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# Wage Theft Guide 2023

*A comprehensive resource  
featuring the latest wage theft  
laws from select jurisdictions  
around the United States*

Paid for by:



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Produced by:

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## **Wage Theft Guide Legal Statement**

All laws referenced in this guide are those that were in effect as of April 2023.

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## About Lerch, Early & Brewer

**Lerch, Early & Brewer** is a full-service, regional law firm that helps employers throughout the Washington, DC metropolitan area and beyond prevent and defend against workplace claims. The Firm has a long-standing, collaborative relationship with AGC and is proud to partner on this resource. In its practice, Lerch Early helps management get the most from its workforce, empowering executives and human resources managers to effectively and properly hire, direct, compensate, discipline, and terminate employees in accordance with federal, state, and local laws. Find more information at [lerchearly.com/services/employment-labor](http://lerchearly.com/services/employment-labor).

**Julie Reddig** helps employers build and maintain productive workplaces by navigating the many federal, state, and local laws protecting employees in the workforce. She counsels management on avoiding and defending against employment claims before administrative agencies and local, state, and federal courts in Maryland and the District of Columbia. Julie's clients represent a cross-section of the Washington, DC region's employers, with a mix of blue and white collar environments, particularly in construction and related companies, transportation, property management, professional services, and consulting firms. Many of these are government contractors. More information here: [lerchearly.com/attorneys/julie-a-reddig](http://lerchearly.com/attorneys/julie-a-reddig).

**Nicole Behrman** is an employment attorney who represents clients in a wide range of matters in Maryland and the District of Columbia. In her practice, Nicole has represented clients before the DC Superior Court, District Court for the District of Columbia, the EEOC, DC Office of Human Rights, and DC Office of Administrative Hearings. She has litigated cases involving claims of discrimination, harassment, retaliation, FMLA interference and retaliation, wage and hour violations, breach of contract, and wrongful termination in violation of public policy. More information here: [lerchearly.com/attorneys/nicole-m-behrman](http://lerchearly.com/attorneys/nicole-m-behrman).



## State and Select Municipal Wage Theft Laws Resource

*Chart of State and Select<sup>1</sup> Municipal Wage Theft Laws:*

State	Wage Theft Law?	Posting Requirement?	Notice Requirement?	State audit Authority?	Right to File Administrative Complaint?	Private Right of Action?	Criminal Penalties?	Civil Remedies and Penalties?	Contractor Liability for Subcontractor Violations?	Other?
<a href="#">Alabama</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Alaska</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Arizona</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	No	No
<a href="#">Arkansas</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">California</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>
<a href="#">Los Angeles, California</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	No	No
<a href="#">Colorado</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	No	<a href="#">Yes</a>
<a href="#">Denver, Colorado</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>

<sup>1</sup> This Resource only reviewed municipal wage theft laws for Los Angeles, California, Denver, Colorado, Pinellas County, Florida, Chicago Illinois, Cook County, Illinois, Boston, Massachusetts, Minneapolis, Minnesota, New York City, New York, Philadelphia, Pennsylvania, and Seattle, Washington.

State	Wage Theft Law?	Posting Requirement?	Notice Requirement?	State audit Authority?	Right to File Administrative Complaint?	Private Right of Action?	Criminal Penalties?	Civil Remedies and Penalties?	Contractor Liability for Subcontractor Violations?	Other?
<a href="#">Connecticut</a>	<a href="#">Yes</a> *	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	No
<a href="#">Delaware</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No
<a href="#">District of Columbia</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>
<a href="#">Florida</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Pinellas County, Florida</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	No	No
<a href="#">Georgia</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Hawaii</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	No	N/A
<a href="#">Idaho</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Illinois</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No
<a href="#">Chicago, Illinois</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	No	<a href="#">Yes</a>

State	Wage Theft Law?	Posting Requirement?	Notice Requirement?	State audit Authority?	Right to File Administrative Complaint?	Private Right of Action?	Criminal Penalties?	Civil Remedies and Penalties?	Contractor Liability for Subcontractor Violations?	Other?
<a href="#">Cook County, Illinois</a>	<a href="#">Yes</a>	No	No	No	No	No	No	No	No	<a href="#">Yes</a>
<a href="#">Indiana</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Iowa</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Kansas</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Kentucky</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Louisiana</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Maine</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a> , but not in wage theft law.	No	<a href="#">Yes</a>	No	<a href="#">Yes</a>
<a href="#">Maryland</a>	<a href="#">Yes</a> *	<a href="#">Yes</a> , but not related to wage theft.	<a href="#">Yes</a> , but not related to wage theft.	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not related to wage theft.	<a href="#">Yes</a>	<a href="#">Yes</a>	No
<a href="#">Massachusetts</a>	<a href="#">Yes</a> *	<a href="#">Yes</a>	<a href="#">Yes</a> , but not related to wage theft.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	No
<a href="#">Boston, Massachusetts</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Michigan</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Minnesota</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a> , but not in wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<del>No</del> Yes	<a href="#">Yes</a>

State	Wage Theft Law?	Posting Requirement?	Notice Requirement?	State audit Authority?	Right to File Administrative Complaint?	Private Right of Action?	Criminal Penalties?	Civil Remedies and Penalties?	Contractor Liability for Subcontractor Violations?	Other?
<a href="#">Minneapolis, Minnesota</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	<a href="#">Unclear</a>	No	<a href="#">Yes</a>	No	<a href="#">Yes</a>
<a href="#">Mississippi</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Missouri</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Montana</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Nebraska</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Nevada</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">New Hampshire</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">New Jersey</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>
<a href="#">New Mexico</a>	<a href="#">Yes</a> *	<a href="#">Yes</a> , but not related to wage theft.	No	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>
<a href="#">New York</a>	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a> , but not in the wage theft law.	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>
<a href="#">New York City, New York</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">North Carolina</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A



State	Wage Theft Law?	Posting Requirement?	Notice Requirement?	State audit Authority?	Right to File Administrative Complaint?	Private Right of Action?	Criminal Penalties?	Civil Remedies and Penalties?	Contractor Liability for Subcontractor Violations?	Other?
<a href="#">North Dakota</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Ohio</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Oklahoma</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Oregon</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Portland, Oregon</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Pennsylvania</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Philadelphia, Pennsylvania</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>
<a href="#">Rhode Island</a>	<a href="#">Yes</a> *	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>
<a href="#">South Carolina</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">South Dakota</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Tennessee</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Texas</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Utah</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Vermont</a>	<a href="#">Yes</a> *	<a href="#">Yes</a> , but not related to wage theft.	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	No	No
<a href="#">Virginia</a>	<a href="#">Yes</a>	No	No	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No

State	Wage Theft Law?	Posting Requirement?	Notice Requirement?	State audit Authority?	Right to File Administrative Complaint?	Private Right of Action?	Criminal Penalties?	Civil Remedies and Penalties?	Contractor Liability for Subcontractor Violations?	Other?
<a href="#">Washington</a>	<a href="#">Yes*</a>	<a href="#">Yes</a> , but not related to wage theft.	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>
<a href="#">Seattle, Washington</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	No	<a href="#">Yes</a>
<a href="#">West Virginia</a>	<a href="#">Yes*</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>	No	<a href="#">Yes</a>	<a href="#">Yes</a>	<a href="#">Yes</a>
<a href="#">Wisconsin</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<a href="#">Wyoming</a>	No	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

**Key to Chart Columns and Answers:**

**Wage Theft Law** = a law designed to address the improper payment of wages by: 1) placing stricter requirements on employers to notify employees of information regarding their employer, their wages and legally required benefits, as well as their rights regarding the payment of wages and methods for addressing improper payment, 2) providing for government oversight through audits of employers' compliance with the law, 3) providing employees with multiple avenues to file claims for unpaid wages, 4) enhancing penalties against employers and remedies available to employees for violations, and 5) transferring an employer's liability for violations on other parties who may benefit from the wage theft.

**Yes\***-The state has passed a law containing elements of a Wage Theft Law as defined herein, but the law was not called a "wage theft law".

**"Yes, but not in Wage Theft Law"** -The state's Wage Theft Law as defined herein, does not have this element, but these provisions exist in the state's other wage laws.

**Other:** Any other significant attributes of the Wage Theft Law not included in columns 1-9 of the Chart.

### **Summary of State and Select Municipal Wage Theft Laws:**

The following is a summary of the wage theft laws in effect as of April 2023 in U.S. states and in various municipalities. Wage theft laws are not uniform laws rather they are laws that in several different ways address the improper payment of wages by employers. We are defining a wage theft law for purposes of this compilation as the following primary ways in which wage theft laws address this problem by: 1) placing stricter requirements on employers to notify employees of information regarding their employer, their wages and legally required benefits, as well as their rights regarding the payment of wages and methods for addressing improper payment, 2) providing for government oversight through audits of employers' compliance with the law, 3) providing employees with multiple avenues to file claims for unpaid wages, 4) enhancing penalties against employers and remedies available to employees for violations, and 5) transferring an employer's liability for violations on other parties who may benefit from the wage theft.

#### **1. Alabama:**

None

#### **2. Alaska:**

None

#### **3. Arizona**

- **Wage theft law:**

Arizona Fair Wages and Healthy Working Families Act, Ariz. Rev. Stat. Ann. tit. 23, Ch. 2, art. 8.

- **Posting Requirement:**

All Arizona employers" are required to post notices, in such format specified by the Industrial Commission of Arizona notifying employees of their rights to payment of minimum wages. Ariz. Rev. Stat. Ann. § 23-364. The Notice must be posted in a conspicuous place in every establishment where employees are employed and where notices to employees are customarily placed. The employer shall ensure that the notices are not removed, altered, defaced, or covered by other material.

Ariz. Admin. Code R20-5-1208.

A copy of the poster can be found [here](#).

- **Notice Requirement:**

Employers must provide their business name, address, and telephone number in writing to employees upon hire. Ariz. Rev. Stat. Ann. § 23-364.

- **Audit Authority:**

Employers must permit the Industrial Commission or a law enforcement officer to inspect and copy payroll or other business records, shall permit them to interview employees away from the worksite, and shall not hinder any investigation. Ariz. Rev. Stat. Ann. § 23-364.

- **Employee Right to File Administrative Complaint:**

A person or organization alleging a minimum wage, earned paid sick time, or equivalent paid time off violation can file a complaint with the Arizona Labor Department within one year from the date the wages, earned paid sick time, or equivalent paid time off were due. Additionally, a person or organization alleging retaliation, discrimination, or a violation of A.R.S. § 23-377 shall file a complaint with the Labor Department within one year from the date the alleged violation occurred or when the employee knew or should have known of the alleged violation. Ariz. Admin. Code R20-5-1211.

- **Private Right of Action:**

A civil action to enforce this article may be maintained in a court of competent jurisdiction by a law enforcement officer or by any private party injured by a violation of the Act. Ariz. Rev. Stat. Ann. § 23-364.

- **Criminal Penalties:**

None.

- **Civil Remedies/Penalties:**

For failure to pay minimum wages, a court or agency can order the following remedies:

- balance of the wages owed;
- interest;
- an additional amount equal to twice the underpaid wages;
- civil penalties; and
- attorney's fees and costs.

Ariz. Rev. Stat. Ann. § 23-364.

For engaging in conduct that hinders an investigation, the Department of Labor may assess civil penalties. Ariz. Admin. Code R20-5-1217.

For violation of the recordkeeping, posting and notice requirements, employers will be subject to a civil penalty of at least \$250 dollars for a first violation, and at least \$1000 dollars for each subsequent or willful violation and may, if the

commission or court determines appropriate, be subject to special monitoring and inspection. Ariz. Rev. Stat. Ann. § 23-364

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous Information:**

None.

5. **Arkansas:**

None

6. **California**

- **Wage theft law:**

The Wage Theft Prevention Act of 2011; Cal. Penal Code § 487m; Obligations of Employer; Payment of Wages

- **Posting Requirement:**

California law has a posting requirement regarding to wage payments, however the Wage Theft Prevention Act does not include any additional posting requirements. *See* Cal. Lab. Code § 1183 (requirement to post applicable wage orders); Cal. Lab. Code § 207 (requirement to post notice of regular paydays).

