]~~
- 104 (1)(a) Except as provided in Subsection (2), an employee may only file a claim for a
- 105 wage claim under this chapter that is less than or equal to \$10,000 in accordance with
- 106 Section 34-28-9 and rules the commission makes in accordance with Title 63G,
- 107 Chapter 3, Utah Administrative Rulemaking Act.
- 108 (b) After complying with Subsection (1)(a), an employee may only file a petition for
- 109 judicial review in accordance with Section 34A-1-303.
- 110 (2) For a wage claim under this chapter, an employee may only file an action in a court with
- 111 jurisdiction, if:
- 112 (a) the employee's wage claim is over \$10,000;
- 113 (b)(i) the employee's wage claim is less than or equal to \$10,000;
- 114 (ii) the employee asserts one or more additional claims against the same employer;
- 115 and
- 116 (iii) the aggregate amount of damages resulting from the claims described in this
- 117 Subsection (2)(b)(ii) is greater than \$10,000; or
- 118 (c)(i) in the same civil action, more than one employee files a wage claim against an
- 119 employer; and
- 120 (ii) the aggregate amount of the employees' combined wage claims is greater than
- 121 \$10,000.
- 122 (3) An employee may only file a wage claim in a court with jurisdiction against:
- 123 (a) an employer that is not an executive under this section for four years after the day on
- 124 which the employee earns the wages; and
- 125 (b) against an executive for one year after the day on which the employee earns the
- 126 wages.
- 127 ~~[(3)]~~ (4) In an action under this section, the court may award an employee:
- 128 (a) actual damages;
- 129 (b) an amount equal to 2.5% of the unpaid wages owed to the employee, assessed daily
- 130 for the lesser of:

- 131 (i) the period beginning the day on which the court issues a final order and ending the
- 132 day on which the employer pays the unpaid wages owed to the employee; or
- 133 (ii) 20 days after the day on which the court issues a final order; and
- 134 (c) a penalty described in Subsection 34-28-5(1)(c), if applicable.

135 Section 3. **Effective Date.**

136 This bill takes effect on May 5, 2027.