

Effective 5/13/2014

34-28-3 Regular paydays -- Currency or negotiable checks required -- Deposit in financial institution -- Statement of total deductions -- Unlawful withholding or diversion of wages.

- (1)
 - (a) An employer shall pay the wages earned by an employee at regular intervals, but in periods no longer than semimonthly on days to be designated in advance by the employer as the regular payday.
 - (b) An employer shall pay for services rendered during a pay period within 10 days after the close of that pay period.
 - (c) If a payday falls on a Saturday, Sunday, or legal holiday, an employer shall pay wages earned during the pay period on the day preceding the Saturday, Sunday, or legal holiday.
 - (d) If an employer hires an employee on a yearly salary basis, the employer may pay the employee on a monthly basis by paying on or before the seventh of the month following the month for which services are rendered.
 - (e) Wages shall be paid in full to an employee:
 - (i) in lawful money of the United States;
 - (ii) by a check or draft on a depository institution, as defined in Section 7-1-103, that is convertible into cash on demand at full face value; or
 - (iii) by electronic transfer to the depository institution designated by the employee.
- (2) An employer may not issue in payment of wages due or as an advance on wages to be earned for services performed or to be performed within this state an order, check, or draft unless:
 - (a) it is negotiable and payable in cash, on demand, without discount, at a depository institution; and
 - (b) the name and address of the depository institution appears on the instrument.
- (3)
 - (a) Except as provided in Subsection (3)(b), an employee may refuse to have the employee's wages deposited by electronic transfer under Subsection (1)(e)(iii) by filing a written request with the employer.
 - (b) An employee may not refuse to have the employee's wages deposited by electronic transfer under Subsection (3)(a) if:
 - (i) for the calendar year preceding the pay period for which the employee is being paid, the employer's federal employment tax deposits are equal to or in excess of \$250,000; and
 - (ii) at least two-thirds of the employees of the employer have their wages deposited by electronic transfer.
 - (c) An employer may not designate a particular depository institution for the exclusive payment or deposit of a check or draft for wages.
- (4) If a deduction is made from the wages paid, the employer shall, on each regular payday, furnish the employee with a statement showing the total amount of each deduction.
- (5) An employer licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, shall:
 - (a) on the day on which the employer pays an employee, give the employee a written or electronic pay statement that states:
 - (i) the employee's name;
 - (ii) the employee's base rate of pay;
 - (iii) the dates of the pay period for which the individual is being paid;
 - (iv) if paid hourly, the number of hours the employee worked during the pay period;
 - (v) the amount of and reason for any money withheld in accordance with state or federal law, including:

- (A) state and federal income tax;
 - (B) Social Security tax;
 - (C) Medicare tax; and
 - (D) court-ordered withholdings; and
 - (vi) the total amount paid to the employee for that pay period; and
 - (b) comply with the requirements described in Subsection (5)(a) regardless of whether the employer pays the employee by check, cash, or other means.
- (6) An employer may not withhold or divert part of an employee's wages unless:
- (a) the employer is required to withhold or divert the wages by:
 - (i) court order; or
 - (ii) state or federal law;
 - (b) the employee expressly authorizes the deduction in writing;
 - (c) the employer presents evidence that in the opinion of a hearing officer or an administrative law judge would warrant an offset; or
 - (d) subject to Subsection (8), the employer withholds or diverts the wages:
 - (i) as a contribution of the employee under a contract or plan that is:
 - (A) described in Section 401(k), 403(b), 408, 408A, or 457, Internal Revenue Code; and
 - (B) established by the employer; and
 - (ii) the contract or plan described in Subsection (6)(d)(i) provides that an employee's compensation is reduced by a specified contribution:
 - (A) under the contract or plan; and
 - (B) that is made for the employee unless the employee affirmatively elects:
 - (I) to not have a reduction made as a contribution by the employee under the contract or plan; or
 - (II) to have a different amount be contributed by the employee under the contract or plan.
- (7) An employer may not require an employee to rebate, refund, offset, or return a part of the wage, salary, or compensation to be paid to the employee except as provided in Subsection (6).
- (8)
- (a) An employer shall notify an employee in writing of the right to make an election under Subsection (6)(d).
 - (b) An employee may make an election described in Subsection (6)(d) at any time by providing the employer written notice of the election.
 - (c) An employer shall modify or terminate the withholding or diversion described in Subsection (6)(d) beginning with a pay period that begins no later than 30 days following the day on which the employee provides the employer the written notice described in Subsection (8)(b).
- (9) An employer is not prohibited from pursuing legitimate claims of damages, offsets, or recoupments in a civil action against an employee.

Amended by Chapter 188, 2014 General Session