

Daniel McCay 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

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**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 two-year statute of limitations for a lawsuit against an employer under the Utah Payment of Wages Act; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**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

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*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.
- (c)(i) "Employer" means the same as that term is defined in 29 U.S.C. Sec. 203.
- (ii) "Employer" does not include an individual who is not[=] an executive.
- (d) "Executive" means an individual who is:

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

- 64 (ii) "directly or indirectly holds at least an 8% ownership interest"; and  
 65 (iii) "subject to supervision or control in the performance of work."  
 66 (d) The commission by rule made in accordance with Title 63G, Chapter 3, Utah  
 67 Administrative Rulemaking Act, may establish a procedure, consistent with Section  
 68 34-28-7, under which an unincorporated entity may seek approval of a mutual  
 69 agreement to pay wages on non-regular paydays.  
 70 (3) For purposes of determining whether two or more persons are considered joint  
 71 employers under this chapter, an administrative ruling of a federal executive agency may  
 72 not be considered a generally applicable law unless that administrative ruling is  
 73 determined to be generally applicable by a court of law, or adopted by statute or rule.  
 74 (4)(a) For purposes of this chapter, a franchisor is not considered to be an employer of:  
 75 (i) a franchisee; or  
 76 (ii) a franchisee's employee.  
 77 (b) With respect to a specific claim for relief under this chapter made by a franchisee or  
 78 a franchisee's employee, this Subsection (4) does not apply to a franchisor under a  
 79 franchise that exercises a type or degree of control over the franchisee or the  
 80 franchisee's employee not customarily exercised by a franchisor for the purpose of  
 81 protecting the franchisor's trademarks and brand.

82 Section 2. Section **34-28-9.5** is amended to read:

83 **34-28-9.5 . Private cause of action.**

- 84 [~~(1) Except as provided in Subsection (2), for a wage claim that is less than or equal to~~  
 85 ~~\$10,000, the employee shall exhaust the employee's administrative remedies described~~  
 86 ~~in Section 34-28-9 and rules made by the commission under Section 34-28-9 before the~~  
 87 ~~employee may file an action in a court with jurisdiction under Title 78A, Judiciary and~~  
 88 ~~Judicial Administration.]~~  
 89 [~~(2) An employee may file an action for a wage claim in a court without exhausting the~~  
 90 ~~administrative remedies described in Section 34-28-9 and rules made by the commission~~  
 91 ~~under Section 34-28-9 if:]~~  
 92 [~~(a) the employee's wage claim is over \$10,000;]~~  
 93 [~~(b)(i) the employee's wage claim is less than or equal to \$10,000;]~~  
 94 [~~(ii) the employee asserts one or more additional claims against the same employer;~~  
 95 ~~and]~~  
 96 [~~(iii) the aggregate amount of damages resulting from the claims described in this~~  
 97 ~~Subsection (2)(b) is greater than \$10,000; or]~~

98 ~~[(e)(i) in the same civil action, more than one employee files a wage claim against~~  
99 ~~an employer; and]~~

100 ~~[(ii) the aggregate amount of the employees' combined wage claim is greater than~~  
101 ~~\$10,000.]~~

102 (1)(a) Except as provided in Subsection (2), an employee may only file a claim for a  
103 wage claim under this chapter that is less than or equal to \$10,000 in accordance with  
104 Section 34-28-9 and rules the commission makes in accordance with Title 63G,  
105 Chapter 3, Utah Administrative Rulemaking Act.

106 (b) After complying with Subsection (1)(a), an employee may only file a petition for  
107 judicial review in accordance with Section 63G-4-402.

108 (2) For a wage claim under this chapter, an employee may only file an action in a court with  
109 jurisdiction, if:

110 (a) the employee's wage claim is over \$10,000;

111 (b)(i) the employee's wage claim is less than or equal to \$10,000;

112 (ii) the employee asserts one or more additional claims against the same employer;  
113 and

114 (iii) the aggregate amount of damages resulting from the claims described in this  
115 Subsection (2)(b)(ii) is greater than \$10,000; or

116 (c)(i) in the same civil action, more than one employee files a wage claim against an  
117 employer; and

118 (ii) the aggregate amount of the employees' combined wage claims is greater than  
119 \$10,000.

120 (3) An employee may only file a wage claim in a court with jurisdiction against an  
121 employer under this section for two years after the day on which the employee earns the  
122 wages.

123 ~~[(3)]~~ (4) In an action under this section, the court may award an employee:

124 (a) actual damages;

125 (b) an amount equal to 2.5% of the unpaid wages owed to the employee, assessed daily  
126 for the lesser of:

127 (i) the period beginning the day on which the court issues a final order and ending the  
128 day on which the employer pays the unpaid wages owed to the employee; or

129 (ii) 20 days after the day on which the court issues a final order; and

130 (c) a penalty described in Subsection 34-28-5(1)(c), if applicable.

131 **Section 3. Effective Date.**

132      This bill takes effect on May 6, 2026.