

1 S.43

2 Introduced by Senators McCormack and Giard

3 Referred to Committee on

4 Date:

5 Subject: Labor; employment practices; penalty for nonpayment of wages

6 Statement of purpose: This bill proposes to increase the penalties upon
7 employers for nonpayment of wages.

8 An act relating to nonpayment of wages

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 21 V.S.A. § 345 is amended to read:

11 § 345. PENALTY FOR NONPAYMENT OF WAGES

12 (a) ~~Each~~ An employer who violates ~~sections~~ section 342 ~~and~~, 343, or 345a
13 of this title and the officers of any corporation, cooperative, or stock
14 association; who fraudulently permit their corporation, ~~or~~ cooperative, or stock
15 association to violate these sections; shall ~~be fined not more than \$ 500.00 or~~
16 ~~imprisoned not more than one year or both;~~

17 (1) If the wages, benefits, or wage supplements owed are \$5,000.00 or
18 less, be fined not more than \$1,000.00 or imprisoned for not more than one
19 year or both.

1 (2) If the wages, benefits, or wage supplements owed are in an amount
2 greater than \$5,000.00, be fined not more than \$2,000.00 or imprisoned not
3 more than two years or both.

4 (b) An employer that violates subsection (a) of this section a second or
5 subsequent time within two years of a prior conviction for a violation of this
6 section shall be fined not more than \$5,000.00 or imprisoned not more than
7 three years or both.

8 (c) Upon conviction, the court shall make an order requiring the payment
9 of wages due and not paid.

10 Sec. 2. 21 V.S.A. § 345a is amended to read:

11 § 345a. FAILURE OF ANY EMPLOYER TO PROVIDE BENEFITS FOR
12 EMPLOYEES

13 In addition to any other penalty or punishment otherwise prescribed by law,
14 any employer who is party to a written agreement to provide benefits or wage
15 supplements, and who fails to pay the amount required by the agreement:

16 (1) shall be liable to the employee for actual damages caused by the
17 failure to pay; and

18 (2) where the failure to pay is fraudulently made and continues for 30
19 days after such payments are required to be made, shall be ~~fined not more than~~
20 ~~\$500.00 or imprisoned not more than one year, or both~~ subject to the penalties
21 described in section 345 of this title. Where the employer is a corporation, the

1 president and other officers who have control of funds of the corporation shall
2 be considered employers for the purposes of this section. The court, in passing
3 sentence, shall make an order requiring the employer to pay over to the
4 employee the benefits or wage supplements to which he or she is entitled.

5 Sec. 3. 21 V.S.A. § 347 is amended to read:

6 § 347. FORFEITURE

7 A person who violates section 342 ~~or~~, 343, or 345a of this title shall forfeit
8 to the individual injured twice the value thereof, plus damages of two percent
9 of the amount of the underpayments for each month following the date of
10 payment during which the underpayments remain unpaid, to be recovered in a
11 civil action, and all costs and reasonable attorney's fees. However, no action
12 may be maintained under this section unless at the time the action is brought
13 the wages, benefits, or wage supplements remain unpaid or improperly paid.

14 Sec. 4. 21 V.S.A. § 348 is added to read:

15 § 348. RETALIATION PROHIBITED

16 (a) An employer shall not discharge or in any other manner retaliate against
17 an employee because:

18 (1) the employee has made a complaint of a violation of section 342,
19 343, or 345a of this chapter.

1 (2) the employee has cooperated with the attorney general or a state's
2 attorney in an investigation of a violation of section 342, 343, or 345a of this
3 chapter.

4 (3) the employer believes that the employee may lodge a complaint or
5 cooperate in an investigation of a violation of section 342, 343, or 345a of this
6 chapter.

7 (b) An employer that violates this section shall be fined not more than
8 \$1,000.00 or imprisoned for not more than one year or both.