

SENATE BILL NO. 207

INTRODUCED BY WILSON
BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE SENATE

JANUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
FEBRUARY 3, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 4, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 5, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 6, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
MARCH 6, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1993	SECOND READING, CONCURRED IN.
MARCH 11, 1993	THIRD READING, CONCURRED IN. AYES, 92; NOES, 5.
MARCH 12, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 13, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 ~~Senate~~ BILL NO. 207
 2 INTRODUCED BY Wilson
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA
 6 WAGE PROTECTION LAWS; PROVIDING FOR PAYMENT OF WAGES BY
 7 ELECTRONIC FUNDS TRANSFER OR SIMILAR MEANS OF DIRECT
 8 DEPOSIT; ELIMINATING THE REQUIREMENT THAT AN EMPLOYER PAY
 9 INTEREST ON UNPAID WAGES DUE AN EMPLOYEE; REVISING THE
 10 HEARING PROCESS FOR A WAGE CLAIM; AND AMENDING SECTIONS
 11 39-3-204, 39-3-206, 39-3-208, AND 39-3-216, MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 39-3-204, MCA, is amended to read:

15 "39-3-204. Payment of wages generally. (1) Every Except
 16 as provided in subsection (4), every employer of labor in
 17 the state of Montana shall pay to each employee the wages
 18 earned by such the employee in lawful money of the United
 19 States or checks on banks convertible into cash on demand at
 20 the full face value thereof of the checks, and no person for
 21 whom labor has been performed may withhold from any employee
 22 any wages earned or unpaid for a longer period than 10
 23 business days after the same wages are due and payable.
 24 However, reasonable deductions may be made for board, room,
 25 and other incidentals supplied by the employer, whenever

1 such the deductions are a part of the conditions of
 2 employment, or other deductions provided for by law.

3 (2) If at such the time of payment of wages any
 4 employee is absent from the regular place of labor, he the
 5 employee is entitled to such payment at any time thereafter.

6 (3) Provisions of this section do not apply to any
 7 professional, supervisory, or technical employee who by
 8 custom receives his wages earned at least once monthly.

9 (4) Wages may be paid to the employee by electronic
 10 funds transfer or similar means of direct deposit if the
 11 employee has consented in writing to be paid in this manner.
 12 However, an employee may not be required to use electronic
 13 funds transfer or similar means of direct deposit as a
 14 method for payment of wages."

15 **Section 2.** Section 39-3-206, MCA, is amended to read:

16 "39-3-206. Penalty for failure to pay wages at times
 17 specified in law. (1) An employer, ~~as defined in this part,~~
 18 who fails to pay ~~any of his employees~~ an employee as
 19 provided in this part or who violates any other provision of
 20 this part is guilty of a misdemeanor. A penalty must also be
 21 assessed against and paid by the employer to the employee in
 22 an amount not to exceed 100% of the wages due and unpaid.

23 ~~{2}--The employer shall also pay the employee annualized~~
 24 ~~interest on the unpaid wages from the date the wages were~~
 25 ~~due--The interest must be calculated by the department and~~

~~compounded annually, but the annualized rate may not be less than 2 percentage points a year above the prime rate of major New York banks on the date of settlement.~~

{3}(2) Nothing in this section may be construed to relieve an employer from the requirement to pay an employee the full amount of wages due, including interest, if the employer is found in violation of this part."

Section 3. Section 39-3-208, MCA, is amended to read:

"39-3-208. Contracts in violation of part void. Any contract or agreement made between ~~any person, partnership, or corporation and any party in his or its employ~~ an employer and an employee the provisions of which violate, evade, or circumvent this part is unlawful and void, but the employee may sue to recover his the wages earned, together with the penalty ~~and interest~~ specified in 39-3-206 or separately to recover the penalty ~~and interest~~ if the wages have been paid."

Section 4. Section 39-3-216, MCA, is amended to read:

"39-3-216. Hearing. (1) If the department determines that a wage claim exists and the employer does not appeal the determination, the department may enter a default order against the employer for the amount of wages due and owing. The department may enforce the default order pursuant to 39-3-212.

(2) When the department determines that a wage claim

~~exists and if it fails to settle the claim with the parties, it shall cause the matter to be brought to a hearing before a department hearings officer.~~ The, the department shall mail notice of the determination to the parties at the last-known address of each party. If a party appeals the department's determination within 15 days after the notice of the determination is mailed by the department, a hearing must be conducted according to contested case procedures under Title 2, chapter 4, part 6, except that service need not be made as prescribed for civil actions in the district court and the hearings officer is not bound by statutory or common-law rules of evidence.

(3) The decision of the hearings officer is final unless further review is initiated pursuant to 39-3-217 within 15 days after the decision is mailed to each party's last-known address. The period may be extended by the board for good cause."

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

SENATE BILL NO. 207

INTRODUCED BY WILSON

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA WAGE PROTECTION LAWS; PROVIDING FOR PAYMENT OF WAGES BY ELECTRONIC FUNDS TRANSFER OR SIMILAR MEANS OF DIRECT DEPOSIT; ELIMINATING THE REQUIREMENT THAT AN EMPLOYER PAY INTEREST ON UNPAID WAGES DUE AN EMPLOYEE; REVISING THE HEARING PROCESS FOR A WAGE CLAIM; AND AMENDING SECTIONS 39-3-204, 39-3-206, 39-3-208, AND 39-3-216, MCA."