- **Notice Requirement:**

At the time of hiring, an employer shall provide to each nonexempt employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing the following information:

- The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable.
- Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances.
- The regular payday designated by the employer in accordance with the requirements of this code.
- The name of the employer, including any “doing business as” names used by the employer.
- The physical address of the employer's main office or principal place of business, and a mailing address, if different.
- The telephone number of the employer.
- The name, address, and telephone number of the employer's workers' compensation insurance carrier.

- That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.
- Any other information the Labor Commissioner deems material and necessary.

If the employer is a temporary services employer the notice must also include the name, the physical address of the main office, the mailing address if different from the physical address of the main office, and the telephone number of the legal entity for whom the employee will perform work, and any other information the Labor Commissioner deems material and necessary. These requirements do not apply to a security services company that is licensed by the Department of Consumer Affairs and that solely provides security services.

An employer must provide the notice at the time of hiring. The employer must also notify employees in writing of any changes to the information in the notice within 7 calendar days, unless one of the following applies:

- All changes are reflected on a timely wage statement furnished in accordance with Section 226.
- Notice of all changes is provided in another writing required by law within seven days of the changes.

A notice does not need to be provided to an employee who is exempt from the payment of overtime wages by statute or the wage orders of the Industrial Welfare Commission or an employee who is covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employee, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

A copy of a template notice can be found [here](#).

Cal. Lab. Code § 2810.5.

- **Audit Authority:**

Every person employing labor in this state shall:

- Furnish to the commission, at its request, reports or information that the commission requires to carry out this chapter. The reports and information shall be verified if required by the commission or any member thereof.
- Allow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.



Cal. Lab. Code § 1174.

- **Employee Right to File Administrative Complaint:**

The Labor Commissioner is authorized to investigate employee complaints regarding unpaid wages. Cal. Lab. Code § 98.

- **Private Right of Action:**

California law has a private right of action for wage claims, however the Wage Theft Prevention Act does not include any additional private right of action. *See* Cal. Lab. Code § 1194; Cal. Lab. Code § 226; Cal. Lab. Code § 203; Cal. Lab. Code § 2699; Cal. Lab. Code § 210.

- **Criminal Penalties:**

The intentional theft of wages in an amount greater than nine hundred fifty dollars (\$950) from any one employee, or two thousand three hundred fifty dollars (\$2,350) in the aggregate from two or more employees, by an employer in any consecutive 12-month period may be punished as grand theft.

“Theft of wages” is the intentional deprivation of wages, as defined in Section 200 of the Labor Code, gratuities, as defined in Section 350 of the Labor Code, benefits, or other compensation, by unlawful means, with the knowledge that the wages, gratuities, benefits, or other compensation is due to the employee under the law.

“Employee” includes an independent contractor and “employer” includes the hiring entity of an independent contractor.

Cal. Penal Code § 487m.

- **Civil Remedies/Penalties:**

In any action under Section 98 (employee complaints with labor commissioner), 1193.6 (actions to recover minimum wage or unpaid overtime by California), 1194 (action to recover minimum wage and overtime by employees), or 1197.1 (other penalties) to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

Cal. Lab. Code § 1194.2.

There are other damages and penalties that employees can recover under California wage and hour law. Cal. Lab. Code § 203; Cal. Lab. Code § 558; Cal. Lab. Code § 1194; Cal. Lab. Code § 1197.1; Cal. Lab. Code § 226.7; Cal. Lab. Code § 225.5; Cal. Lab. Code § 203; Cal. Lab. Code § 2699.

- **Contractor Liability for Subcontractor Violations:**

- Obligations of Employer**

A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:

- The payment of wages.
- Failure to secure valid workers' compensation coverage as required by Section 3700.
- A client employer shall not shift to the labor contractor any legal duties or liabilities under Division 5 (commencing with Section 6300 (OSHA) with respect to workers supplied by the labor contractor0.

“Client employer” means a business entity, regardless of its form, that obtains or is provided workers to perform labor within its usual course of business from a labor contractor. “Client employer” does not include any of the following:

- A business entity with a workforce of fewer than 25 workers, including those hired directly by the client employer and those obtained from, or provided by, any labor contractor.
- A business entity with five or fewer workers supplied by a labor contractor or labor contractors to the client employer at any given time.

“Labor contractor” means an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer's usual course of business. “Labor contractor” does not include any of the following:

- A *bona fide* nonprofit, community-based organization that provides services to workers.
- A *bona fide* labor organization or apprenticeship program or hiring hall operated pursuant to a collective bargaining agreement.
- A motion picture payroll services company, as defined in subparagraph (A) of paragraph (4) of subdivision (f) of Section 679 of the Unemployment Insurance Code.
- A third party who is a party to an employee leasing arrangement, as defined by Rule 4 of Section V of the California Workers' Compensation Experience Rating Plan-1995 (Section 2353.1 of Title 10 of the California Code of Regulations), as it read on January 1, 2014, except those arrangements described in subrule d of Rule 4 of Section V, if the employee leasing arrangement contractually obligates the client employer to assume all civil legal responsibility and civil liability under this act.

“Worker” does not include an employee who is exempt from the payment of an overtime rate of compensation for executive, administrative, and professional employees pursuant to wage orders by the Industrial Welfare Commission described in Section 515

Cal. Lab. Code § 2810.3.

Payment of Wages, Direct Contractors

(a)(1) For contracts entered into on or after January 1, 2022, a direct contractor making or taking a contract in the state for the erection, construction, alteration, or repair of a building, structure, or other private work, shall assume, and is liable for, any debt owed to a wage claimant or third party on the wage claimant's behalf, incurred by a subcontractor at any tier acting under, by, or for the direct contractor for the wage claimant's performance of labor included in the subject of the contract between the direct contractor and the owner.

(2) Subject to paragraph (3), the direct contractor's liability under this section shall extend to any unpaid wage, fringe or other benefit payment or contribution, penalties or liquidated damages, and interest owed by the subcontractor on account of the performance of the labor.

(3) The direct contractor's liability under this section shall extend to penalties and liquidates damages only as follows:

If a worker employed by a subcontractor on a private construction project is not paid the wage, fringe or other benefit payment or contribution owed by the subcontractor on account of the worker's performance of labor on that project, the direct contractor of the project is not liable for any associated penalties or liquidated damages under paragraph (2) unless the direct contractor had knowledge of the subcontractor's failure to pay the specified wage, fringe or other benefit payment or contribution, or the direct contractor fails to comply with all of the following requirements:

(A) The contractor shall monitor the payment by the subcontractor of wage, fringe or other benefit payment or contribution to the employees or the labor trust fund, by periodic review of the subcontractor's payroll records which, at a minimum, contain the information set forth in subdivision (a) of Section 226, and which are payroll records as contemplated by Section 1174.

(B) Upon becoming aware of the failure of the subcontractor to pay the wage, fringe or other benefit payment or contribution to the employees or the labor trust fund, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the private construction project.

(C) Prior to making final payment to the subcontractor for work performed on the private construction project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the wage, fringe or other benefit payment or contribution due to the employees or the labor trust fund for all work performed on the private construction project.

(4) The Division of Labor Standards Enforcement shall notify the contractor and subcontractor on a private works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that private works project to pay the specified wage, fringe, or other benefit due to workers.

(5) A direct contractor or any other person shall not evade, or commit any act that negates, the requirements of this section. This section does not prohibit a direct contractor or subcontractor at any tier from establishing by contract or enforcing any otherwise lawful remedies against a subcontractor it hires for liability created by the nonpayment of wages, fringe or other benefit payments, or contributions by that subcontractor or by a subcontractor at any tier working under that subcontractor, including liability for associated penalties and liquidated damages.

(b)(1)

(A) The Labor Commissioner may enforce against a direct contractor the liability for unpaid wages, liquidated damages, interest, and penalties created by subdivision (a) pursuant to Section 98 or 1197.1, or through a civil action.

(B) The Labor Commissioner shall notify the direct contractor and subcontractor at any tier on a private works project at least 30 days prior to a hearing held on an administrative complaint pursuant to Section 98, prior to issuance of a citation pursuant to Section 1197.1, or prior to filing a civil action, for the failure of a subcontractor on that private works project to pay the specified wage, fringe, or other benefit due to workers. The notice need only describe the general nature of the claim, the project name or address, and the name of the employer. The notice shall not preclude subsequent amendments of an action to encompass additional contractors or wage claimants employed by the subcontractor.

(2) A third party owed fringe or other benefit payments or contributions on a wage claimant's behalf may bring a civil action against a direct contractor to enforce the liability for any unpaid wage, fringe or other benefit payment or contribution, penalties or liquidated damages, and interest owed by the subcontractor on account of the performance of the labor pursuant to subdivision (a). The court shall award a prevailing plaintiff in such an action its reasonable attorney's fees and costs, including expert witness fees.

(3) A joint labor-management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) may bring an action in any court of competent jurisdiction against a direct contractor or subcontractor at any tier to enforce liability for any unpaid wage, fringe or other benefit payment or contribution, penalties or liquidated damages, and interest owed by the subcontractor on account of the performance of the labor on a private work pursuant to subdivision (a). The court shall award a prevailing plaintiff in such an action its reasonable attorney's fees and costs, including expert witness fees. Prior to commencement of an action against a direct contractor to enforce the liability created by subdivision (a), the committee shall provide the direct contractor and

subcontractor that employed the wage claimant with at least 30 days' notice by first-class mail. The notice need only describe the general nature of the claim, the project name and the name of the employer, and shall not limit the liability of the direct contractor or preclude subsequent amendments of an action to encompass additional wage claimants employed by the subcontractor.

(4) No other party may bring an action against a direct contractor to enforce the liability created by subdivision (a).

(5) Any liquidated damages awarded by the Labor Commissioner or the court shall be payable to the aggrieved employee

(c) Unless otherwise provided by law, property of the direct contractor may be attached, after trial, for the payment of any judgment received pursuant to this section.

(d) An action brought pursuant to this section shall be filed within one year of the earliest of the following:

(1) Recordation of the notice of completion of the direct contract, pursuant to Section 8182 of the Civil Code.

(2) Recordation of a notice of cessation of the work covered by the direct contract, pursuant to Section 8188 of the Civil Code.

(3) Actual completion of the work covered by the direct contract.

(e) This section does not apply to work performed by an employee of the state, a special district, a city, a county, a city and county, or any political subdivision of the state.

(f)(1) Upon request by a direct contractor to a subcontractor, the subcontractor and any lower tier subcontractors under contract to the subcontractor shall provide payroll records, which, at a minimum, contain the information set forth in subdivision (a) of Section 226, and which are payroll records as contemplated by Section 1174, of its employees who are providing labor on a private work, which payroll records shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. The payroll records must contain information sufficient to apprise the requesting party of the subcontractor's payment status in making fringe or other benefit payments or contributions to a third party on the employee's behalf.

(2) Upon request of a direct contractor to a subcontractor, the subcontractor and any lower tier subcontractors under contract to the subcontractor shall provide the direct contractor award information that includes the project name, name and address of the subcontractor, the contractor with whom the subcontractor is under contract, anticipated start date, duration, and estimated journeymen and apprentice hours, and contact information for its subcontractors on the project.

(3) A subcontractor's failure to comply with this subdivision shall not relieve a direct contractor from any of the obligations contained in this section.

(g) For purposes of this section, “direct contractor” and “subcontractor” have the same meanings as provided in Sections 8018 and 8046, respectively, of the Civil Code.

(h) Nothing in this section shall alter the owner's obligation to timely pay a direct contractor as set forth in Sections 8800 and 8812 of the Civil Code, or a direct contractor's obligation to timely pay a subcontractor as set forth in Section 7108.5 of the Business and Professions Code and Section 8814 of the Civil Code, or the penalties for failing to do so as set forth in Sections 8800 and 8818 of the Civil Code and Section 7108.5 of the Business and Professions Code, except that the direct contractor may withhold as “disputed” all sums owed if a subcontractor does not timely provide the information requested under paragraphs (1) and (2) of subdivision (f), until that information is provided.

