

REFERENCE TITLE: **minimum wage; minor league baseball**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2197

Introduced by
Representatives Biasiucci: Bliss, Contreras L, Diaz, Gillette, Martinez,
Wilmeth; Senator Borrelli

AN ACT

**AMENDING SECTIONS 23-351 AND 23-364, ARIZONA REVISED STATUTES; RELATING TO
EMPLOYMENT PRACTICES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-351, Arizona Revised Statutes, is amended to
3 read:

4 23-351. Designation of paydays for employees; payment;
5 exceptions; violation; classification;
6 applicability; definition

7 A. Each employer in this state shall designate two or more days in
8 each month, not more than sixteen days apart, as fixed paydays for payment
9 of wages to the employees.

10 B. Notwithstanding subsection A of this section, each employer in
11 this state whose principal place of business is located outside of this
12 state and whose payroll system is centralized outside of this state may
13 designate one or more days in each month as fixed paydays for payment of
14 wages to the following employees:

15 1. Professional, administrative or executive employees or employees
16 employed in the capacity of an outside salesman as those terms are defined
17 under the fair labor standards act of 1938, as amended.

18 2. Employees employed in a supervisory capacity as defined under
19 the national labor relations act.

20 3. EMPLOYEES WHO HAVE ENTERED INTO A CONTRACT TO PLAY MINOR LEAGUE
21 BASEBALL AND WHO ARE COMPENSATED PURSUANT TO THE TERMS OF A COLLECTIVE
22 BARGAINING AGREEMENT THAT EXPRESSLY PROVIDES FOR THE WAGES AND WORKING
23 CONDITIONS OF EMPLOYEES.

24 C. Each employer, on each of the regular paydays, shall pay to the
25 employees all wages due the employees up to that date, except:

26 1. In the case of employees remaining in the service of any such
27 employer, with the exception of school district employees or persons
28 employed by an employee leasing firm that contracts with a school
29 district, all wages other than overtime or exception pay not to exceed
30 five days of labor may be withheld. School districts or employee leasing
31 firms that contract with a school district may withhold wages for up to
32 seven business days during their normal two-week payroll processing cycle.
33 An employer other than a school district or employee leasing firm that
34 contracts with a school district may satisfy the requirements of this
35 paragraph by any of the following:

36 (a) Personally delivering the wages to the employee not later than
37 five business days after the end of the most recent pay period.

38 (b) Depositing the wages in the United States mail not later than
39 five business days after the end of the most recent pay period for
40 delivery to an address specified by the employee.

41 (c) Personally delivering the wages to the employee not later than
42 ten days after the end of the most recent pay period for an employer whose
43 payroll system is centralized outside of this state.

1 2. In the case of employees of school districts or of the Arizona
2 state schools for the deaf and the blind, the annual salary may be
3 prorated in any number of payments, and the employee may select whether to
4 have the salary prorated or paid during the actual months worked. If the
5 employee's salary is prorated, all payments still due at the close of the
6 school attendance year or fiscal year may at the option of the employee be
7 paid in either a lump sum or paid within a period of two months after the
8 close of the fiscal year. If the employee's salary is prorated, the
9 employee's salary under the contract may be prorated into equal payments
10 and paid beginning with the first pay period that the employee works.

11 3. Overtime or exception pay shall be paid not later than sixteen
12 days after the end of the most recent pay period.

13 D. An employer may choose one of the following methods to pay wages
14 to employees under subsection A of this section:

15 1. In lawful currency of the United States.

16 2. In negotiable bank checks.

17 3. In the case of this state or any political subdivision of this
18 state, warrants payable on demand and bearing even date with the payday.

19 4. With the written consent of the employee, by deposit on the
20 payday to the employee's credit at a financial institution of the
21 employee's choice that is a member of the federal deposit insurance
22 corporation or any other comparable federal or state agency.

23 5. If the employer has offered deposit on the payday to the
24 employee's credit at a financial institution of the employee's choice that
25 is a member of the federal deposit insurance corporation or any other
26 comparable federal or state agency and the employee does not provide
27 consent and does not designate a financial institution, by deposit on the
28 payday to the employee's credit to a payroll card account.

29 E. When an employee's wages are paid by deposit in a financial
30 institution the employee shall be furnished with a written or electronic
31 statement of the employee's earnings and withholdings. Any wage deposit
32 plan adopted by an employer shall entitle the employee to one withdrawal
33 for each deposit, free of any service charge to the employee. The consent
34 of an employee for payment of wage by deposit in a financial institution
35 shall not constitute a prior assignment of wages to the financial
36 institution and is revocable at any time before the transmittal to the
37 financial institution by the employer. A person shall not be denied
38 employment, be discharged or be reprimanded for refusal to consent to
39 payment of wage by deposit in a financial institution.

