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# 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 approximately  
15 \$287 million in minimum wage and overtime-pay 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 stealing a \$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 Hawai'i should provide  
6 workers with similar protections as Colorado, Minnesota, 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 employers who fail to pay the wages of their  
11 employees in accordance with chapter 387, Hawaii Revised  
12 Statutes, the wage and hour law, and chapter 388, Hawaii Revised  
13 Statutes, governing payment of wages and other compensation, to  
14 a class C felony.

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

17 "(a) Criminal.

18 (1) Any person divulging information in violation of  
19 section 387-8;



- 1 (2) Any employer who wilfully violates this chapter or of  
2 any rule, regulation, or order issued under the  
3 authority of this chapter;
- 4 (3) Any employer or the employer's agent or any officer or  
5 agent of a corporation who discharges or in any other  
6 manner discriminates against any employee because the  
7 employee has made a complaint to the employee's  
8 employer, to the director, or to any other person that  
9 the employee has not been paid wages in accordance  
10 with this chapter, or has instituted or caused to be  
11 instituted any proceeding under or related to this  
12 chapter, or has testified or is about to testify in  
13 any such proceedings; or
- 14 (4) Any employer or the employer's agent or any officer or  
15 agent of a corporation who pays or agrees to pay any  
16 employee compensation less than that which the  
17 employee is entitled to under this chapter,  
18 shall be guilty of a misdemeanor and, upon conviction thereof,  
19 shall be ~~[punished by]~~ subject to a fine of ~~[nø]~~ not less than  
20 \$500 nor more than \$5,000, or by imprisonment for a period not  
21 to exceed one year, or by both fine and imprisonment~~[+]~~;



1 provided that a violation of subsection (a)(4) shall constitute  
2 a class C felony and, notwithstanding section 706-640, be  
3 subject to a fine of not less than \$500 per offense; provided  
4 further that each violation shall be deemed a separate offense."

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

7 "(b) Criminal.

8 (1) Any employer who does not pay the wages of any of the  
9 employer's employees in accordance with this chapter,  
10 or any officer of any corporation who knowingly  
11 permits the corporation to violate this chapter by  
12 failing to pay wages of any of its employees in  
13 accordance with this chapter[~~er any~~] shall be guilty  
14 of a class C felony and, notwithstanding section  
15 706-640, be subject to a fine of not less than \$500  
16 per offense. Each violation shall be deemed a  
17 separate offense.

18 (2) Any employer or the employer's agent or any officer or  
19 agent of a corporation who discharges or in any other  
20 manner discriminates against any employee because the  
21 employee has made a complaint to the employee's



1            employer, or to the director, or to any other person  
2            that the employee has not been paid wages in  
3            accordance with this chapter, or has instituted or  
4            caused to be instituted any proceeding under or  
5            related to this chapter, or has testified or is about  
6            to testify in any such proceedings, or any employer  
7            who wilfully fails to comply with any other  
8            requirements of this chapter shall be fined not less  
9            than \$100 nor more than \$10,000 or imprisoned for not  
10           more than one year, or punished by both fine and  
11           imprisonment for each such offense."

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

15           SECTION 5. Statutory material to be repealed is bracketed  
16           and stricken. New statutory material is underscored.

17           SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Wages; Wage Theft; Penalties

**Description:**

Increases the penalty for employers who fail to pay the wages of their employees in accordance with the State's wage and hour law and payment of wages and other compensation law, to a class C felony. Adds a minimum penalty of \$500 per violation. Effective 7/1/2050. (SD2)

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