(i) For any contract entered into on or after January 1, 2022, in order to withhold payments as disputed pursuant to subdivision (h), the direct contractor must specify, in its contract with the subcontractor, the specific documents and information that the direct contractor will require that the subcontractor provide under paragraphs (1) and (2) of subdivision (f). Subcontractors may include the same requirements in their contracts with lower tiered subcontractors and may withhold as disputed all sums owed if a lower tiered subcontractor does not provide the information requested under paragraphs (1) and (2) of subdivision (f), until that information is provided.

Cal. Lab. Code § 218.8.

- **Miscellaneous Information:**

If any employer has been convicted of a violation of any provision of this article, or if any judgment against an employer for nonpayment of wages remain unsatisfied for a period of 10 days after the time to appeal therefrom has expired, and no appeal therefrom is then pending, the Labor Commissioner may require the employer to deposit a bond in such sum as the Labor Commissioner may deem sufficient and adequate in the circumstances, to be approved by the Labor Commissioner. The bond must be conditioned that the employer shall, for a definite future period, not exceeding two years, pay the employees in accordance with the provisions of this article, and shall be further conditioned upon the payment by the employer of any judgment which may be recovered against the employer pursuant to the provisions of this article.

If an order to post a bond issued against an employer under this section remains unsatisfied for a period of 10 days after the time to appeal therefrom has expired, and no appeal from the order is then pending, the Labor Commissioner may require the employer to provide an accounting of assets of the employer, including a list of all bank accounts, accounts receivable, personal property, real property, automobiles or other vehicles, and any other assets, in a form and manner as prescribed by the Labor Commissioner. If, within 10 days after a demand for an accounting of assets, made by certified or registered mail, the employer fails to provide an accounting, or if the employer fails to provide an amended accounting after receiving a demand by the Labor Commissioner to do so, the Labor Commissioner may bring an action in the name and on behalf of the people of the State of



California against such employer to compel the employer to furnish the accounting. An employer who fails to provide an accounting will be subject to a civil penalty not to exceed ten thousand dollars (\$10,000).

Cal. Lab. Code § 240.

If, within 10 years of either a conviction for a violation of this article or failing to satisfy a judgment for nonpayment of wages, or of both, it is alleged that an employer on a second occasion has been convicted of again violating this article or is failing to satisfy a judgment for nonpayment of wages, an employee or the employee's legal representative, an attorney licensed to practice law in this state, may, on behalf of himself or herself and others, bring an action in a court of competent jurisdiction for a temporary restraining order prohibiting the employer from doing business in this state unless the employer deposits with the court a bond to secure compliance by the employer with this article or to satisfy the judgment for nonpayment of wages. The court may prohibit the employer within 30 days from conducting any business within the state unless the employer deposits a bond payable to the Labor Commissioner, with the condition that the employer make wage payments in accordance with this article, or that the employer pay any unsatisfied judgment for nonpayment of wages, or both. The bond will be in an amount equal to twenty-five thousand dollars (\$25,000) or 25 percent of the weekly gross payroll of the employer at the time of the posting of the bond, whichever is greater.

An employer who, for the third time within 10 years of the first occurrence, is alleged to have violated this article or to have failed to satisfy a judgment for nonpayment of wages, or both, shall be deemed by the court to have commenced a new five-year period for which the posting of a bond may be ordered, except that the court may, in its discretion, require the posting of a bond in a greater amount as it determines appropriate under the circumstances.

A former employee who was a party to an earlier action against an employer in which a judgment for the payment of wages was obtained, and who alleges that the employer has failed to satisfy the judgment for the payment of wages, in addition to any other available remedy, may petition the court pursuant for a temporary restraining order against the employer to cease doing business in this state unless the employer posts a bond with the court.

Cal. Labor Code § 243.

## **7. Los Angeles, California**

- **Wage theft law:**

Los Angeles Office of Wage Standards Ordinance, Los Angeles Municipal Code SEC. 188.00.

- **Posting Requirement:**

Every employer shall post in a conspicuous place at any workplace or job site where any employee works, the notice published each year by the Division informing employees of the current Los Angeles Minimum Wage rate, Sick Time Benefits, their rights and benefits under the Fair Work Week Ordinance and of their rights under this article. Every Employer shall post notices in English, Spanish, Chinese (Cantonese and Mandarin), Hindi, Vietnamese, Tagalog, Korean, Japanese, Thai, Armenian, Russian and Farsi, and any other language spoken by at least 5 percent of the Employees at the workplace or job site.

SEC. 188.03.

- **Notice Requirement:**

Every employer also shall provide each employee at the time of hire the employer's name, address, and telephone number in writing. If any of this information changes, the employer shall provide the updated information in writing within ten days of the change.

SEC. 188.03.

- **Audit Authority:**

The head of the Office of Wage Standards (“Division”) or his or her designee shall have access to all business sites and places of labor subject to the Minimum Wage Ordinance, the Fair Work Week Ordinance, and this article during business hours to inspect books and records, interview employees and any other relevant witnesses, and investigate such matters necessary or appropriate to determine whether an Employer has violated any provisions of the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article.

SEC. 188.03.

- **Employee Right to File Administrative Complaint:**

An employee or any other person may report to the Division any suspected violation of the Los Angeles Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article. The Division shall encourage reporting pursuant to this article by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation. With the authorization of the Employee or person reporting a violation, the Division may disclose their name and identifying information as necessary to enforce this article or for other appropriate purposes.

Before an employee or the employee's representative can file a complaint with the Division or file a civil action alleging a violation of the Fair Work Week Ordinance, the following requirements must be met:

1. The employee provides written notice to the employer of the provisions of the Fair Work Week Ordinance alleged to have been violated and the facts to support the alleged violations; and
2. The employer does not, within 15 days from receipt of the written notice to cure, take action to cure the alleged violations.

SEC. 188.05.

- **Private Right of Action:**

Any Employee aggrieved by a violation of the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article, the City Attorney, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer.

- **Criminal Penalties:**

None

- **Civil Remedies/Penalties:**

For Civil Action in Court:

An Employee or the City, upon prevailing in a civil action in a court of competent jurisdiction, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, including, without limitation:

- the payment of any minimum wages and Sick Time Benefits unlawfully withheld,
- the payment of penalties in the amount of up to \$120 to each Employee whose rights under this article were violated for each day that the violation occurred or continued,
- reinstatement in employment,
- or injunctive relief, or
- reasonable attorneys' fees and costs.

Any other person or entity enforcing the Minimum Wage Ordinance, the Fair Work Week Ordinance or this article on behalf of the public as provided for under applicable state law, upon prevailing, shall be entitled only to equitable, injunctive and/or restitutionary relief, and reasonable attorneys' fees and costs.

SEC. 188.07.

Restitution and Penalties Assessed by the Division payable to the Employee

○ *For Minimum Wage and Sick Time Violations*

Every employer who violates the Minimum Wage Ordinance, this article, or any portion thereof, shall be liable to the employee whose rights were violated for any and all relief, including, but not limited to:

- the payment to each employee of wages and Sick Time Benefits unlawfully withheld,
- an additional penalty of up to \$120 per day that each of the violations occurred or continued.
- for retaliatory action by the employer, the employee shall be entitled to reinstatement and a trebling of all wages, Sick Time Benefits, and penalties owed.

A violation for unlawfully withholding wages or Sick Time Benefits shall be deemed to continue from the date immediately following the date that the wages or Sick Time Benefits were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the wages or Sick Time Benefits are paid in full.

SEC. 188.07.

○ *For Fair Work Week Violations*

An employer who violates the Fair Work Week Ordinance shall pay restitution and a penalty as provided in this paragraph to each Employee whose rights were violated. The Division shall impose and collect, on behalf of an Employee, a one-time penalty for each violation. The violations in this subsection do not continue daily and do not accrue daily penalties.

<b>Violation</b>	<b>Penalty</b>
Failure to provide a good faith estimate of work schedule – Municipal Code Section <a href="#">185.02</a> .	Up to \$500
Failure to compensate Employee at one and one-half times pay for working a Shift that begins less than ten hours from the previous Shift – Municipal Code Section <a href="#">185.08</a> .	Up to \$500
Failure to provide an Employee with at least 14 calendar days' notice of Work Schedule – Municipal Code Section <a href="#">185.04</a> A.	Up to \$500
Failure to provide written notice of Work Schedule changes – Municipal Code Section <a href="#">185.04</a> B.	Up to \$500

Failure to comply with prohibitions against requiring an Employee to find coverage for scheduled hours if the Employee is unable to work for a reason covered by other laws – Municipal Code Section <a href="#">185.07</a> .	Up to \$500
Failure to offer additional hours of work to current Employees before hiring new workers – Municipal Code Section <a href="#">185.05</a> .	Up to \$500

SEC. 188.07.

Administrative Fines and Penalties Payable to the City of Los Angeles

○ *Penalties*

An employer who violates the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article, will be liable to the City for a penalty of up to \$50 per day that either wages, Predictability Pay, or Sick Time Benefits were unlawfully withheld from an Employee.

A violation for unlawfully withholding wages, Predictability Pay, or Sick Time Benefits shall be deemed to continue from the date immediately following the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the wages are paid in full.

SEC. 188.08.

○ *Administrative Fines*

An administrative fine payable to the City may be assessed for a violation of any provision of the Minimum Wage Ordinance, the Fair Work Week Ordinance, or this article as specified below.

Failure to post notice of the Los Angeles Minimum Wage rate, Sick Time Benefits, and Fair Work Week Benefits – Municipal Code Sections <a href="#">185.11</a> or <a href="#">188.03</a> A.	Up to \$500
Failure to allow access to payroll records – Municipal Code Section <a href="#">188.03</a> B.	Up to \$500
Failure to allow access to records required by the Fair Work Week Ordinance – Municipal Code Section <a href="#">185.09</a> B. or <a href="#">188.03</a> C.	Up to \$500
Failure to maintain payroll records or to retain payroll records for four years – Municipal Code Section <a href="#">188.03</a> .B.	Up to \$500

Failure to maintain records required by the Fair Work Week Ordinance for three years – Municipal Code Section <a href="#">185.09</a> A.	Up to \$500
Failure to allow access for inspection of records or to interview employees – Municipal Code Section <a href="#">185.09</a> B., <a href="#">188.03</a> B. or <a href="#">188.03</a> C.	Up to \$500
Retaliation for exercising rights under the Minimum Wage and Fair Work Week Ordinances or this article – Municipal Code Sections <a href="#">185.12</a> , <a href="#">187.06</a> , or <a href="#">188.04</a> – The Penalty for retaliation is up to \$1,000 per employee.	Up to \$1,000
Failure to provide employer's name, address, and telephone number in writing – Municipal Code Sections <a href="#">188.03</a> A. or <a href="#">188.05</a> B.	Up to \$500
Failure to cooperate with the Division's investigation – Municipal Code Section <a href="#">188.03</a> C. or <a href="#">188.05</a> B.	Up to \$500
Failure to submit documents or information to the Division within 30 days of the request – Municipal Code Section <a href="#">188.05</a> B.	Up to \$500
Failure to post Notice of Correction to employees – Municipal Code Section <a href="#">188.06</a> D.	Up to \$500

#### SEC. 188.08.

The failure of any employer to pay an administrative fine or City penalty within 30 days may result in the assessment of an additional late fee. The amount of the additional late fee shall be 10 percent of the total amount of the administrative fine or City penalty assessed for each month the amounts are unpaid, compounded to include already accrued late administrative fines and City penalties that remain unpaid.

#### SEC. 188.08.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous Information:**

None.

#### 8. **Colorado**

- **Wage theft law:**

Amendments to the Colorado Wage Act regarding wage theft



- **Posting Requirement:**

Colorado law has a posting requirement regarding wage payments, however the Amendments do not include any additional posting requirements. *See* Colo. Rev. Stat. Ann. § 8-4-107 (posting notice specifying regular paydays); 7 Colo. Code Regs. § 1103-1:7 (display of COMPS poster).

- **Notice Requirement:**

Colorado law has a notice requirement regarding to wage payments, however the Amendments do not include any additional notice requirements. 7 Colo. Code Regs. § 1103-1:7 (distribution of COMPs poster).

- **Audit Authority:**

The Wage Act provides for audit authority, but the Amendments regarding wage theft do not include any additional audit authority. *See* Colo. Rev. Stat. Ann. § 8-4-111.