40 F. When an employee's wages are paid to a payroll card account the
41 employee shall be furnished with a written or electronic statement of the
42 employee's earnings and withholdings. A payroll card account plan adopted
43 by an employer shall entitle the employee to one free withdrawal for each

1 deposit of wages per pay period but not more frequently than once per
2 week. An employer shall also provide a list of all fees associated with
3 the use of an employer provided payroll card account to an employee who
4 receives wages by deposit to a payroll card account.

5 G. Subsection B of this section does not apply to employees whose
6 salaries are subject to provisions of collective bargaining agreements.

7 H. Each employer in this state, in its discretion, may pay all
8 wages due to an employee by deposit on the payday at a financial
9 institution of the employee's choice or, if the employee does not
10 designate a financial institution, to a payroll card account. For the
11 purposes of this subsection, "financial institution" means a member of the
12 federal deposit insurance corporation or of any other comparable federal
13 or state agency.

14 I. Any employer who violates this section is guilty of a petty
15 offense.

16 J. The provisions of subsection C, paragraph 1 of this section
17 relating to the payment of wages by an employee leasing firm that
18 contracts with a school district apply only to employees of the employee
19 leasing firm who are placed at a school district and not to any other
20 employees who are employed or contracted by the employee leasing firm.

21 K. For the purposes of this section, "employee leasing firm" means
22 a company that places its contracted, leased and coemployed employees in
23 administrator, certified, classified or extracurricular positions with a
24 school district.

25 Sec. 2. Subject to the requirements of article IV, part 1,
26 section 1, Constitution of Arizona, section 23-364, Arizona Revised
27 Statutes, is amended to read:

28 23-364. Enforcement; definitions

29 A. The commission is authorized to enforce and implement this
30 article and may ~~promulgate regulations~~ ADOPT RULES consistent with this
31 article to do so. For THE purposes of this section: (1) "article" ~~shall~~
32 ~~mean~~ MEANS both article 8 and article 8.1 of this chapter; (2) "earned
33 paid sick time" ~~is as defined~~ HAS THE SAME MEANING PRESCRIBED in section
34 23-371, ~~Arizona Revised Statutes~~; (3) "employer" ~~shall refer to the~~
35 ~~definition of employer~~ HAS THE SAME MEANING PRESCRIBED in section
36 23-362, ~~Arizona Revised Statutes~~; for purposes of minimum wage enforcement
37 and ~~shall refer to the definition of employer~~ HAS THE SAME MEANING
38 PRESCRIBED in section 23-371, ~~Arizona Revised Statutes~~; for purposes of
39 earned paid sick time enforcement; and (4) "retaliation" ~~shall mean~~ MEANS
40 denial of any right guaranteed under article 8 and article 8.1 of this
41 chapter and any threat, discharge, suspension, demotion, reduction of
42 hours, or any other adverse action against an employee for the exercise
43 of any right guaranteed herein, including any sanctions against an

1 employee who is the recipient of public benefits for rights guaranteed
2 herein. Retaliation ~~shall~~ also ~~include~~ INCLUDES interference with or
3 punishment for in any manner participating in or assisting an
4 investigation, proceeding or hearing under this article.

5 B. No employer or other person shall discriminate or subject any
6 person to retaliation for asserting any claim or right under this article,
7 for assisting any other person in doing so, or for informing any person
8 about their rights. Taking adverse action against a person within ninety
9 days of a person's engaging in the foregoing activities shall raise a
10 presumption that such action was retaliation, which may be rebutted by
11 clear and convincing evidence that such action was taken for other
12 permissible reasons.

13 C. Any person or organization may file an administrative complaint
14 with the commission charging that an employer has violated this article as
15 to any employee or other person. When the commission receives a
16 complaint, the commission may review records regarding all employees at
17 the employer's worksite in order to protect the identity of any employee
18 identified in the complaint and to determine whether a pattern of
19 violations has occurred. The name of any employee identified in a
20 complaint to the commission shall be kept confidential as long as
21 possible. ~~where~~ IF the commission determines that an employee's name must
22 be disclosed in order to investigate a complaint further, it may so do
23 only with the employee's consent.

