

REVISED STATUTES OF NEBRASKA ANNOTATED

CHAPTER 48 – LABOR

ARTICLE 12 – WAGES

(C) WAGE PAYMENT AND COLLECTION

Current through legislation effective May 31, 2025, of the 1st Regular Session of the 109th Legislature (2025)

Section 48-1228

Act, how cited

Sections 48-1228 to 48-1236 shall be known and may be cited as the Nebraska Wage Payment and Collection Act.

(Laws 1977, LB 220A, § 1; Laws 2007, LB 255, § 1; Laws 2014, LB 560, § 1, eff. July 18, 2014; Laws 2020, LB 1016, § 2, eff. Oct. 1, 2020.)

Section 48-1229

Terms, defined

For purposes of the Nebraska Wage Payment and Collection Act, unless the context otherwise requires:

(1) Employee means any individual permitted to work by an employer pursuant to an employment relationship or who has contracted to sell the goods or services of an employer and to be compensated by commission. Services performed by an individual for an employer shall be deemed to be employment, unless it is shown that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. This subdivision is not intended to be a codification of the common law and shall be considered complete as written;

(2) Employer means the state or any individual, partnership, limited liability company, association, joint-stock company, trust, corporation, political subdivision, or personal representative of the estate of a deceased individual, or the receiver, trustee, or successor thereof, within or without the state, employing any person within the state as an employee;

(3) Federally insured financial institution means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States Government;

(4) Fringe benefits includes sick and vacation leave plans, disability income protection plans, retirement, pension, or profitsharing plans, health and accident benefit plans, and any other

employee benefit plans or benefit programs regardless of whether the employee participates in such plans or programs;

(5) Payroll debit card means a stored-value card issued by or on behalf of a federally insured financial institution that provides an employee with immediate access for withdrawal or transfer of his or her wages through a network of automatic teller machines. Payroll debit card includes payroll debit cards, payroll cards, and paycards; and

(6) Wages means compensation for labor or services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission, or other basis. Paid leave, other than earned but unused vacation leave, provided as a fringe benefit by the employer shall not be included in the wages due and payable at the time of separation, unless the employer and the employee or the employer and the collective-bargaining representative have specifically agreed otherwise. Unless the employer and employee have specifically agreed otherwise through a contract effective at the commencement of employment or at least ninety days prior to separation, whichever is later, wages includes commissions on all orders delivered and all orders on file with the employer at the time of separation of employment less any orders returned or canceled at the time suit is filed.

(Laws 1977, LB 220A, § 2; Laws 1988, LB 1130, § 1; Laws 1989, LB 238, § 1; Laws 1991, LB 311, § 1; Laws 1993, LB 121, § 300; Laws 1999, LB 753, § 1; Laws 2007, LB 255, § 2; Laws 2014, LB 765, § 1, eff. Jan. 1, 2015.)

Section 48-12230

Employer; regular paydays; altered; notice; deduct, withhold, or divert portion of wages; when; wage statement; use of payroll debit card; conditions; unpaid wages; when due

(1) Except as otherwise provided in this section, each employer shall pay all **wages** due its employees on regular days designated by the employer or agreed upon by the employer and employee. Thirty days' written notice shall be given to an employee before regular paydays are altered by an employer. An employer may deduct, withhold, or divert a portion of an employee's **wages** only when the employer is required to or may do so by state or federal law or by order of a court of competent jurisdiction or the employer has a written agreement with the employee to deduct, withhold, or divert.

(2) On each regular payday, the employer shall deliver or make available to each employee, by mail or electronically, or shall provide at the employee's normal place of employment during employment hours for all shifts a **wage** statement showing, at a minimum, the identity of the employer, the hours for which the employee was paid, the **wages** earned by the employee, and deductions made for the employee. However, the employer need not provide information on hours worked for employees who are exempt from overtime under the federal Fair Labor Standards Act of 1938, under 29 C.F.R. part 541, unless the employer has established a policy or practice of paying to or on behalf of exempt employees overtime, or bonus or a **payment** based on hours worked, whereupon the employer shall send or otherwise provide a statement to the exempt

employees showing the hours the employee worked or the **payments** made to the employee by the employer, as applicable.