- **Employee Right to File Administrative Complaint:**

The Wage Act provides for employees to file administrative complaints for unpaid wages. The Amendments created a right for employees to file administrative complaints alleging violations of the anti-retaliation provisions in Colo. Rev. Stat. Ann. § 8-4-120. *See* Colo. Rev. Stat. Ann. § 8-4-120.

- **Private Right of Action:**

The Wage Act provides a private right of action for unpaid wages. The Amendments created a private right of action for employees to file complaints alleging violations of the anti-retaliation provisions in Colo. Rev. Stat. Ann. § 8-4-120. *See* Colo. Rev. Stat. Ann. § 8-4-120.

- **Criminal Penalties:**

Colorado law provides for criminal penalties, but the Amendments do not include any additional criminal penalties. *See* Colo. Rev. Stat. Ann. § 18-4-401.

(1) A person commits theft when he or she knowingly obtains, retains, or exercises control over anything of value of another without authorization or by threat or deception; receives, loans money by pawn or pledge on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen, and:

(a) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(b) Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;

- (c) Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use or benefit;
- (d) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person;
- (e) Knowingly retains the thing of value more than seventy-two hours after the agreed-upon time of return in any lease or hire agreement; or
- (f) Intentionally misrepresents or withholds a material fact for determining eligibility for a public benefit and does so for the purpose of obtaining or retaining public benefits for which the person is not eligible.

(1.5) For the purposes of this section, a thing of value is that of “another” if anyone other than the defendant has a possessory or proprietary interest therein.

(2) Theft is:

- (b) A petty offense if the value of the thing involved is less than three hundred dollars;
- (c) A class 2 misdemeanor if the value of the thing involved is three hundred dollars or more but less than one thousand dollars;
- ...
- (e) A class 1 misdemeanor if the value of the thing involved is one thousand dollars or more but less than two thousand dollars;
- (f) A class 6 felony if the value of the thing involved is two thousand dollars or more but less than five thousand dollars;
- (g) A class 5 felony if the value of the thing involved is five thousand dollars or more but less than twenty thousand dollars;
- (h) A class 4 felony if the value of the thing involved is twenty thousand dollars or more but less than one hundred thousand dollars;
- (i) A class 3 felony if the value of the thing involved is one hundred thousand dollars or more but less than one million dollars; and
- (j) A class 2 felony if the value of the thing involved is one million dollars or more.

Colo. Rev. Stat. Ann. § 18-4-401.

- **Civil Remedies/Penalties:**

If an employer fails or refuses to pay all earned, vested, and determinable wages or compensation within fourteen days after the written demand is sent or within fourteen days after a civil action or administrative claim for the wages or compensation is sent to or served on the employer, the employer is liable to the employee or group of similarly situated employees for the amount of the earned, vested, determinable, and unpaid wages or compensation plus an automatic penalty of:

- The greater of two times the amount of the unpaid wages or compensation or one thousand dollars; or

- If the employee can show that the employer's failure or refusal to pay wages or compensation was willful, the greater of three times the amount of the unpaid wages or compensation or three thousand dollars.

Colo. Rev. Stat. Ann. § 8-4-109.

The court, in a civil action, may award the employee reasonable costs and attorney fees incurred in the civil action. For administrative claims, the division may award the employee reasonable costs incurred and, if an employee recovers more than \$5,000 in unpaid wages, attorneys' fees.

Colo. Rev. Stat. Ann. § 8-4-110.

An employee who alleges a violation of the anti-retaliation provision in Colo. Rev. Stat. Ann. § 8-4-120 may seek legal and equitable relief as appropriate to remedy the violation, including:

- Back pay;
- Reinstatement of employment or, if reinstatement is not feasible, front pay;
- The payment of wages unlawfully withheld;
- Interest on unpaid wages at a rate of twelve percent per annum from the date the wages were first due;
- The payment of a penalty of fifty dollars per day for each employee whose rights under section Colo. Rev. Stat. Ann. § 8-4-120 were violated and for each day that the violation occurred or continued;
- Liquidated damages in an amount equal to the greater of two times the amount of the unpaid wages or two thousand dollars; and
- Injunctive relief.

If the employee prevails in a civil action, the court shall award the employee reasonable attorney fees and costs.

Colo. Rev. Stat. Ann. § 8-4-120.

If an employee files an administrative complaint with the Colorado Department of Labor and Employment, Division of Labor and Industry, and the employer fails to pay an employee the amount the division determines, pursuant to Colo. Rev. Stat. Ann. § 8-4-111 (2)(c), or a hearing officer determines, pursuant to Colo. Rev. Stat. Ann. 8-4-111.5, to be owed within sixty days after the Division's determination or the hearing officer's decision, whichever is applicable, the following may be recovered from the employer:

- Attorney fees incurred in pursuing a civil action to enforce the division's determination or the hearing officer's decision;
- An additional fine equal to fifty percent of the amount determined pursuant to subsection (2)(c) of this section; and

- A penalty equal to the greater of fifty percent of the amount determined pursuant to subsection (2)(c) of this section or three thousand dollars.

Colo. Rev. Stat. Ann. § 8-4-111.

While under Colorado law, employers are permitted to make deductions from employees' wages that are necessary to cover the replacement cost of a shortage due to theft by an employee if a report has been filed with the proper law enforcement agency in connection with such theft pending a final adjudication by a court of competent jurisdiction; if the accused employee is found not guilty in a court action or if criminal charges related to such theft are not filed against the accused employee within ninety days after the filing of the report with the proper law enforcement agency, or such charges are dismissed, the accused employee shall be entitled to recover any amount wrongfully withheld plus interest. In the event an employer acts without good faith, in addition to the amount wrongfully withheld and legally proven to be due, the accused employee may be awarded an amount not to exceed treble the amount wrongfully withheld. In any such action the prevailing party shall be entitled to reasonable costs related to the recovery of such amount including attorney fees and court costs.

Colo. Rev. Stat. Ann. § 8-4-105.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous Information:**

If an employer fails to pay wages determined to be due to the employer's employees or fines or penalties determined to be due pursuant to the Wage Act, within sixty days after receiving a written employee request or upon its own initiative, the Department of Labor, Division of Labor and Industry, may issue a notice of administrative lien and levy to the employer or any other person that has possession, custody, or control of the employer's assets. The division may issue the notice of administrative lien and levy when an employer is past due on paying wages determined to be due to its employees and any fines or penalties determined to be due pursuant to the Wage Act without an order staying or reversing the applicable deadline for payment.

Colo. Rev. Stat. Ann. § 8-4-113.

## 9. **Denver, Colorado**

- **Wage theft law:**

Denver Wage Theft Ordinance, Chapter 58 of the Denver Revised Municipal Code

- **Posting Requirement:**

Employers must post in a place which is prominent and easily accessible to workers an auditor-approved notice detailing the Denver minimum wage to be paid to workers, that wage theft is a crime, that workers are entitled to civil recovery of wages lost due to theft or underpayment of the minimum wage, and that complaints related to any alleged violations may be submitted to the auditor. Employers must display the posting in English and Spanish. If display of a physical notice is not feasible, including situations when a worker does not have a regular workplace or job site, employers may provide the required information on an individual basis, in a worker's primary language, in a physical or electronic form that is reasonably conspicuous and accessible.

A copy of the poster can be found [here](#).

Sec. 58-2.

- **Notice Requirement:**

None.

- **Audit Authority:**

See below.

- **Employee Right to File Administrative Complaint:**

Any person may submit a written complaint of a violation of this article to the auditor. The auditor may initiate an investigation into violations of this article absent a complaint if there is a reasonable basis to believe that a violation occurred. A reasonable basis exists if:

- The owner or partial owner of a legal entity has violated the terms of this Ordinance with respect to another entity with common ownership interests;
- A pattern and practice, including, but not limited to, receipt of multiple credible complaints filed against a particular industry, demonstrates an increased likelihood that certain workers within an industry are regularly not paid wages;
- The auditor receives credible information from a governmental agency that demonstrates an increased likelihood that a particular employer or industry has failed to comply with the terms of this article; or
- The auditor, relying upon data collected or received by the city, establishes a reasonable basis to conclude that a particular person or industry is likely to have failed to comply with the terms of this article.

Sec. 58-3.

- **Private Right of Action:**

Within three (3) years of the date an alleged violation of this Ordinance any aggrieved party may bring a civil action in a court of competent jurisdiction against an employer alleged to have violated this Ordinance.

Sec. 58-4.

- **Criminal Penalties:**

None.

- **Civil Remedies/Penalties:**

For Civil Actions

Upon prevailing in a civil action in a court of competent jurisdiction, the aggrieved party shall be entitled to such legal and equitable relief as may be appropriate to fully remedy the violation including, without limitation:

- The payment of any wages unlawfully withheld (including amounts that accrued after the filing of the civil action);
- Interest on unpaid wages and overtime compensation at a rate of twelve (12) percent per annum from the date such wages were first due;
- A penalty in the amount of one hundred dollars (\$100.00) to each worker whose rights under this article were violated for each day that the violation occurred or continued;
- Liquidated damages in an amount equal up to three (3) times the amount of unpaid wages and overtime compensation in connection with such wages;
- Reinstatement of employment (if applicable) and/or other injunctive relief; and
- Reasonable attorney fees and costs.

Sec. 58-4.

Administrative Remedies:

*For Violations of Division 1, Retaliation, Recordkeeping, and Signage:*

An employer that has failed to comply with division 1 may be required to pay:

- A penalty of up to one thousand dollars (\$1,000.00) for failure to furnish the auditor a complete and certified payroll pursuant to section 58-2(c)(2)(b).
- A penalty of one thousand dollars (\$1,000.00) for each incident of materially false information contained in certified payroll produced pursuant to section 58-2(c)(2)(c)(3).



- A penalty of five thousand dollars (\$5,000.00) for each instance of retaliation pursuant to section 58-2(b).(4)
- A penalty of one thousand dollars (\$1,000.00) a violation of any obligation described in this article which does not otherwise have a penalty assigned.

Sec. 58-4.

*For Violations of Division 2, Minimum Wage and Overtime:*

In addition to the penalties for violations of Division 1, an employer that has failed to pay employees minimum wage and overtime may be required to pay:

- Any wages unlawfully withheld, including amounts that accrued after the filing of a complaint.
- Penalties for failure to pay wages, as detailed below:
  - For a single violation of this division within a three (3) year period, a penalty of up to fifty dollars (\$50.00) for each day, for each worker not paid full wages for work. The auditor shall waive the penalty for a first time offense if the failure of the employer to pay the correct wage was a good faith mistake, the employer has not previously failed to pay a worker the Denver Minimum Wage, and the error was corrected within thirty (30) days of the date the employer received notice.
  - For a second or third violation of this division within a three (3) year period, a penalty of not less than one thousand dollars (\$1,000.00) and not greater than two thousand five hundred dollars (\$2,500.00), plus an amount not less than ten dollars (\$10.00) and not greater than seventy-five dollars (\$75.00) for each day, for each worker not paid full wages for work.
  - For a fourth or subsequent violation of this division within a three (3) year, a penalty of not less than two thousand five hundred dollars (\$2,500.00) and not greater than five thousand dollars (\$5,000.00), plus an amount not less than fifty dollars (\$50.00) and not greater than one hundred dollars (\$100.00) for each day, for each worker not paid full wages for work.
  - In assessing a penalty under this subsection, the auditor may consider any relevant aggravating or mitigating factors, including, but not limited to, whether the failure of the employer to pay the correct wage was a good faith mistake, whether the error was corrected within thirty (30) days of the date the employer received notice, and whether the employer has previously failed to satisfy the requirements of this division.
  - A penalty of five thousand dollars (\$5,000.00) for each failure of an employer to make a good faith effort to locate and pay the worker any wages unlawfully withheld 30 days after a final determination or a notice of order to pay wages is issued.

Where a violation of this division also constitutes a violation of division 3, the auditor may only assess penalties under either this division or division 3, but not both.

Sec. 58-16.