24 D. Employers shall post notices in the workplace, in such format
25 specified by the commission, notifying employees of their rights under
26 this article. Employers shall provide their business name, address, ~~and~~
27 telephone number in writing to employees ~~upon~~ ON hire. Employers shall
28 maintain payroll records showing the hours worked for each day worked, and
29 the wages and earned paid sick time paid to all employees for a period of
30 four years. Failure to do so shall raise a rebuttable presumption that
31 the employer did not pay the required minimum wage rate or earned paid
32 sick time. The commission ~~may~~ by ~~regulation~~ RULE MAY reduce or waive the
33 recordkeeping and posting requirements herein for any categories of small
34 employers whom it finds would be unreasonably burdened by such
35 requirements. Employers shall ~~permit~~ ALLOW the commission or a law
36 enforcement officer to inspect and copy payroll or other business records,
37 shall ~~permit~~ ALLOW them to interview employees away from the worksite, and
38 shall not hinder any investigation. Such information provided shall keep
39 confidential except as is required to prosecute violations of this
40 article. Employers shall ~~permit~~ ALLOW an employee or his or her
41 designated representative to inspect and copy payroll records pertaining
42 to that employee.

1 E. A civil action to enforce this article may be maintained in a
2 court of competent jurisdiction by a law enforcement officer or by any
3 private party injured by a violation of this article.

4 F. Any employer who violates recordkeeping, posting, or other
5 requirements that the commission may establish under this article shall be
6 subject to a civil penalty of at least \$250 ~~dollars~~ for a first violation,
7 and at least ~~\$1000 dollars~~ \$1,000 for each subsequent or ~~willful~~ WILFUL
8 violation and ~~may~~, if the commission or court determines appropriate, MAY
9 be subject to special monitoring and inspections.

10 G. Any employer who fails to pay the wages or earned paid sick time
11 required under this article shall be required to pay the employee the
12 balance of the wages or earned paid sick time owed, including interest
13 thereon, and an additional amount equal to twice the underpaid wages or
14 earned paid sick time. Any employer who retaliates against an employee or
15 other person in violation of this article shall be required to pay the
16 employee an amount set by the commission or a court sufficient to
17 compensate the employee and deter future violations, but not less than ~~one~~
18 ~~hundred fifty dollars~~ \$150 for each day that the violation continued or
19 until legal judgment is final. The commission and the courts shall have
20 the authority to order payment of such unpaid wages, unpaid earned sick
21 time, other amounts, and civil penalties and to order any other
22 appropriate legal or equitable relief for violations of this article.
23 Civil penalties shall be retained by the agency that recovered them and
24 used to finance activities to enforce this article. A prevailing
25 plaintiff shall be entitled to reasonable attorney's fees and costs of
26 suit.

27 H. A civil action to enforce this article may be commenced ~~no~~ NOT
28 later than two years after a violation last occurs, or three years in the
29 case of a ~~willful~~ WILFUL violation, and may encompass all violations that
30 occurred as part of a continuing course of employer conduct regardless of
31 their date. The statute of limitations shall be tolled during any
32 investigation of an employer by the commission or other law enforcement
33 officer, but such investigation shall not bar a person from bringing a
34 civil action under this article. No verbal or written agreement or
35 employment contract may waive any rights under this article.

36 I. The legislature ~~may~~ by statute MAY raise the minimum wage
37 established under this article, extend coverage, or increase penalties.
38 A county, city, or town ~~may~~ by ordinance MAY regulate minimum wages and
39 benefits within its geographic boundaries but may not provide for a
40 minimum wage lower than that prescribed in this article. State agencies,
41 counties, cities, towns and other political subdivisions of the state may
42 consider violations of this article in determining whether employers may
43 receive or renew public contracts, financial assistance or licenses. This

1 article shall be liberally construed in favor of its purposes and shall
2 not limit the authority of the legislature or any other body to adopt any
3 law or policy that requires payment of higher or supplemental wages or
4 benefits, or that extends such protections to employers or employees not
5 covered by this article.

6 J. THIS ARTICLE AND ANY OTHER MINIMUM WAGE OR RECORDKEEPING
7 REQUIREMENTS CONCERNING HOURS WORKED RELATED TO MINIMUM WAGE IN THIS
8 CHAPTER DO NOT APPLY TO ANY EMPLOYEE WHO HAS ENTERED INTO A CONTRACT TO
9 PLAY MINOR LEAGUE BASEBALL AND WHO IS COMPENSATED PURSUANT TO THE TERMS OF
10 A COLLECTIVE BARGAINING AGREEMENT THAT EXPRESSLY PROVIDES FOR THE WAGES
11 AND WORKING CONDITIONS OF EMPLOYEES.

12 Sec. 3. Requirements for enactment; three-fourths vote

13 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
14 section 23-364, Arizona Revised Statutes, as amended by this act, is
15 effective only on the affirmative vote of at least three-fourths of the
16 members of each house of the legislature.

17 Sec. 4. Emergency

18 This act is an emergency measure that is necessary to preserve the
19 public peace, health or safety and is operative immediately as provided by
20 law.