(3) When an employer elects to pay **wages** with a payroll debit card, the employer shall comply with the compulsory-use requirements prescribed in 15 U.S.C. 1693k. Additionally, the employer shall allow an employee at least one means of fund access withdrawal per pay period, but not more frequently than once per week, at no cost to the employee for an amount up to and including the total amount of the employee's net **wages**, as stated on the employee's earnings statement. An employer shall not require an employee to pay any fees or costs incurred by the employer in connection with paying **wages** with a payroll debit card.

(4) Except as otherwise provided in section **48-1230.01**:

(a) Whenever an employer, other than a political subdivision, separates an employee from the payroll, the unpaid **wages** shall become due on the next regular payday or within two weeks of the date of termination, whichever is sooner; and

(b) Whenever a political subdivision separates an employee from the payroll, the unpaid **wages** shall become due within two weeks of the next regularly scheduled meeting of the governing body of the political subdivision if such employee is separated from the payroll at least one week prior to such meeting, or if an employee of a political subdivision is separated from the payroll less than one week prior to the next regularly scheduled meeting of the governing body of the political subdivision, the unpaid **wages** shall be due within two weeks of the following regularly scheduled meeting of the governing body of the political subdivision.

(Laws 1977, LB 220A, § 3; Laws 1988, LB 1130, § 2; Laws 2007, LB 255, § 3; Laws 2010, LB 884, § 2, eff. July 15, 2010; Laws 2014, LB 560, § 4, eff. July 18, 2014; Laws 2014, LB 765, § 2, eff. Jan. 1, 2015.)

Section 48-1230.01

Employer; unpaid wages constituting commissions; duties

Whenever an employer separates an employee from the payroll, the unpaid wages constituting commissions shall become due on the next regular payday following the employer's receipt of payment for the goods or services from the customer from which the commission was generated. The employer shall provide an employee with a periodic accounting of outstanding commissions until all commissions have been paid or the orders have been returned or canceled by the customer.

(Laws 2007, LB 255, § 4)

Section 48-1231

Effective: October 1, 2020

Employee; claim for wages or unlawful retaliation or discrimination; suit; judgment; costs and attorney's fees; failure to furnish wage statement; penalty

(1) An employee having a claim for wages which are not paid within thirty days of the regular payday designated or agreed upon may institute suit for such unpaid wages in the proper court. If an employee establishes a claim and secures judgment on the claim, such employee shall be entitled to recover the full amount of the judgment and all costs of such suit, including reasonable attorney's fees. If the cause is taken to an appellate court and the employee recovers a judgment, the appellate court shall award reasonable attorney's fees to the employee. If the employee fails to recover a judgment in excess of the amount that may have been tendered within thirty days of the regular payday by an employer, such employee shall not recover the attorney's fees provided by this subsection. If the court finds that no reasonable dispute existed as to the fact that wages were owed or as to the amount of such wages, the court may order the employee to pay the employer's attorney's fees and costs of the action as assessed by the court.

(2) If an employee works for an employer that is not subject to the Nebraska Fair Employment Practice Act and such employee is aggrieved by a violation of section 48-1235, the employee may bring a suit against such employer in the proper court to recover the damages sustained by reason of such violation. If an employee prevails in a suit brought pursuant to this subsection, such employee shall be entitled to recover the full amount of the judgment and all costs of such suit, including reasonable attorney's fees. If the cause is taken to an appellate court and the employee recovers a judgment, the appellate court shall award reasonable attorney's fees to the employee.

(3) An employer who fails to furnish a wage statement under subsection (2) of section 48-1230 shall be guilty of an infraction as defined in section 29-431 and shall be subject to a fine pursuant to section 29-436.

(4) If an employee institutes suit against an employer under subsection (1) or (2) of this section, any citation that is issued against such employer under section 48-1234 and that relates directly to the facts in dispute shall be admitted into evidence unless specifically excluded by the court. If a citation has been contested as described in subsection (3) of section 48-1234, it shall not be admitted into evidence under this subsection until after such contest has been resolved.

(Laws 1977, LB 220A, § 4; Laws 1991, LB 311, § 2; Laws 2010, LB 884, § 3, eff. July 15, 2010; Laws 2014, LB 560, § 5, eff. July 18, 2014; Laws 2020, LB 1016, § 4, eff. Oct. 1, 2020.)