*For Violations of Division 3, Civil Wage Theft, for Nonpayment of Wages:*

In addition to the penalties for violations of Division 1, an employer that has unlawfully withheld wages may be required to pay:

- Any wages unlawfully withheld, including amounts that accrued after the filing of a complaint, and interest on unpaid wages at a rate of twelve (12) percent per annum from the date such wages were first due.
- Treble damages in an amount equal to three (3) times the amount of unpaid wages and overtime compensation in connection with such withheld wages owed to a worker
- A penalty of up to twenty-five thousand dollars (\$25,000.00) for each worker not paid full wages for work.
  - In assessing a penalty, the auditor may consider any relevant aggravating or mitigating factors, including, but not limited to, whether the failure of the employer to pay the correct wage was a good faith mistake, whether the error was corrected within thirty (30) days of the date the employer or other person received notice, and whether the employer or other person has previously failed to satisfy the requirements of this division.
- A penalty of five thousand dollars (\$5,000.00) for each failure of an employer to make a good faith effort to locate and pay the worker any wages unlawfully withheld 30 days after a final determination or a notice of order to pay wages is issued.

Where a violation of this division also constitutes a violation of division 2, the auditor may only assess penalties under either this division or division 2, but not both.

Sec. 58-26.

- **Contractor Liability for Subcontractor Violations:**

It is a violation of the wage theft ordinance for any employer or any other person who is regularly engaged in business or commercial activity who has contracted with an employer or worker, directly or indirectly, for labor from which such person is the beneficiary, including general contractors, clients of staffing agencies, and labor brokers, to fail to ensure full payment of all wages lawfully due to a worker by the date required by a lawful agreement or by state or federal law. However, this right shall not accrue until fourteen (14) days after the employer or other person has been provided notice of the violation by either the aggrieved party or the auditor and has failed to pay the wages lawfully due.

An employer, or any other person who is regularly engaged in business or commercial activity who has contracted with an employer or worker, directly or indirectly, for labor from which such person is the beneficiary, including general contractors, clients of staffing agencies, and labor brokers, shall be jointly and severally liable for the payment of any penalty pursuant to a

violation of this division, regardless of whether the employer is in a direct contractual relationship with the person who contracted for the labor. However, the auditor shall attempt to collect from the employer or person alleged to have committed the violation before attempting to collect from any other party who benefitted from the work, other than a client. Only once the auditor has attempted to collect from every other party may the auditor attempt to collect from a client.

Sec. 58-24.

- **Miscellaneous Information:**

Pursuant to a wage investigation or a private right of action, the auditor may request a certified copy of payroll records for all workers for a three (3) year period from an employer. Payroll records produced pursuant to this subsection shall be accompanied by a sworn statement from the employer attesting that records provided are a true and correct copy of the requested payroll records, that payments were made to workers as set forth in the payroll records, and that all workers have been paid at least the Denver minimum wage or the wage promised, whichever is higher, for all work or alternately a detailed description of all instances and ways in which the foregoing requirements were not fully satisfied and all explanations therefore.

Sec. 58-2.

Neither Denver Labor, nor any Denver agency or Denver employee, will request information regarding any party's immigration status in response to a complaint or during an investigation. Denver Labor will not share any information it learns regarding an individual's immigration status unless specifically required to do so under applicable law. In every case, this will require a valid and enforceable subpoena.

[Denver Wage Theft Rules](#), Section 6.4.

## **10. Connecticut:**

- **Wage theft law:**

No legislation entitled "wage theft" passed, but the Connecticut Wage Payment Law has elements of a Wage Theft Law.

- **Posting Requirement:**

See below.

- **Notice Requirement:**

Each employer shall: (1) advise his employees in writing, at the time of hiring, of the rate of remuneration, hours of employment and wage payment schedules, and (2) make available to his employees, either in writing or through a posted notice

maintained in a place accessible to his employees, any employment practices and policies or change therein with regard to wages, vacation pay, sick leave, health and welfare benefits and comparable matters.

Conn. Gen. Stat. Ann. § 31-71f.

- **Audit Authority:**

None.

- **Employee Right to File Administrative Complaint:**

Yes.

- **Private Right of Action:**

Yes.

- **Criminal Penalties:**

Any employer or any officer or agent of an employer or any other person authorized by an employer to pay wages who violates any provision of the Connecticut Wage Payment Act:

- Will be guilty of a class D felony, except that such employer, officer or agent will be fined not less than two thousand nor more than five thousand dollars for each offense if the total amount of all unpaid wages owed to an employee is more than two thousand dollars;
- may be fined not less than one thousand nor more than two thousand dollars or imprisoned not more than one year, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than one thousand dollars but not more than two thousand dollars;
- may be fined not less than five hundred nor more than one thousand dollars or imprisoned not more than six months, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than five hundred but not more than one thousand dollars; or
- may be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than three months, or both, for each offense if the total amount of all unpaid wages owed to an employee is five hundred dollars or less.

Conn. Gen. Stat. Ann. § 31-71g.

- **Civil Penalties/Remedies:**

When any employer fails to pay an employee wages in accordance with the provisions of sections 31-71a to 31-71i (Connecticut Wage Payment Law), inclusive, or fails to compensate an employee in accordance with section 31-76k (fringe

benefits provision) or where an employee or a labor organization representing an employee institutes an action to enforce an arbitration award which requires an employer to make an employee whole or to make payments to an employee welfare fund, such employee or labor organization shall recover, in a civil action:

- twice the full amount of such wages, with costs and such reasonable attorney's fees as may be allowed by the court, or
- if the employer establishes that the employer had a good faith belief that the underpayment of wages was in compliance with law, the full amount of such wages or compensation, with costs and such reasonable attorney's fees as may be allowed by the court.

Conn. Gen. Stat. Ann. § 31-72.

For administrative claims, the Labor Commissioner will also assess a civil penalty of \$300.00 upon a determination that an employer has violated the Wage Payment Act.

Conn. Agencies Regs. 31-71h-2.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous:**

None.

## **11. Delaware:**

- **Wage theft law:**

Wage Payment and Collection Law- Wage Theft Article; Workplace Fraud Act (applicable only to the construction industry).

- **Posting Requirement:**

Employers have posting requirements under Delaware wage and hour laws, but no additional requirements were created by the Wage Theft Article or the Workplace Fraud Act. *See* Del. Code Ann. tit. 19, § 1108 (requiring employers to post copy of summary of wage and hour laws). A copy of the poster can be found [here](#).

- **Notice Requirement:**

Wage Theft Article

Employers have notice requirements under Delaware wage and hour laws, but no additional requirements were created by the Wage Theft Article. *See* Del. Code Ann. tit. 19, § 1108.

Under Del. Code Ann. tit. 19, § 1108, employer of over 3 employees to:

- (1) Notify each employee in writing, at the time of hiring, of the rate of pay and of the day, hour and place of payment;
- (2) Notify each employee in writing or through a posted notice maintained in a place accessible to the employees and where they normally pass of any reduction in the regular rate of pay, and day, hour and place of payment prior to the time of such reduction;
- (3) Make available to each employee in writing or through a poster notice maintained in a place accessible to the employees and where they normally pass employment practices and policies with regard to vacation pay, sick leave and comparable matters;
- (4) Furnish to each employee at the time of payment a statement, either on the check, or by a separate slip, or electronically, so long as the electronic statement is in a form capable of being retained by the employee, showing the wages due, the pay period for which the wages are due and the total amount of deductions, separately specified, which have been made from the wages due, provided such statement shall, for an employee who is paid at an hourly rate, show the total number of hours for the said pay period.

Where the statement is furnished electronically, an employee may request that the statement be provided in written form on a separate slip.

See Del. Code Ann. tit. 19, § 1108.

#### Workplace Fraud Act

An employer shall provide each individual classified as an independent contractor or exempt person with written notice of such classification at the time the individual is hired.

- The written notice shall:
  - Include an explanation of the implications of the individual's classification as an independent contractor or exempt person rather than as an employee;
  - Include contact information for the Department;
  - Be provided in English and Spanish; and
  - Be signed by both the employer and the independent contractor or by the employer and the exempt person, as the case may be.

Del. Code Ann. tit. 19, § 3511.

- **Audit Authority:**

#### Workplace Fraud Act

The Department of Labor may:

- Enter and inspect the premises or place of business, employment, or work site, and upon demand examine and copy, wholly or partly, any or all books, registers, payrolls, and other records, including those required to be made, kept and preserved under this Act or any regulation published thereunder;
- Question an employer, employee, or other person in the premises, place of business or employment, or work site;
- Require from any employer full and correct statements in writing, including sworn statements, upon forms prescribed or approved by the Department, with respect to the payment of wages, hours, names, addresses, and such other information pertaining to remuneration pertaining to employees, or require from any employer complete and accurate copies of written notices pertaining to independent contractors, which are maintained by the employer pursuant to § 3511(c) of this title;
- Investigate such facts, conditions, or matters as the Department may deem necessary or appropriate to determine whether a provision of this chapter or any regulation published thereunder has been or is being violated; and
- Administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, records, payrolls, documents and testimony, and to take depositions and affidavits in any proceeding before it, and, in case of failure of any person or entity to comply with any subpoena lawfully issued, or on the refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated, the Superior Court, on application by the Department, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued from such Court or a refusal to testify therein.

Del. Code Ann. tit. 19, § 3504.

- **Employee Right to File Administrative Complaint:**

Employees have rights to file complaints with the Delaware Department of Labor, but no additional rights were created by either the Wage Theft Article or the Workplace Fraud Act.

- **Private Right of Action:**

Wage Theft Article

Employees have a private right of action under the Wage Payment and Collection Law, but no additional rights were created by the Wage Theft Article.

Workplace Fraud Act

An employee or other individual who alleges a violation of § 3503 (misclassification) or § 3509 (retaliation) of the Workplace Fraud Act must first notify the Department in writing and request an investigation by the Department, pursuant to § 3504 or § 3509(b)(2) of this Act, as applicable, of the alleged violation. If the Department fails to investigate or fails to commence an action in the Superior Court pursuant to § 3504(d) or § 3509(b)(2) of this Act, within 90 days of receipt of written notice of an alleged violation of § 3503 or § 3509 of this title, the person alleging a violation of said section may bring a civil action for appropriate declaratory relief, or actual damages, or both. A civil action pursuant to this section must be brought within 3 years after the occurrence of the alleged violation of the applicable provision or provisions of this Act.

Del. Code Ann. tit. 19, § 3508.

- **Criminal Penalties:**

A person is guilty of wage theft when the person violates § 1102A(a)(1), (a)(4), (a)(5), or (a)(6) of Title 19 (the Wage Theft Article of the Wage Payment and Collection Law).

A series of wage thefts committed by a person or group of persons may be aggregated into 1 count or charge, with the sum of the aggregate loss to employees and this State being the value considered in determining the degree of wage theft.

Wage theft is punishable under subsections § 841(c) and (d) of this title (Theft Crimes), except that if the person has 2 or more convictions for wage theft, wage theft is a class E felony.

Del. Code Ann. tit. 11, § 841D.

- **Civil Remedies/Penalties:**

Wage Theft Article

If the Delaware Department of Labor finds that an employer:

- Employed an individual without reporting the individual's employment to all appropriate government agencies and paying all applicable taxes and fees for the individual.
- Failed to properly withhold state and federal taxes from an employee.
- Failed to forward money withheld from an employee's wages to the appropriate state or federal agency within 7 days of the applicable pay period.
- Paid an employee wages that are less than the minimum wage established under state and federal law for the work performed.



- Misclassified a worker as an independent contractor for purposes of avoiding wage, tax, or workers' compensation obligations under this title.
- Knowingly conspired to assist, advise, or facilitate a violation of this section.

the employer shall do all of the following within 30 days of a final decision by the Department of Labor:

- Pay restitution to or on behalf of the employee.
- Come into compliance with all applicable labor laws, including laws governing income tax withholding, unemployment insurance, wage laws, and workers' compensation.

Additionally, the Department of Labor may impose the following penalties:

- A civil penalty of not less than \$2,000 and not more than \$20,000 for each violation.
  - Each instance of a violation per employee is a separate violation.
- A civil penalty of not less than \$20,000 and not more than \$50,000 for each violation if the employer discharges or in any manner retaliates or discriminates against an individual because that individual does any of the following:
  - Made a complaint or provided information to the Department.
  - Caused, or is going to cause, an investigation to be instituted.
  - Testified, or is going to testify, in a hearing.

Del. Code Ann. tit. 19, § 1102A.

