

LEGISLATIVE BILL 474

Approved by the Governor May 29, 1987

Introduced by V. Johnson, 8

AN ACT relating to labor; to amend sections 48-1203 and 48-1206, Reissue Revised Statutes of Nebraska, 1943; to increase the minimum wage rates; to provide a minimum wage rate for student-learners as prescribed; to eliminate obsolete provisions; to eliminate a provision authorizing reduction of the minimum wage; to harmonize provisions; and to repeal the original sections, and also section 48-1204, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-1203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1203. Every employer shall pay to each of his or her employees, as defined in section 48-1202, wages at the minimum rate of three dollars and thirty-five cents per hour, except one dollar and forty cents per hour from July 1, 1973, to December 31, 1973; one dollar and fifty cents per hour from January 1, 1974, to July 1, 1974; and one dollar and sixty cents per hour thereafter; PROVIDED, that as to persons compensated primarily by way of gratuities such as waitresses, waiters, hotel ~~bellmen~~ bellhops, porters, and shoeshine ~~boys~~ persons, the employer shall pay wages at the minimum rate of ninety cents two dollars and one cent per hour, plus all gratuities given to them for services rendered. In determining whether or not the individual is compensated primarily by way of gratuities, the burden of proof shall be upon the employer. Any employer employing student-learners as part of a bona fide vocational training program shall pay such student-learners' wages at a rate of at least seventy-five per cent of the minimum wage rate which would otherwise be applicable.

Sec. 2. That section 48-1206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1206. (1) The Commissioner of Labor shall have the authority to subpoena records and witnesses related to the enforcement of the provisions of this act

section 48-1203 and this section. He The commissioner or his or her agent may inspect all related records and gather testimony on any matter relative to the enforcement of sections 48-1201 to 48-1209 the Wage and Hour Act.

(2) Any employer who violates any of the provisions of ~~sections~~ section 48-1203 and 48-1204 shall be guilty of a Class IV misdemeanor.

(3) It shall be the duty of the county attorney for the county wherein in which any violation of ~~sections 48-1201 to 48-1209 the Wage and Hour Act~~ occurs to prosecute the same in the district court in the county where the offense occurred.

(4) Any employer who violates any provision of section 48-1203 shall be liable to the employees affected in the amount of their unpaid minimum wages, as the case may be.

(5) Action to recover unpaid minimum wages as provided in subsection (4) of this section may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself, herself, or themselves and other employees similarly situated, or such employee or employees may designate an agent or representative to maintain such action for and in behalf of all employees similarly situated. The court in which any action is brought under this subsection shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of the action and reasonable attorney's fees to be paid by the defendant. In any proceedings brought pursuant to ~~the provisions of~~ this subsection, the employee shall not be required to pay any filing fee or other court costs necessarily incurred in such proceedings.

Sec. 3. That original sections 48-1203 and 48-1206, Reissue Revised Statutes of Nebraska, 1943, and also section 48-1204, Reissue Revised Statutes of Nebraska, 1943, are repealed.