

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

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **SB 1093**

Introduced by  
Senator Borrelli: Representative Biasiucci

**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.