### Workplace Fraud Act

Any employer who

- acts as a labor broker by improperly classifying an individual who performs work for remuneration provided by an employer as an independent contractor.
- knowingly incorporates or forms, or assists in the incorporation or formation of, a corporation, partnership, limited liability corporation, or other entity, or pay or collect a fee for use of a foreign or domestic corporation, partnership, limited liability corporation, or other entity for the purpose of facilitating, or evading detection of, a violation of the Workplace Fraud Act;
- knowingly conspires with, aid and abet, assist, advise, or facilitate an employer with the intent of violating the provisions of the Workplace Fraud Act.

is subject to a civil penalty of not less than \$5,000, and not more than \$20,000, for each violation. Each employee who is not properly classified in violation of § 3503 is a separate violation under this section.

An employer that fails to produce to the Department the books and records requested pursuant to § 3504(c) within 30 days of the employer's receipt of a written request sent to the employer via federal express or certified mail from the Department, in the course of an investigation to determine whether the employer is in compliance with the provisions of this chapter, may be subject to a stop work order, and may be subject to an administrative penalty, not to exceed \$500 per day, for each day that the requested records are not produced after the date on which the employer receives the written request from the Department.

An employer who discharges or in any manner discriminates against a person because that person has made a complaint or has given information to the Department under the Workplace Fraud Act, or because the person has caused to be instituted or is about to cause to be instituted any proceedings under this Act, or has testified or is about to testify in any such proceedings, is subject to a civil penalty of not less than \$20,000, and not more than \$50,000, for each violation.

A person who knowingly incorporates or forms, or assists in the incorporation or formation of, a corporation, partnership, limited liability corporation, or other entity, or pay or collect a fee for use of a foreign or domestic corporation, partnership, limited liability corporation, or other entity for the purpose of facilitating, or evading detection of, a violation of this chapter, shall be subject to a civil penalty not to exceed \$20,000.

A person who knowingly conspires with, aids and abets, assists, advises, or facilitates an employer with the intent of violating this Act shall be subject to a civil penalty not to exceed \$20,000.

In addition, an employer may be subject to a stop-work order, and may be ordered to make restitution, pay any interest due and otherwise comply with all applicable laws and regulations by multiple final determinations of the Department or orders of a courts, including but not limited to, the Division of Unemployment Insurance, the Department of Insurance, the Office of Workers' Compensation, the Division of Revenue, the Office of the Attorney General, or any other agency, department or division of the State.

An employer found by any court or the Department to be in violation of this Act shall be required, within 30 days of the final order:

- To pay restitution to or on behalf of any individual not properly classified; and
- To otherwise come into compliance with all applicable labor laws, including those related to income tax withholding, unemployment insurance, wage laws, and workers' compensation.

An employer who has been found by a final order of a court or the Department to have violated this Act twice in a 2-year period:

- Shall be assessed an administrative penalty of \$20,000 for each employee that was not properly classified, and may be debarred for 5 years; and

- An employer that is fined or debarred may be ordered to make restitution, pay any interest due, and otherwise comply with all applicable laws and regulations by orders of a court and all relevant departments, agencies and divisions, including the Division of Unemployment Insurance, the Department of Insurance, the Office of Workers' Compensation, the Division of Revenue, and the Office of the Attorney General.

Any penalty issued against an employer shall be in effect against any successor corporation or business entity that:

- Has 1 or more of the same principals or officers as the employer against whom the penalty was assessed; and
- Is engaged in the same or equivalent trade or activity, with the intent to violate 1 or more of the provisions of this chapter.

“Debarment” means that no public construction contract in this State shall be bid on, awarded to or received by any employer or any person, firm, partnership or corporation in which such employer has an interest who, within 2 years after entry of a judgment pursuant to this chapter, is adjudicated in violation of this chapter in a subsequent proceeding, until 3 years have elapsed from the date of the subsequent penalty judgment.

“Knowingly” means having actual knowledge of, or acting with deliberate ignorance, or reckless disregard for the prohibition involved.

“Labor broker” means an entity or individual that hires employees and sells the services of the employees to another employer in need of temporary employees.

Del. Code Ann. tit. 19, § 3501; Del. Code Ann. tit. 19, § 3505; Del. Code Ann. tit. 19, § 3503.

- **Contractor Liability for Subcontractor Violations:**

Whenever any person shall contract with another for the performance of any work which the contracting person has undertaken to perform, the person shall become civilly liable to employees engaged in the performance of work under such contract for the payment of wages, exclusive of liquidated damages, as required under this chapter, whenever and to the extent that the employer of such employees fails to pay such wages, and the employer of such employees shall be liable to such person for any wages paid by the employer under this section.

Del. Code Ann. tit. 19, § 1105.

- **Miscellaneous Information:**

None.

## **12. District of Columbia:**

- **Wage theft law:**

The DC Wage Theft Prevention Amendment Act of 2014 amended the existing District of Columbia Wage Payment and Collection Law and the Minimum Wage Revision Act

- **Posting Requirement:**

Employers have posting requirements under District of Columbia wage and hour laws, but no additional requirements were created by the Wage Theft Prevention Amendment Act. *See* D.C. Code Ann. § 32-1009 (requirement to post minimum wage poster). A copy of the poster can be found [here](#).

- **Notice Requirement:**

DC's Wage Theft Law requires employers to provide employees with written notice of:

- The name of the employer and any “doing business as” names used by the employer;
- The physical address of the employer’s main office or principal place of business, and a mailing address, if different;
- The telephone number of the employer;
- The employee’s rate of pay and the basis of that rate, including: by the hour, shift, day, week, salary, piece commission, any allowances claimed as part of the minimum wage, in, including tip, meal, or lodging allowances, or overtime rate of pay, exemptions from overtime pay, living wage, exemptions from the living wage, and the applicable prevailing wages;
- The employer’s tip-sharing policy; and
- The employee’s regular payday.

D.C. Code Ann. § 32-1008(c). This information must be provided to an employee at the time of hire and within 30 days of any changes to this information.

DC has published a form that employers may use for providing this information to employees. A copy of the form can be found [here](#). However, use of this form is not required.

- **Audit Authority:**

DC wage and hour laws provide the Mayor and the Attorney General with audit authority, however no additional authority was created by the DC Wage Theft Prevention Amendment Act D.C. Code Ann. § 32-1306; D.C. Code Ann. § 32-1331.05; D.C. Code Ann. § 32-1005.

- **Employee Right to File Administrative Complaint:**

When an employee requests administrative enforcement of the DC Wage Payment and Collection Law, the Minimum Wage Revision Act, the Living Wage Act, and the Sick and Safe Leave Act, the Mayor shall investigate and make an initial determination regarding alleged violations. A physically or electronically signed complaint for non-payment of earned wages shall be filed with the Mayor, no later than 3 years after the last date upon which the violation of this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act is alleged to have occurred or the date on which the employer provided the complainant with actual or constructive notice of the employee's rights, whichever is later.

D.C. Code Ann. § 32-1308.01.

- **Private Right of Action:**

A person aggrieved by a violation of the DC Wage Payment and Collection Law, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act may bring a civil action in a court of competent jurisdiction against the employer or other person violating the DC Wage Payment and Collection Law, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act.

Any action commenced in a court of competent jurisdiction on or after February 26, 2015, to enforce any cause of action for unpaid wages or liquidated damages under the DC Wage Payment and Collection Law, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act, or any regulation issued pursuant to this chapter, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act, must be commenced within 3 years after the cause of action accrued, or of the last occurrence if the violation is continuous, or the cause of action shall be forever barred.

D.C. Code Ann. § 32-1308.

- **Criminal Penalties:**

DC Minimum Wage Act:

Any person who willfully or negligently violates any of the provisions of § 32-1010 (violations of the Minimum Wage Act) shall, upon conviction, be subject to a fine of not more than \$10,000, or to imprisonment of not more than 6 months, or both. No person shall be imprisoned under this section except for an offense committed willfully or after the conviction of that person for a prior offense under this section.

D.C. Code Ann. § 32-1011.

DC Wage Payment and Collection Law:

An employer who negligently fails to comply with the provisions of the DC Wage Payment and Collection Law or the Living Wage Act is guilty of a misdemeanor and, upon conviction, will be fined:

- For the first offense, an amount per affected employee of not more than \$2,500; and
- For any subsequent offense, an amount per affected employee of not more than \$5,000.

An employer who willfully fails to comply with the provisions of the DC Wage Payment and Collection Law or the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall:

- For the first offense, be fined not more than \$5,000 per affected employee, or imprisoned not more than 30 days; or
- For any subsequent offense, be fined not more than \$10,000 per affected employee, or imprisoned not more than 90 days.

D.C. Code Ann. § 32-1307.

- **Civil Remedies/Penalties:**

Upon prevailing in an action under the DC Wage Payment and Collection Law, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the Living Wage Act, an individual shall be awarded reasonable attorneys' fees and costs and entitled to relief including:

- The payment of any back wages unlawfully withheld;
- Liquidated damages equal to treble the amount of unpaid wages;
- Statutory penalties; and
- Such legal or equitable relief as may be appropriate, including reinstatement of employment, and other injunctive relief.

D.C. Code Ann. § 32-1308.

In any judgment in favor of any employee under this section, and in any proceeding to enforce such a judgment, the court shall award to each attorney for the employee an additional judgment for costs, including attorney's fees computed pursuant to the matrix approved in *Salazar v. District of Columbia*, 123 F.Supp.2d 8 (D.D.C. 2000), and updated to account for the current market hourly rates for attorney's services. The court shall use the rates in effect at the time the determination is made.

D.C. Code Ann. § 32-1308.

For claims only under the DC Minimum Wage Act:

In addition to and apart from the penalties or remedies provided for in this section or § 32-1012, the Mayor shall assess and collect administrative penalties as follows:

- For the first violation of § 32-1003, \$50 for each employee or person whose rights under this Act are violated for each day that the violation occurred or continued;
- For any subsequent violation of § 32-1003, \$100 for each employee or person whose rights under this Act are violated for each day that the violation occurred or continued;
- \$500 for each failure to maintain payroll records or to retain payroll records for 3 years or the prevailing federal standard at the time the record is created, which shall be identified in rules issued pursuant to this Act, whichever is greater, for each violation as required by § 32-1008(a)(1);
- \$500 for each failure to allow the Mayor to inspect payroll records or perform any other investigation pursuant to § 32-1008(a)(2) or § 32-1010(a)(4);
- \$500 for each failure to provide each employee an itemized wage statement or the written notice as required by § 32-1008(b) and (c); and
- \$500 against an employer for each failure to timely submit the quarterly wage report required pursuant to section 10a, in its entirety, unless the employer proves that it used a third-party payroll business to process the relevant quarter's payroll for the employer.
- \$100 for each day that the employer fails to post notice as required under § 32-1009(a).

The Mayor may assess more than one administrative penalty against an employer for the same adversely affected employee if the employer has violated more than one statutory provision of this subchapter, subchapter X-A of Chapter 2 of Title 2, Chapter 10 of this title, or Chapter 1A of this title.

D.C. Code Ann. § 32-1011.

For claims only under the DC Wage Payment and Collection Law:

The Mayor shall assess and collect administrative penalties as follows:

- For the first offense, \$50 for each employee or person whose rights under the DC Wage Payment and Collection Law or the Living Wage Act are violated for each day that the violation occurred or continued; or
- For any subsequent offense, \$100 for each employee or person whose rights under the DC Wage Payment or the Living Wage Act are violated for each day that the violation occurred or continued.

In addition to the administrative penalties above, the Mayor shall collect administrative penalties in the amounts set forth below for the following violations:

- Five hundred dollars for failure to provide notice of investigation to employees as required by § 32-1308.01(c)(2); and

- Five hundred dollars for failure to post notice of violations to the public, as required by § 32-1308.01(h)(2).

D.C. Code Ann. § 32-1307.

- **Contractor Liability for Subcontractor Violations:**

A subcontractor, including any intermediate subcontractor, and the general contractor shall be jointly and severally liable to the subcontractor's employees for the subcontractor's violations of this chapter, the Living Wage Act, and the Sick and Safe Leave Act. Except as otherwise provided in a contract between the subcontractor and the general contractor, the subcontractor shall indemnify the general contractor for any wages, damages, interest, penalties, or attorneys' fees owed as a result of the subcontractor's violations of this chapter, the Living Wage Act, and the Sick and Safe Leave Act, unless those violations were due to the lack of prompt payment in accordance with the terms of the contract between the general contractor and the subcontractor.

