

NEBRASKA DEPARTMENT OF LABOR

WAGE AND HOUR ACT

Neb. Rev. Stat. §§48-1201 to 48-1209.01



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[Current Through 2018 Legislature, Regular Session]

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48-1201. Policy.

It is declared to be the policy of this state (1) to establish a minimum wage for all workers at levels consistent with their health, efficiency and general well-being, and (2) to safeguard existing minimum wage compensation standards which are adequate to maintain the health, efficiency and general well-being of workers against the unfair competition of wage and hours standards which do not provide adequate standards of living.

Source: Laws 1967, c. 285, § 1, p. 773.

48-1202. Terms, defined.

For purposes of the Wage and Hour Act, unless the context otherwise requires:

- (1) Employ shall include to permit to work;
- (2) Employer shall include any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons employing four or more employees at any one time except for seasonal employment of not more than twenty weeks in any calendar year, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States, the state, or any political subdivision thereof;
- (3) Employee shall include any individual employed by any employer but shall not include:
 - (a) Any individual employed in agriculture;
 - (b) Any individual employed as a baby-sitter in or about a private home;
 - (c) Any individual employed in a bona fide executive, administrative, or professional capacity or as a superintendent or supervisor;
 - (d) Any individual employed by the United States or by the state or any political subdivision thereof;
 - (e) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization when the employer-employee relationship does not in fact exist or when the services rendered to such organization are on a voluntary basis;
 - (f) Apprentices and learners otherwise provided by law;
 - (g) Veterans in training under supervision of the United States Department of Veterans Affairs;
 - (h) A child in the employment of his or her parent or a parent in the employment of his or her child; or
 - (i) Any person who, directly or indirectly, is receiving any form of federal, state, county, or local aid or welfare and who is physically or mentally disabled and employed in a program of rehabilitation, who shall receive a wage at a level consistent with his or her health, efficiency, and general well-being;
- (4) Occupational classification shall mean a classification established by the Dictionary of Occupational Titles prepared by the United States Department of Labor; and
- (5) Wages shall mean all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash.

Source: Laws 1967, c. 285, § 2, p. 773; Laws 1969, c. 408, § 1, p. 1411; Laws 1973, LB 343, § 1; Laws 1991, LB 2, § 8; Laws 1991, LB 297, § 1; Laws 1993, LB 121, § 298.

48-1203. Wages; minimum rate.

- (1) Except as otherwise provided in this section and section 48-1203.01, every employer shall pay to each of his or her employees a minimum wage of:
 - (a) Seven dollars and twenty-five cents per hour through December 31, 2014;
 - (b) Eight dollars per hour on and after January 1, 2015, through December 31, 2015; and
 - (c) Nine dollars per hour on and after January 1, 2016.
- (2) For persons compensated by way of gratuities such as waitresses, waiters, hotel bellhops, porters, and shoeshine persons, the employer shall pay wages at the minimum rate of two dollars and thirteen cents per hour, plus all gratuities given to them for services rendered. The sum of wages and gratuities received by each person compensated by way of gratuities shall equal or exceed the minimum wage rate provided in subsection (1) of this section. In determining whether or not the individual is compensated by way of gratuities, the burden of proof shall be upon the employer.
- (3) 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 percent of the minimum wage rate which would otherwise be applicable.

Source: Laws 1967, c. 285, § 3, p. 775; Laws 1969, c. 408, § 2, p. 1413; Laws 1973, LB 343, § 2; Laws 1987, LB 474, § 1; Laws 1989, LB 412, § 1; Laws 1991, LB 297, § 2; Laws 1997, LB 569, § 1; Laws 2007, LB265, § 22; Initiative Law 2014, No. 425, § 1.

48-1203.01. Training wage; rate; limitations.

An employer may pay a new employee who is younger than twenty years of age and is not a seasonal or migrant

worker a training wage of at least seventy-five percent of the federal minimum wage for ninety days from the date the new employee was hired. An employer may pay such new employee the training wage rate for an additional ninety-day period while the new employee is participating in on-the-job training which (1) requires technical, personal, or other skills which are necessary for his or her employment and (2) is approved by the Commissioner of Labor. No more than one-fourth of the total hours paid by the employer shall be at the training wage rate.

An employer shall not pay the training wage rate if the hours of any other employee are reduced or if any other employee is laid off and the hours or position to be filled by the new employee is substantially similar to the hours or position of such other employee. An employer shall not dismiss or reduce the hours of any employee with the intention of replacing such employee or his or her hours with a new employee receiving the training wage rate.

Source: Laws 1991, LB 297, § 3; Laws 1997, LB 569, § 2; Laws 2007, LB265, § 23.

48-1204. Repealed. Laws 1987, LB 474, § 3.

48-1205. Sections; posting.

Every employer subject to the provisions of sections 48-1201 to 48-1209 shall keep a summary of sections 48-1201 to 48-1209, furnished by the Commissioner of Labor without charge, posted in a conspicuous place on or about the premises wherein any person subject to the provisions of sections 48-1201 to 48-1209 is employed.

Source: Laws 1967, c. 285, § 5, p. 775.

48-1206. Commissioner of Labor; subpoena records and witnesses; violations; penalty; civil actions.

(1) The Commissioner of Labor shall have the authority to subpoena records and witnesses related to the enforcement of section 48-1203 and this section. The commissioner or his or her agent may inspect all related records and gather testimony on any matter relative to the enforcement of the Wage and Hour Act.

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

(3) It shall be the duty of the county attorney for the county in which any violation of 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 this subsection, the employee shall not be required to pay any filing fee or other court costs necessarily incurred in such proceedings.

Source: Laws 1967, c. 285, § 6, p. 775; Laws 1973, LB 343, § 4; Laws 1977, LB 40, § 303; Laws 1987, LB 474, § 2.

48-1207. Bargaining collectively; sections not applicable.

Nothing in sections 48-1201 to 48-1209 shall be deemed to interfere with, impede or in any way diminish the right of employees to bargain collectively with their employers through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum under the provisions of sections 48-1201 to 48-1209.

Source: Laws 1967, c. 285, § 7, p. 776.

48-1208. Other laws; applicability of sections.

Any standards relating to minimum wage, maximum hours, or other working conditions in effect on October 23, 1967, by or under any other law of this state, which are more favorable to employees than those applicable to such employees under the provisions of sections 48-1201 to 48-1209, shall not be deemed to be amended, rescinded, or otherwise affected by sections 48-1201 to 48-1209 but shall continue in full force and effect.

Source: Laws 1967, c. 285, § 8, p. 776.

48-1209. Act, how cited.

Sections 48-1201 to 48-1209 shall be known and may be cited as the Wage and Hour Act.

Source: Laws 1967, c. 285, § 9, p. 776; Laws 1991, LB 297, § 4.

48-1209.01. Police; firefighters; cities having a population of more than 10,000 inhabitants; minimum salaries.

The officers and members of the police and paid fire departments of cities of the metropolitan and primary classes and of cities of the first class having a population of more than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall each receive a salary of not less than three hundred fifty dollars per month. The city council may, by ordinance, at any time, change, fix or revise the salaries of the officers or members of the police and fire departments of such cities, but in no instance shall the minimum salary of any officer or member be less than three hundred fifty dollars per month.

Source: Laws 1965, c. 78, § 1, p. 313; Laws 1979, LB 80, § 63; R.S.1943, (1983), § 19-1824; Laws 2017, LB113, § 46.

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