

JAN 21 2022

A BILL FOR AN ACT

RELATING TO WAGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that state labor laws
2 should vigorously protect workers from employers who fail to pay
3 their employees. Wage theft accounts for \$15 billion stolen
4 each year, which totals more than all stolen money from physical
5 burglaries in the United States combined.

6 In the ten most populous states in the United States, 2.4
7 million workers lose \$8 billion annually in minimum wage
8 violations. The average year-round worker lost \$3,300 per year,
9 which amounts to one-quarter of their yearly salary. Minimum
10 wage theft affects seventeen per cent of low-wage workers, and
11 workers in all demographic categories face effects of stolen
12 wages.

13 In 2019, the United States Department of Labor cited about
14 eight thousand five hundred employers for taking about \$287
15 million in minimum wage and overtime violations. Major
16 corporations across the United States have collectively taken
17 \$22 million from employees since 2005.



1 The United States Census Bureau's current population survey
2 found that minorities are disproportionately affected by wage
3 theft. Immigrants and Latino workers were twice as likely to
4 earn less than the minimum wage from 2009 to 2019, compared to
5 white American workers. Additionally, African American workers
6 were nearly fifty per cent more likely to be victims of wage
7 theft in comparison to other races.

8 Other states have recently increased penalties for
9 employers who wilfully commit wage theft. In 2019, Minnesota
10 passed the Wage Theft Prevention Act to create additional
11 protections for workers, including adding criminal penalties for
12 employers that commit this offense. Now, in Minnesota, an
13 employer may be criminally charged based on the amount of money
14 withheld from the employee. This escalating penalty scale is
15 analogous to the various theft charges in which a stolen \$10
16 item could result in a misdemeanor charge and a \$1,000 item
17 could result in a felony charge.

18 In 2019, Colorado passed the Human Right to Work with
19 Dignity Act, which reclassified the intentional nonpayment of
20 over \$2,000 in wages as a felony theft. The purpose of the
21 Colorado law was to ensure accountability for unscrupulous



1 employers who purposefully withhold wages, underpay workers,
2 engage in tax fraud, and deny workers fair compensation and
3 ultimately hurt the economy by undercutting the bids of lawful
4 employers.

5 The legislature further finds that Hawaii should provide
6 workers with similar protections as Minnesota, Colorado, and
7 other states that have increased penalties for employers who
8 fail to pay their employees their lawfully earned wages.

9 Accordingly, the purpose of this Act is to increase the
10 penalty for violation of wages and hours laws to a class C
11 felony.

12 SECTION 2. Section 387-12, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Criminal.

15 (1) Any person divulging information in violation of
16 section 387-8;

17 (2) Any employer who wilfully violates this chapter or of
18 any rule, regulation, or order issued under the
19 authority of this chapter;

20 (3) Any employer or the employer's agent or any officer or
21 agent of a corporation who discharges or in any other



1 manner discriminates against any employee because the
2 employee has made a complaint to the employee's
3 employer, to the director, or to any other person that
4 the employee has not been paid wages in accordance
5 with this chapter, or has instituted or caused to be
6 instituted any proceeding under or related to this
7 chapter, or has testified or is about to testify in
8 any such proceedings; or

9 (4) Any employer or the employer's agent or any officer or
10 agent of a corporation who pays or agrees to pay any
11 employee compensation less than that which the
12 employee is entitled to under this chapter,
13 shall be guilty of a [~~misdemeanor~~] class C felony and [~~upon~~
14 ~~conviction thereof,~~] shall be [~~punished by~~] subject to a fine of
15 [~~no~~] not less than \$500 [~~nor more than \$5,000, or by~~
16 ~~imprisonment for a period not to exceed one year, or by both~~
17 ~~fine and imprisonment.~~] per offense. Each violation shall be
18 deemed a separate offense."

19 SECTION 3. Section 388-10, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) Criminal. Any employer who knowingly does not pay
2 the wages of any of the employer's employees in accordance with
3 this chapter, or any officer of any corporation who knowingly
4 permits the corporation to violate this chapter by failing to
5 pay wages of any of its employees in accordance with this
6 chapter, or any employer or the employer's agent or any officer
7 or agent of a corporation who discharges or in any other manner
8 discriminates against any employee because the employee has made
9 a complaint to the employee's employer, or to the director, or
10 to any other person that the employee has not been paid wages in
11 accordance with this chapter, or has instituted or caused to be
12 instituted any proceeding under or related to this chapter, or
13 has testified or is about to testify in any such proceedings, or
14 any employer who wilfully fails to comply with any other
15 requirements of this chapter shall be guilty of a class C felony
16 and fined not less than [~~\$100 nor more than \$10,000 or~~
17 ~~imprisoned for not more than one year, or punished by both fine~~
18 ~~and imprisonment for each such offense.~~] \$500 per violation.
19 Each violation shall be deemed a separate offense. Where
20 employers imposed a service charge at banquets and other
21 functions held at employers' hotels, and retained a portion of



1 the service charge income without disclosing that practice to
2 customers, service employees were entitled to an award of double
3 damages under this section."

4 SECTION 4. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval.

10

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'C. A. ...', written over a horizontal line.

S.B. NO. 2290

Report Title:

Wages; Wage Theft; Penalties

Description:

Increases the penalty for violation of wages and hours laws to a class C felony. Adds a minimum fine of \$500 per violation.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