D.C. Code Ann. § 32-1303.

When a temporary staffing firm employs an employee who performs work on behalf of or to the benefit of another employer pursuant to a temporary staffing arrangement or contract for services, both the temporary staffing firm and the employer shall be jointly and severally liable for violations of this chapter, the Living Wage Act, and the Sick and Safe Leave Act to the employee and to the District. The District, the employee, or the employee's representative shall notify the temporary staffing firm and employer of the alleged violations at least 30 days before filing a claim for these violations. Except as otherwise provided in a contract between the temporary staffing firm and its client, the temporary staffing firm shall indemnify its client for any wages, damages, interest, penalties, or attorneys' fees owed as a result of the temporary staffing firm's violations of this chapter, the Living Wage Act, and the Sick and Safe Leave Act.

D.C. Code Ann. § 32-1303.

- **Miscellaneous:**

The Mayor shall:

- Deny an application for any license to do business issued by the District if, during the 3-year period before the date of the application, the applicant admitted guilt or liability or has been found guilty or liable in any judicial or administrative proceeding of committing or attempting to commit a willful violation of the DC Wage Payment and Collection Law, the Minimum Wage Revision Act, the Living Wage Act, or the Sick and Safe Leave Act, or any other District, federal, or state law regulating the payment of wages. This shall not apply to any person whose final administrative adjudication or judicial judgment or conviction was entered before February 26, 2015; and



- Suspend any license to do business issued by the District if the licensee has failed to comply with an administrative order or conciliation agreement issued under the DC Wage Payment and Collection Law. Once alerted to an alleged lack of compliance, the Mayor shall notify the business that its license will be suspended in 30 days until the business provides proof that it is in full compliance with the administrative order or conciliation agreement, including any requirements for accelerated payment, interest, or additional damages in the event of a breach. Before the license suspension, the business will have an opportunity to request a hearing to be held pursuant to subchapter I of Chapter 5 of Title 2.

D.C. Code Ann. § 32-1308.01.

For employees that file administrative complaints:

- the Mayor, in addition to serving the complaint on the employer, shall also include an additional notice to employees stating that an investigation is being conducted and providing information to employees on how they may participate in the investigation. Upon receipt of service, the employer/respondent shall post this additional notice for a period of at least 30 days.

If an employer/respondent fails to timely comply with an administrative order or conciliation agreement that has not been stayed, the Mayor shall:

- Assess an additional late fee equal to 10% of the total amount owed for each month any portion of the award and any already accrued late penalty remains unpaid;
- Require the respondent to post public notice of their failure to comply in a form determined by the Mayor; and
- Consider any unpaid amount to be owed the District as past due restitution on behalf of an employee and suspend any licenses issued to do business in the District as set forth in subsection (i) of this section. Penalty amounts, including civil and criminal penalties and late fees, and any wages, damages, interest, costs, or fees awarded to an employee or representative shall be a lien upon the real estate and personal property of the person who owes them. The lien shall take effect by operation of law on the day immediately following the due date for payment, and, unless dissolved by payment, shall as of that date be considered a tax due and owing to the District, which may be enforced through any and all procedures available for tax collection.

D.C. Code Ann. § 32-1308.01.

**13. Florida: None**

**14. Pinellas County, Florida:**

- **Wage theft law:**

Wage Theft and Recovery Ordinance

- **Posting Requirement:**

Employers must place in a location accessible to all employees a poster or notice summarizing the protections and rights of employees under the Wage Theft and Recovery Ordinance.

Pinellas County, Florida Code of Ordinances, Sec. 70-306.

- **Notice Requirement:**

At the time of hiring, an employer shall provide to each employee a written notice, to be signed and dated by the employer and employee, containing the following information:

- The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable;
- Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances;
- The regular payday designated by the employer;
- The name of the employer, including any "doing business as" names used by the employer;
- The physical address of the employer's main office or principal place of business, and a mailing address, if different; and
- The employer's telephone number.

An employer must notify employees in writing of any changes to the information above within seven calendar days after the time of the changes.

An employer must retain, for a period of one year following an employee's date of hire or change of information, a copy of the signed and dated written notice.

Pinellas County, Florida Code of Ordinances, Sec. 70-306.

- **Audit Authority:**

None.

- **Employee Right to File Administrative Complaint:**

Yes, employees may file a complaint with the Pinellas County Office of Human Rights within one year after the last date upon which the employee performed the work for an employer with regard to which the employee alleges a violation of the Wage Theft and Recovery Ordinance.

Pinellas County, Florida Code of Ordinances, Sec. 70-306.

- **Private Right of Action:**

Yes. *See* Pinellas County, Florida Code of Ordinances Sec. 70-308.

- **Criminal Penalties:**

None.

- **Civil Penalties/Remedies:**

For wage theft claims filed in court, if an employer is found to have unlawfully failed to pay wages, a court of competent jurisdiction may award an employee up to three times the amount of back wages.

For wage theft administrative claims before a special magistrate appointed by the Pinellas County Office of Human Rights, if the preponderance of the evidence demonstrates a wage theft violation, the special magistrate shall order the employer to pay wage restitution to the affected employee in an amount equal to two times the amount of the wage rate that the employer is found to have unlawfully failed to pay the employee. This amount includes the wage rate and additional compensation for the economic losses suffered by reason of the employee not receiving their wage rate at the time it was due.

- Notwithstanding the above, if the special magistrate finds that the employer offered a portion of the wage rate, in writing, to the employee prior to commencement of the hearing and the employee does not accept, in writing, the amount offered, the special magistrate must, on a finding of a wage theft violation, award the wage rate previously offered plus two times the amount of any wage rate not offered prior to the hearing.
- If the special magistrate finds that the employer offered the full wage rate, in writing, to the employee prior to the commencement of the hearing and the employee did not accept, in writing, the amount offered, the special magistrate must award only the wage rate alleged to have been the subject of the wage theft complaint.

For retaliation claims, if the preponderance of the evidence demonstrates a retaliation violation and there is a related wage theft complaint, regardless of the outcome of the wage theft complaint, the special magistrate must order the employer to pay quantifiable damages on the amount ordered, excluding administrative fines and costs. If the preponderance of the evidence demonstrates a retaliation violation and there is no related wage theft complaint, the special magistrate may order the employer to pay for the assisting party's expenses, including but not limited to, lost wages, expenses incurred in gaining alternative employment, and reasonable attorney's fees.

The employer must also pay to the county an assessment of costs in an amount not to exceed actual administrative processing costs and costs of the hearing. Any assessment of costs shall not include payroll expenses or routine and recurring expenses that the County would otherwise incur in performing duties within the regular scope of its operations.

The special magistrate may award reasonable attorney's fees to a prevailing party if the special magistrate finds that a claim or defense was raised without any basis in law or fact. No award of attorney's fees shall be awarded to a prevailing party in a successful action under this article against the County.

If an employer has failed to comply with the special magistrate's order within 30 calendar days from the date of the order:

- The PCOHR shall, upon request of the employer, grant the employer a one-time additional 14 calendar days to comply with any portion of the order.
- The employer shall be liable for three times the wage rate, as specified in the special magistrate's order.
- The County may order the employer, in addition to wage restitution ordered, to pay the prevailing employee an amount equal to the applicable interest rate which accrues on the full amount of treble damages from the date upon which the findings of wage violation was made until the date upon which the amount is paid in full; and
- The County may order the employer, in addition to assessment of costs ordered, to pay to the board of county commissioners and amount equal to the applicable interest rate which accrues on the assessment of costs from the date upon which the special magistrate's order is issued until the date upon which the amount is paid in full.
- The PCOHR may post the name of the employer and any pertinent information relating to the order on PCOHR's website.
- The County may deem the employer as non-responsible, in any responses to solicitations for goods or services submitted by the employer, in the best interests of the County.

Pinellas County, Florida Code of Ordinances, Sec. 70-306.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous:**

None.

**15. Georgia:**

None

## 16. Hawaii:

- **Wage theft law:**

The Hawaii wage theft legislation- Act 300, An Act Relating to Wages ) (“Act 300”) amended the Hawaii Wage and Hour Law and Payment of Wages and Other Compensation

- **Posting Requirement:**

Employers have posting requirements under Hawaii wage and hour laws, but no additional requirements were created by Act 300. Haw. Rev. Stat. Ann. § 388-7 (requirement to post wage and hour laws); Haw. Rev. Stat. Ann. § 387-6 (same). A copy of the poster can be found [here](#).

- **Notice Requirement:**

Employers have notice requirements under Hawaii wage and hour laws, but no additional requirements were created by Act 300. Haw. Rev. Stat. Ann. § 388-7; Haw. Rev. Stat. Ann. § 387-6.

- **Audit Authority:**

Hawaii Department of Labor & Industrial Relations has audit authority, but no additional authority was created by Act 300. Haw. Rev. Stat. Ann. § 388-9.; Haw. Rev. Stat. Ann. § 387-6.

- **Employee Right to File Administrative Complaint:**

Employees have rights to file complaint with the Hawaii Department of Labor & Industrial Relations under Hawaii’s wage and hour laws, but no additional rights were created by Act 300. Haw. Rev. Stat. Ann. § 388-9.

- **Private Right of Action:**

Employees have a private right of action to file suits under Hawaii’s wage and hour laws, but no additional rights were created by Act 300. Haw. Rev. Stat. Ann. § 387-12; Haw. Rev. Stat. Ann. § 388-11.

- **Criminal Penalties:**

Any employer or the employer's agent or any officer or agent of a corporation who pays or agrees to pay any employee compensation less than that which the employee is entitled to under Hawaii’s Minimum Wage and Hour Law, is guilty of a class C felony and subject to a fine of not less than \$500 per offense; provided that each violation shall be deemed a separate offense. Haw. Rev. Stat. Ann. § 387-12.

Any employer who does not pay the wages of any of the employer's employees in accordance with Hawaii's Wage Payment Law, or any officer of any corporation who knowingly permits the corporation to violate Hawaii's Wage Payment Law by failing to pay wages of any of its employees in accordance with Hawaii's Wage Payment Law shall be guilty of a class C felony and be subject to a fine of not less than \$500 per offense. Each violation shall be deemed a separate offense. Haw. Rev. Stat. Ann. § 388-10.

- **Civil Remedies/Penalties:**

Civil remedies and penalties may be awarded when an agency or court finds an employer violated Hawaii's wage and hour laws, but no additional rights were created by Act 300. Haw. Rev. Stat. Ann. § 387-12; Haw. Rev. Stat. Ann. § 388-11.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous Information:**

None.

#### **17. Idaho:**

None.

#### **18. Illinois**

- **Wage theft law:**

Illinois Wage Payment and Collection Law via amendments to 820 Ill. Comp. Stat. Ann. 115/14 ("Amendments").

- **Posting Requirement:**

Employers have posting requirements under Illinois wage and hour laws, but no additional requirements were created by the Amendments. 820 Ill. Comp. Stat. Ann. 105/9 (summary of minimum wage law); 820 Ill. Comp. Stat. Ann. 115/10 (notice of paydays). A copy of the poster of summary of Illinois law can be found [here](#).

- **Notice Requirement:**

Employers have notice requirements under Illinois wage and hour laws, but no additional requirements were created by the Amendments. 820 Ill. Comp. Stat. Ann. 115/10.

- **Audit Authority:**

Illinois law provides for audit authority, but no additional authority was created by the Amendments to the Illinois Wage Payment and Collection Law. 820 Ill. Comp. Stat. Ann. 115/11.

- **Employee Right to File Administrative Complaint:**

Employees have the right to file an administrative complaint for unpaid wages. 820 Ill. Comp. Stat. Ann. 115/14.

- **Private Right of Action:**

Employees have a private right of action to file a claim for unpaid wages. 820 Ill. Comp. Stat. Ann. 115/14.

