

2023 -- S 1079

LC003083

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

Introduced By: Senator Meghan E. Kallman

Date Introduced: May 25, 2023

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-14-17 and 28-14-19.1 of the General Laws in Chapter 28-14
2 entitled "Payment of Wages" are hereby amended to read as follows:

3 **28-14-17. Penalty for violations.**

4 (a) Except as otherwise provided in this chapter, any ~~Any~~ employer who or that violates or
5 fails to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and
6 upon conviction of the misdemeanor, the employer shall be punished by a fine of not less than four
7 hundred dollars (\$400) for each separate offense, or by imprisonment of up to one year, or by both
8 fine and imprisonment. Each day of failure to pay wages due an employee at the time specified in
9 this chapter shall constitute a separate and distinct violation.

10 (b) Any employer found guilty of violations of this chapter who or that does not pay wages
11 and fines within thirty (30) days of a final decision and after notification by the department of labor
12 and training, may have the employer's business license revoked by the state of Rhode Island until
13 the employer pays such wages and fines in full or enters into a payment agreement with which the
14 employer stays in compliance.

15 (c) Any employer who knowingly and willfully violates §§ 28-14-2, 28-14-3, 28-14-4, and
16 28-14-6 shall be guilty of a felony if the value of the wages due to an employee exceeds one
17 thousand five hundred dollars (\$1,500) and upon plea or conviction, shall be subject to the
18 following penalties:

19 (i) If the value exceeds one thousand five hundred dollars (\$1,500), but is less than five

1 thousand dollars (\$5,000), by imprisonment for not more than three (3) years or by a fine of not
2 more than twice the value of the wages, or both.

3 (ii) If the value exceeds five thousand dollars (\$5,000), but is less than ten thousand dollars
4 (\$10,000), by imprisonment for not more than six (6) years or by a fine of not more than twice the
5 value of the wages, or both.

6 (iii) If the value exceeds ten thousand dollars (\$10,000), by imprisonment for not more
7 than ten (10) years or by a fine of not more than twice the value of the wages, or both.

8 **28-14-19.1. Misclassification of employees.**

9 (a) The misclassification of a worker whether performing work as a natural person,
10 business, corporation, or entity of any kind, as an independent contractor when the worker should
11 be considered and paid as an employee shall be considered a violation of this chapter.

12 (b) In addition to any other relief to which any department or an aggrieved party may be
13 entitled for such a violation, the employer shall be liable for a civil penalty in an amount not less
14 than one thousand five hundred dollars (\$1,500) and not greater than three thousand dollars
15 (\$3,000) for each misclassified employee for a first offense and up to five thousand dollars (\$5,000)
16 for each misclassified employee for any subsequent offense, which shall be shared equally between
17 the department and the aggrieved party.

18 (c) In determining the amount of any penalty imposed under this section, the director, or
19 his or her designee, shall consider the size of the employer's business; the good faith of the
20 employer; the gravity of the violation; the history of previous violations; and whether or not the
21 violation was an innocent mistake or willful.

22 (d) A violation of this section may be adjudicated under § 28-14-19 and consolidated with
23 any labor standards violation or under §§ 37-13-14.1 and 37-13-15 and consolidated with any
24 prevailing wage violation.

25 (e) A civil violation of this section may be brought or adjudicated by any division of the
26 department of labor and training. A criminal violation of this section may be brought by the attorney
27 general.

28 (f) The department shall notify the contractors' registration board and the tax administrator
29 of any violation of this section.

30 (g) Any employer who knowingly and willfully violates this section shall be subject to the
31 following penalties upon plea or conviction:

32 (1) In instances of a first offense of a knowing and willful violation of this section, by
33 imprisonment for not more than three (3) years or by a fine of not more than twice the value of the
34 wages or ten thousand dollars (\$10,000), whichever is greater, or both.

1 (2) In instances of a second or subsequent offense of a knowing and willful violation of
2 this section, by imprisonment for not more than five (5) years or a fine of not more than three (3)
3 times the value of the wages or twenty thousand dollars (\$20,000), whichever is greater, or both.

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would increase the criminal penalties for wage theft and employee
2 misclassification.

3 This act would take effect upon passage.

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