Section 48-1232

Employee; claim; judgment; additional recovery from employer; when

If an employee establishes a claim and secures judgment on such claim under subsection (1) of section 48-1231: (1) An amount equal to the judgment may be recovered from the employer; or (2) if the nonpayment of wages is found to be willful, an amount equal to two times the amount of unpaid wages shall be recovered from the employer. Any amount recovered pursuant to subdivision (1) or (2) of this section shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(Laws 1977, LB 220A, § 5; Laws 1989, LB 238, § 2; Laws 1990, LB 1178, § 1; Laws 2007, LB 255, § 5; Laws 2010, LB 884, § 4, eff. July 15, 2010.)

Section 48-1233

Commissioner of Labor; enforcement powers

The Commissioner of Labor shall have the authority to subpoena records and witnesses related to the enforcement of the Nebraska Wage Payment and Collection Act. The commissioner or his or her agent may inspect all related records and gather testimony on any matter relative to the enforcement of the act when the information sought is relevant to a lawful investigative purpose and is reasonable in scope.

(Laws 2014, LB 560, § 2, eff. July 18, 2014.)

Section 48-1234

Effective: October 1, 2020

Commissioner of Labor; citation; notice of penalty; employer contest; hearing; unpaid citation, effect on government contracts

(1) The Commissioner of Labor shall issue a citation to an employer when an investigation reveals that the employer may have violated the Nebraska Wage Payment and Collection Act, other than a violation of subsection (2) of section 48-1230.

(2) When a citation is issued, the commissioner shall notify the employer of the proposed administrative penalty, if any, by certified mail or any other manner of delivery by which the United States Postal Service can verify delivery or by any method of service recognized under Chapter 25, article 5. The administrative penalty shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars in the case of a second or subsequent violation.

(3) The employer has fifteen working days after the date of the citation or penalty to contest such citation or penalty. Notice of contest shall be sent to the commissioner who shall provide a hearing in accordance with the Administrative Procedure Act.

(4) Any employer who has an unpaid citation for a violation of the Nebraska Wage Payment and Collection Act shall be barred from contracting with the state or any political subdivision until such citation is paid. If a citation has been contested as described in subsection (3) of this section, it shall not be considered an unpaid citation under this subsection until after such contest has been resolved.

(5) Citations issued under this section and the names of employers who have been issued a citation shall be made available to the public upon request, except that this subsection shall not apply to any citations that are being contested as described in subsection (3) of this section.

(Laws 2014, LB 560, § 3, eff. July 18, 2014; Laws 2019, LB 359, § 7, eff. Sept. 1, 2019; Laws 2020, LB 1016, § 5, eff. Oct. 1, 2020.)

Section 48-1235

Employer; retaliation or discrimination prohibited

An employer shall not retaliate or discriminate against an employee because the employee:

- (1) Files a suit or complaint under the Nebraska Wage Payment and Collection Act; or
- (2) Testifies, assists, or participates in an investigation, proceeding, or action concerning a violation of the act.

(Laws 2020, LB 1016, § 3, eff. Oct. 1, 2020.)

Section 48-1236

Effective: October 1, 2020

Department of Labor; post compliance and enforcement information

No later than December 1 of each year, the Department of Labor shall post information on its website regarding compliance with and enforcement of the Nebraska Wage Payment and Collection Act and shall provide notice to the Legislature that the information was posted. The information shall include, but not be limited to, (1) the total number of reports of unpaid wages filed with the department in the prior calendar year, (2) the total number of reports investigated in the prior calendar year, (3) the results of all investigations completed in the prior calendar year, including, but not limited to, the number of cases in which wages were found to be owed to an employee, the number of cases in which the employer paid wages owed to the employee during the course of the investigation, and the number of cases in which it was found that no wages were owed to an employee, (4) the number of citations issued pursuant to section 48-1234 in the prior calendar year, (5) the total amount of wages owed to employees according to the citations issued in the prior calendar year, (6) the number of employers with more than two citations in the previous five years, and (7) the number and names of employers with at least one unpaid citation from the previous five years.

(Laws 2020, LB 1016, § 6, eff. Oct. 1, 2020.)