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

Section 1. Section 39-3-204, MCA, is amended to read:

"39-3-204. Payment of wages generally. (1) Every Except as provided in subsection (4), every employer of labor in the state of Montana shall pay to each employee the wages earned by such the employee in lawful money of the United States or checks on banks convertible into cash on demand at the full face value thereof of the checks, and no person for whom labor has been performed may withhold from any employee any wages earned or unpaid for a longer period than 10 business days after the same wages are due and payable. However, reasonable deductions may be made for board, room, and other incidentals supplied by the employer, whenever

such the deductions are a part of the conditions of employment, or other deductions provided for by law.

(2) If at such the time of payment of wages any employee is absent from the regular place of labor, he the employee is entitled to such payment at any time thereafter.

(3) Provisions of this section do not apply to any professional, supervisory, or technical employee who by custom receives his wages earned at least once monthly.

(4) Wages may be paid to the employee by electronic funds transfer or similar means of direct deposit if the employee has consented in writing OR ELECTRONICALLY, IF A RECORD IS RETAINED, to be paid in this manner. However, an employee may not be required to use electronic funds transfer or similar means of direct deposit as a method for payment of wages."

Section 2. Section 39-3-206, MCA, is amended to read:

"39-3-206. Penalty for failure to pay wages at times specified in law. (1) An employer, ~~as defined in this part,~~ who fails to pay ~~any--of--his--employees~~ an employee as provided in this part or who violates any other provision of this part is guilty of a misdemeanor. A penalty must also be assessed against and paid by the employer to the employee in an amount not to exceed ~~100%~~ 110% of the wages due and unpaid.

~~(2)--The employer shall also pay the employee annualized~~

~~interest-on-the-unpaid-wages-from-the-date--the--wages--were
due--The--interest-must-be-calculated-by-the-department-and
compounded-annually; but-the-annualized-rate-may-not-be-less
than-2-percentage-points-a-year--above--the--prime--rate--of
major-New-York-banks-on-the-date-of-settlement.~~

(3)(2) Nothing in this section may be construed to relieve an employer from the requirement to pay an employee the full amount of wages due, ~~including interest~~, if the employer is found in violation of this part."

Section 3. Section 39-3-208, MCA, is amended to read:

"39-3-208. Contracts in violation of part void. Any contract or agreement made between ~~any person, partnership, or corporation and any party in his or its employ~~ an employer and an employee the provisions of which violate, evade, or circumvent this part is unlawful and void, but the employee may sue to recover ~~his~~ the wages earned, together with the penalty ~~and interest~~ specified in 39-3-206 or separately to recover the penalty ~~and interest~~ if the wages have been paid."

Section 4. Section 39-3-216, MCA, is amended to read:

"39-3-216. Hearing. (1) If the department determines that a wage claim exists and the employer does not appeal the determination, the department ~~may~~ enter a default order against the employer for the amount of wages due and owing. The department ~~may~~ enforce the default order pursuant to

39-3-212.

(2) When the department determines that a wage claim exists ~~and if it fails to settle the claim with the parties, it shall cause the matter to be brought to a hearing before a department hearings officer.~~ The, the department shall mail notice of the determination to the parties at the last-known address of each party. If a party appeals the department's determination within 15 days after the notice of the determination is mailed by the department, a hearing must be conducted according to contested case procedures under Title 2, chapter 4, part 6, except that service need not be made as prescribed for civil actions in the district court and the hearings officer is not bound by statutory or common-law rules of evidence. THE DEPARTMENT SHALL BY RULE PROVIDE RELIEF FOR A PERSON WHO DOES NOT RECEIVE THE DETERMINATION BY MAIL.

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such the deductions are a part of the conditions of employment, or other deductions provided for by law.

(2) If at such the time of payment of wages any employee is absent from the regular place of labor, he the employee is entitled to such payment at any time thereafter.

(3) Provisions of this section do not apply to any professional, supervisory, or technical employee who by custom receives his wages earned at least once monthly.

(4) Wages may be paid to the employee by electronic funds transfer or similar means of direct deposit if the employee has consented in writing OR ELECTRONICALLY, IF A RECORD IS RETAINED, to be paid in this manner. However, an employee may not be required to use electronic funds transfer or similar means of direct deposit as a method for payment of wages."

Section 2. Section 39-3-206, MCA, is amended to read:

"39-3-206. Penalty for failure to pay wages at times specified in law. (1) An employer~~7-as-defined-in-this-part,~~ who fails to pay ~~any--of--his--employees~~ an employee as provided in this part or who violates any other provision of this part is guilty of a misdemeanor. A penalty must also be assessed against and paid by the employer to the employee in an amount not to exceed ~~100%~~ 110% of the wages due and unpaid.

~~{2}--The-employer-shall-also-pay-the-employee-annualized~~



interest-on-the-unpaid-wages-from-the-date--the--wages--were due--The--interest-must-be-calculated-by-the-department-and compounded-annually, but the annualized rate may not be less than 2 percentage points a year--above--the--prime--rate--of major-New-York-banks-on-the-date-of-settlement.

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