

Senate Engrossed

minimum wage; minor league baseball.

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

SENATE BILL 1093

AN ACT

AMENDING SECTION 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. Subject to the requirements of article IV, part 1,
3 section 1, Constitution of Arizona, section 23-364, Arizona Revised
4 Statutes, is amended to read:

5 23-364. Enforcement; definitions

6 A. The commission is authorized to enforce and implement this
7 article and may ~~promulgate regulations~~ ADOPT RULES consistent with this
8 article to do so. For THE purposes of this section: (1) "article" ~~shall~~
9 ~~mean~~ MEANS both article 8 and article 8.1 of this chapter; (2) "earned
10 paid sick time" ~~is as defined~~ HAS THE SAME MEANING PRESCRIBED in section
11 23-371, ~~Arizona Revised Statutes~~; (3) "employer" ~~shall refer to the~~
12 ~~definition of employer~~ HAS THE SAME MEANING PRESCRIBED in section
13 23-362, ~~Arizona Revised Statutes~~, for purposes of minimum wage enforcement
14 and ~~shall refer to the definition of employer~~ HAS THE SAME MEANING
15 PRESCRIBED in section 23-371, ~~Arizona Revised Statutes~~, for purposes of
16 earned paid sick time enforcement; and (4) "retaliation" ~~shall mean~~ MEANS
17 denial of any right guaranteed under article 8 and article 8.1 of this
18 chapter and any threat, discharge, suspension, demotion, reduction of
19 hours, or any other adverse action against an employee for the exercise
20 of any right guaranteed herein, including any sanctions against an
21 employee who is the recipient of public benefits for rights guaranteed
22 herein. Retaliation ~~shall~~ also ~~include~~ INCLUDES interference with or
23 punishment for in any manner participating in or assisting an
24 investigation, proceeding or hearing under this article.

25 B. No employer or other person shall discriminate or subject any
26 person to retaliation for asserting any claim or right under this article,
27 for assisting any other person in doing so, or for informing any person
28 about their rights. Taking adverse action against a person within ninety
29 days of a person's engaging in the foregoing activities shall raise a
30 presumption that such action was retaliation, which may be rebutted by
31 clear and convincing evidence that such action was taken for other
32 permissible reasons.

33 C. Any person or organization may file an administrative complaint
34 with the commission charging that an employer has violated this article as
35 to any employee or other person. When the commission receives a
36 complaint, the commission may review records regarding all employees at
37 the employer's worksite in order to protect the identity of any employee
38 identified in the complaint and to determine whether a pattern of
39 violations has occurred. The name of any employee identified in a
40 complaint to the commission shall be kept confidential as long as
41 possible. ~~where~~ IF the commission determines that an employee's name must
42 be disclosed in order to investigate a complaint further, it may so do
43 only with the employee's consent.

1 D. Employers shall post notices in the workplace, in such format
2 specified by the commission, notifying employees of their rights under
3 this article. Employers shall provide their business name, address, ~~and~~
4 telephone number in writing to employees ~~upon~~ ON hire. Employers shall
5 maintain payroll records showing the hours worked for each day worked, and
6 the wages and earned paid sick time paid to all employees for a period of
7 four years. Failure to do so shall raise a rebuttable presumption that
8 the employer did not pay the required minimum wage rate or earned paid
9 sick time. The commission ~~may~~ by ~~regulation~~ RULE MAY reduce or waive the
10 recordkeeping and posting requirements herein for any categories of small
11 employers whom it finds would be unreasonably burdened by such
12 requirements. Employers shall ~~permit~~ ALLOW the commission or a law
13 enforcement officer to inspect and copy payroll or other business records,
14 shall ~~permit~~ ALLOW them to interview employees away from the worksite, and
15 shall not hinder any investigation. Such information provided shall keep
16 confidential except as is required to prosecute violations of this
17 article. Employers shall ~~permit~~ ALLOW an employee or his or her
18 designated representative to inspect and copy payroll records pertaining
19 to that employee.

