

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 361

Introduced by Hansen, M., 26.

Read first time January 16, 2019

Committee:

1 A BILL FOR AN ACT relating to employment; to amend sections 48-1205,
2 48-1206, 48-1207, 48-1208, and 48-1209, Reissue Revised Statutes of
3 Nebraska, and section 48-1228, Revised Statutes Cumulative
4 Supplement, 2018; to prohibit retaliation under the Nebraska Wage
5 Payment and Collection Act and the Wage and Hour Act as prescribed;
6 to provide for a private right of action; to provide powers for the
7 Commissioner of Labor; to harmonize provisions; and to repeal the
8 original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. An employer shall not retaliate or discriminate against
2 an employee or applicant for employment because the employee or
3 applicant:

4 (1) Files a complaint under the Wage and Hour Act; or

5 (2) Testifies, assists, or participates in an investigation,
6 proceeding, or action concerning a violation of the act.

7 Sec. 2. Section 48-1205, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 48-1205 Every employer subject to the Wage and Hour Act provisions
10 ~~of sections 48-1201 to 48-1209~~ shall keep a summary of the act sections
11 ~~48-1201 to 48-1209~~, furnished by the Commissioner of Labor without
12 charge, posted in a conspicuous place on or about the premises wherein
13 any person subject to the act ~~provisions of sections 48-1201 to 48-1209~~
14 is employed.

15 Sec. 3. Section 48-1206, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 48-1206 (1) The Commissioner of Labor shall have the authority to
18 subpoena records and witnesses related to the enforcement of section
19 ~~48-1203, section 1 of this act,~~ and this section. The commissioner or his
20 or her agent may inspect all related records and gather testimony on any
21 matter relative to the enforcement of the Wage and Hour Act.

22 (2) Any employer who violates any of the provisions of section
23 48-1203 shall be guilty of a Class IV misdemeanor.

24 (3) It shall be the duty of the county attorney for the county in
25 which any violation of the Wage and Hour Act occurs to prosecute the same
26 in the district court in the county where the offense occurred.

27 (4) Any employer who violates any provision of section 48-1203 shall
28 be liable to the employees affected in the amount of their unpaid minimum
29 wages, as the case may be.

30 (5) In any action brought to enforce section 1 of this act, the
31 court shall have jurisdiction to grant such legal or equitable relief as

1 the court deems appropriate to effectuate the purposes of the Wage and
2 Hour Act, including temporary or permanent injunctive relief and general
3 and special damages.

4 (6) (5) Action to recover unpaid minimum wages as provided in
5 subsection (4) of this section or for a violation of section 1 of this
6 act may be maintained in any court of competent jurisdiction by any one
7 or more employees for and in behalf of himself, herself, or themselves
8 and other employees similarly situated, or such employee or employees may
9 designate an agent or representative to maintain such action for and in
10 behalf of all employees similarly situated. The court in which any action
11 is brought under this subsection shall, in addition to any judgment
12 awarded to the plaintiff or plaintiffs, allow costs of the action and
13 reasonable attorney's fees to be paid by the defendant. In any
14 proceedings brought pursuant to this subsection, the employee shall not
15 be required to pay any filing fee or other court costs necessarily
16 incurred in such proceedings.

17 Sec. 4. Section 48-1207, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 48-1207 Nothing in the Wage and Hour Act ~~sections 48-1201 to 48-1209~~
20 shall be deemed to interfere with, impede, or in any way diminish the
21 right of employees to bargain collectively with their employers through
22 representatives of their own choosing in order to establish wages or
23 other conditions of work in excess of the applicable minimum under the
24 act ~~provisions of sections 48-1201 to 48-1209.~~

25 Sec. 5. Section 48-1208, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 48-1208 Any standards relating to minimum wage, maximum hours, or
28 other working conditions in effect on October 23, 1967, by or under any
29 other law of this state, which are more favorable to employees than those
30 applicable to such employees under the Wage and Hour Act ~~provisions of~~
31 ~~sections 48-1201 to 48-1209,~~ shall not be deemed to be amended,

1 rescinded, or otherwise affected by the act ~~sections 48-1201 to 48-1209~~
2 but shall continue in full force and effect.

3 Sec. 6. Section 48-1209, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 48-1209 Sections 48-1201 to 48-1209 and section 1 of this act shall
6 be known and may be cited as the Wage and Hour Act.

7 Sec. 7. Section 48-1228, Revised Statutes Cumulative Supplement,
8 2018, is amended to read:

9 48-1228 Sections 48-1228 to 48-1234 and section 8 of this act shall
10 be known and may be cited as the Nebraska Wage Payment and Collection
11 Act.

12 Sec. 8. An employer shall not retaliate or discriminate against an
13 employee or applicant for employment because the employee or applicant:

14 (1) Files a complaint under the Nebraska Wage Payment and Collection
15 Act; or

16 (2) Testifies, assists, or participates in an investigation,
17 proceeding, or action concerning a violation of the act.

18 Sec. 9. Original sections 48-1205, 48-1206, 48-1207, 48-1208, and
19 48-1209, Reissue Revised Statutes of Nebraska, and section 48-1228,
20 Revised Statutes Cumulative Supplement, 2018, are repealed.