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

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

29 G. Any employer who fails to pay the wages or earned paid sick time
30 required under this article shall be required to pay the employee the
31 balance of the wages or earned paid sick time owed, including interest
32 thereon, and an additional amount equal to twice the underpaid wages or
33 earned paid sick time. Any employer who retaliates against an employee or
34 other person in violation of this article shall be required to pay the
35 employee an amount set by the commission or a court sufficient to
36 compensate the employee and deter future violations, but not less than ~~one~~
37 ~~hundred fifty dollars~~ \$150 for each day that the violation continued or
38 until legal judgment is final. The commission and the courts shall have
39 the authority to order payment of such unpaid wages, unpaid earned sick
40 time, other amounts, and civil penalties and to order any other
41 appropriate legal or equitable relief for violations of this article.
42 Civil penalties shall be retained by the agency that recovered them and
43 used to finance activities to enforce this article. A prevailing

1 plaintiff shall be entitled to reasonable attorney's fees and costs of
2 suit.

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

12 I. The legislature ~~may~~ by statute MAY raise the minimum wage
13 established under this article, extend coverage,~~;~~ or increase penalties.
14 A county, city,~~;~~ or town ~~may~~ by ordinance MAY regulate minimum wages and
15 benefits within its geographic boundaries but may not provide for a
16 minimum wage lower than that prescribed in this article. State agencies,
17 counties, cities, towns and other political subdivisions of the state may
18 consider violations of this article in determining whether employers may
19 receive or renew public contracts, financial assistance or licenses. This
20 article shall be liberally construed in favor of its purposes and shall
21 not limit the authority of the legislature or any other body to adopt any
22 law or policy that requires payment of higher or supplemental wages or
23 benefits, or that extends such protections to employers or employees not
24 covered by this article.

25 J. THIS ARTICLE AND ANY OTHER MINIMUM WAGE OR RECORDKEEPING
26 REQUIREMENTS CONCERNING HOURS WORKED RELATED TO MINIMUM WAGE IN THIS
27 CHAPTER DO NOT APPLY TO ANY EMPLOYEE WHO MEETS ALL OF THE FOLLOWING
28 CRITERIA:

- 29 1. HAS ENTERED INTO A CONTRACT TO PLAY MINOR LEAGUE BASEBALL.
- 30 2. IS COMPENSATED PURSUANT TO THE TERMS OF A COLLECTIVE BARGAINING
31 AGREEMENT THAT EXPRESSLY PROVIDES FOR THE WAGES AND WORKING CONDITIONS OF
32 EMPLOYEES.
- 33 3. IS COMPENSATED SUBJECT TO THE COLLECTIVE BARGAINING AGREEMENT IN
34 A MANNER THAT EXCEEDS THE REQUIREMENTS OF THIS ARTICLE.

35 Sec. 2. Legislative findings

36 Recognizing that the employee's union supports treating players as
37 salaried professionals who receive other important forms of nonwage
38 compensation, such as employer-paid housing and meals, under their
39 collective bargained agreement in light of the unique nature of playing
40 minor league baseball in lieu of tracking hours worked, the legislature
41 finds that employers of minor league baseball players who are compensated
42 under collective bargaining agreements are exempt from title 23,
43 chapter 2, article 8, Arizona Revised Statutes, any other state minimum

1 wage requirements and certain recordkeeping requirements in order to
2 ensure that the players can continue to be compensated overall at a level
3 higher than that contemplated by title 23, chapter 2, article 8, Arizona
4 Revised Statutes, and in a manner that best enables the players to provide
5 for themselves and their families.

6 Sec. 3. Requirements for enactment; three-fourths vote
7 Pursuant to article IV, part 1, section 1, Constitution of Arizona,
8 section 23-364, Arizona Revised Statutes, as amended by this act, is
9 effective only on the affirmative vote of at least three-fourths of the
10 members of each house of the legislature.

11 Sec. 4. Emergency
12 This act is an emergency measure that is necessary to preserve the
13 public peace, health or safety and is operative immediately as provided by
14 law.