- **Criminal Penalties:**

Any employer or any agent of an employer, who, being able to pay wages, final compensation, or wage supplements and being under a duty to pay, willfully refuses to pay as provided in this Act, or falsely denies the amount or validity thereof or that the same is due, with intent to secure for himself or other person any underpayment of such indebtedness or with intent to annoy, harass, oppress, hinder, delay or defraud the person to whom such indebtedness is due, upon conviction, is guilty of:

- for unpaid wages, final compensation or wage supplements in the amount of \$5,000 or less, a Class B misdemeanor; or
- for unpaid wages, final compensation or wage supplements in the amount of more than \$5,000, a Class A misdemeanor.

Each day during which any violation of this Act continues shall constitute a separate and distinct offense.

Any employer or any agent of an employer who violates the above a subsequent time within 2 years of a prior criminal conviction under this Section is guilty, upon conviction, of a Class 4 felony.

Any employer, or any agent of an employer, who discharges or in any other manner discriminates against any employee because that employee has made a complaint to his employer, to the Director of Labor or his authorized representative, in a public hearing, or to a community organization that he or she has not been paid in accordance with the provisions of this Act, or because that employee has caused to be instituted any proceeding under or related to this Act, or because that employee has testified or is about to testify in an investigation or proceeding under this Act, is guilty, upon conviction, of a Class C misdemeanor.

820 Ill. Comp. Stat. Ann. 115/14.

- **Civil Remedies/Penalties:**

Any employee not timely paid wages, final compensation, or wage supplements by his or her employer as required by the Wage Payment and Collection Act shall be entitled to recover the amount of any such underpayments and damages of 5% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. In a civil action, such employee shall also recover costs and all reasonable attorney's fees.

820 Ill. Comp. Stat. Ann. 115/14.

An employee who has been unlawfully retaliated against shall be entitled to recover all legal and equitable relief as may be appropriate. In a civil action, such employee shall also recover costs and all reasonable attorney's fees.

Any employer who has been demanded or ordered by the Department or ordered by the court to pay wages, final compensation, or wage supplements due an employee shall be required to pay a non-waivable administrative fee to the Department of Labor in the amount of:

- \$250 if the amount ordered by the Department as wages owed is \$3,000 or less;
- \$500 if the amount ordered by the Department as wages owed is more than \$3,000, but less than \$10,000; and
- \$1,000 if the amount ordered by the Department as wages owed is \$10,000 or more.

Any employer who has been so demanded or ordered by the Department or ordered by a court to pay such wages, final compensation, or wage supplements and who fails to seek timely review of such a demand or order as provided for under this Act and who fails to comply within 15 calendar days after such demand or within 35 days of an administrative or court order is entered shall also be liable to pay a penalty to the Department of Labor of 20% of the amount found owing and a penalty to the employee of 1% per calendar day of the amount found owing for each day of delay in paying such wages to the employee.

820 Ill. Comp. Stat. Ann. 115/14.

- **Contractor Liability for Subcontractor Violations:**

- For all contracts entered into on or after July 1, 2022, a primary contractor making or taking a contract in the State for the erection, construction, alteration, or repair of a building, structure, or other private work in the State where the aggregate costs of the project exceed \$20,000 shall assume, and is liable for, any debt owed to a claimant under the Wage Payment and Collection Law by a subcontractor at any tier acting under, by, or for the primary contractor for the wage claimant's performance of labor included in the subject of the contract between the primary contractor and the owner. This only applies to private contracts.



- The primary contractor's liability only extends to any unpaid wages or fringe or other benefit payments or contributions, including interest owed, penalties assessed by the Department, and reasonable attorney's fees. It does not extend to liquidated damages.
- A primary contractor or any other person shall not evade or commit any act that negates the requirements of the Wage Payment and Collection Law. Except as otherwise provided in a contract between the primary contractor and the subcontractor, the subcontractor shall indemnify the primary contractor for any wages, fringe or other benefit payments or contributions, damages, interest, penalties, or attorney's fees owed as a result of the subcontractor's failure to pay wages or fringe or other benefit payments or contributions, unless the subcontractor's failure to pay was due to the primary contractor's failure to pay moneys due to the subcontractor in accordance with the terms of their contractual relationship.
- The following shall be exempt from liability under this Section:
  - primary contractors who are parties to a collective bargaining agreement on the project where the work is being performed; and
  - primary contractors making or taking a contract in the State for the alteration or repair of an existing single-family dwelling or to a single residential unit in an existing multi-unit structure.
- Prior to the commencement of any civil action, a claimant or a representative of a claimant shall provide written notice to the employer and to the primary contractor detailing the nature and basis for the claim. Failure of the employer or the primary contractor to resolve the claim within 10 days after receipt of this notice, or during any agreed upon period extending this deadline, may result in the filing of a civil action to enforce the provisions of this Act.
- Claims brought shall be filed with the Department of Labor or filed with the circuit court within 3 years after the wages, final compensation, or wage supplements were due.

As used here:

- “Construction” means building, altering, repairing, improving, or demolishing any structure or building or making improvements of any kind to real property.
- “Primary contractor” means a contractor that has a direct contractual relationship with a property owner.
- “Primary contractor” may have the same meaning as a “general contractor”, “prime contractor”, or “construction manager”. A property owner who acts as a primary contractor related to the erection, construction, alteration, or repair of his or her primary residence shall be exempt from liability under this Section.

- “Private work” means any erection, construction, alteration, or repair of a building, structure, or other work.
- “Subcontractor” means a contractor that has a contractual relationship with the primary contractor or with another subcontractor at any tier, who furnishes any goods or services in connection with the contract between the primary contractor and the property owner, but does not include contractors who solely provide goods and transport of such goods related to the contract.

820 Ill. Comp. Stat. Ann. 115/13.5

- **Miscellaneous Information:**

None.

**19. Chicago, Illinois:**

- **Wage theft law:**

Chicago Minimum Wage Ordinance, Wage Theft Section 6-105-050.

- **Posting Requirement:**

Employers have posting requirements under Chicago law, but none are included in the Wage Theft Section. Chi. Mun. Code § 6-105-070(a).

- **Notice Requirement:**

Employers have notice requirements under Chicago law, but none are included in the Wage Theft Section. Chi. Mun. Code § 6-105-070(a).

- **Audit Authority:**

None.

- **Employee Right to File Administrative Complaint:**

A Covered Employee may file a claim with the Office of Labor Standards or in a civil action, but not both. Chi. Mun Code. Section 6-105-050.

- **Private Right of Action:**

An employee may file a claim with the Office of Labor Standards or in a civil action, but not both. Chi. Mun Code. Section 6-105-050.

- **Criminal Penalties:**

None.

- **Civil Remedies/Penalties:**

The Employer shall be liable to the employee for the amount of any underpayments and shall also be liable for damages of either (i) 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid or (ii) the amount specified by the Illinois Wage Payment and Collection Act, 820 ILCS 115/14(a), if the amount in the state law is greater. Chi. Mun Code. Section 6-105-050.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous Information:**

Any Employer who fails to timely pay an employee in accordance with this chapter, or in accordance with any wage agreement between the Employer and the Covered Employee above the threshold required by this chapter, shall have committed wage theft.

Wage theft includes the non-payment of any wages required for work performed, and also includes paid time off, whether legislatively or contractually required, and contractually required benefits to the Covered Employee. Chi. Mun Code. Section 6-105-050.

## **20. Cook County, Illinois:**

- **Wage theft law:**

Cook County Wage Theft Ordinance

- **Posting Requirement:**

None.

- **Notice Requirement:**

None.

- **Audit Authority:**

None.

- **Employee Right to File Administrative Complaint:**

None.

- **Private Right of Action:**

None.

- **Criminal Penalties:**

None.

- **Civil Remedies/Penalties:**

None.

- **Contractor Liability for Subcontractor Violations:**

None

- **Miscellaneous Information:**

A person including a Substantial Owner who has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of:

- committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages; or
- violating the Cook County Minimum Wage Ordinance

is ineligible to enter into a Contract with the County for a period of five years from the date of conviction, entry of a plea, administrative finding or admission of guilt.

Every Person or Substantial Owner seeking to enter into a contract with the county must provide the county procurement officer a certification or affidavit that they have not violated wage payment laws.

The county procurement officer may issue a notice of default under an existing contract if it learns that a person, including a substantial owner has violated a wage payment law.

Substantial owner means any person who owns or holds a 25 percent or more percentage of interest in any business entity seeking a County privilege, including those shareholders, general or limited partners, beneficiaries and principals; except where a business entity is an individual or sole proprietorship, substantial owner means that individual or sole proprietor.

Cook County Ordinance Sec. 34-367; Sec. 34-179.

The Director of Revenue or his or her designee shall have the authority to deny, renew, suspend, or revoke a General Business License issued under the provisions of this article if he or she determined the applicant or licensee violated any Federal or State statute or any provision of the Cook County Code of Ordinances.

Cook County Ordinance Sec. 54-391.

**21. Indiana:**

None

**22. Iowa:**

None

**23. Kansas:**

None

**24. Kentucky:**

None

**25. Louisiana:**

None

**26. Maine**

- **Wage theft law:**

Act to Prevent Wage Theft and Promote Employer Accountability.

- **Posting Requirement:**

Maine wage and hour law does have notice requirements, but no additional requirements were created by Act to Prevent Wage Theft and Promote Employer Accountability. *See* Me. Rev. Stat. tit. 26, § 42-B

- **Notice Requirement:**

Act to Prevent Wage Theft and Promote Employer Accountability does not include any additional posting requirements.

- **Audit Authority:**

The Maine Department of Labor has audit authority, but no additional rights were created by the Act. *See* Me. Rev. Stat. tit. 26, § 42

- **Employee Right to File Administrative Complaint:**

Employees have rights to file complaint with the Maine Department of Labor, but no additional rights were created by the Act. *See* Me. Rev. Stat. tit. 26, § 42

- **Private Right of Action:**

Employees have a private right of action under Maine wage and hour laws, but no additional rights were created by the Act. *See* Me. Rev. Stat. tit. 26, § 670; Me. Rev. Stat. tit. 26, § 626-A.

- **Criminal Penalties:**

None.

- **Civil Remedies/Penalties:**

In addition to other remedies allowed by this chapter, the Department of Labor or any person or persons injured by an unlawful wage payment practice or policy that causes direct harm to workers may bring an action for injunctive relief to enjoin further wage theft. If a party seeking an injunction prevails, the employer is liable to pay the cost of suit, including a reasonable attorney's fee.

Me. Rev. Stat. tit. 26, § 639.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous Information:**

The Commissioner of Labor or the commissioner's designee may order an employer to cease its business operations if the commissioner or the commissioner's designee determines that the employer has committed wage theft, the commissioner or the commissioner's designee has previously determined the employer's practice or policy resulted in wage theft on more than one occasion or within the last 12 months and:

- A. The practice or policy resulting in the wage theft affects 10 or more employees; or
- B. The wage theft is equal to or greater than twice an employee's average weekly wage.

The commissioner or the commissioner's designee shall provide the employer with notice and an opportunity to be heard 3 business days before the effective date of an order issued pursuant to this subsection. The issuance of a cease operations order constitutes final agency action. The commissioner or the commissioner's designee shall issue the cease operations order as narrowly as is determined necessary. Any person who is aggrieved by the imposition of a cease operations order has 10 days from the date of its service to make a request to the commissioner or the commissioner's designee for a hearing. The hearing must be held within 7 business days of the request. The hearing officer shall issue a decision within 5 business days of the hearing.

If an employer refuses to obey an order to cease operations, that order may be enforced in Superior Court.

The Commissioner of Labor or the commissioner's designee shall stay the issuance of a cease operations order if the employer provides evidence acceptable to the commissioner or the commissioner's designee that the employer has paid the employee or employees for the amount of unpaid wages and benefits owed and has implemented wage payment practices and policies that comply with this chapter.

Me. Rev. Stat. tit. 26, § 639.

## **27. Maryland:**

- **Wage theft law:**

No legislation entitled “wage theft” passed, but the Maryland Wage Payment and Collection Law as amended has elements of a Wage Theft Law.

- **Posting Requirement:**

Maryland wage and hour laws have posting requirements with respect to wages, but there are no posting requirements in the area of Wage Theft. *See* Md. Code Ann., Lab. & Empl. § 3-423.

- **Notice Requirement:**

Maryland wage and hour laws have a notice requirement, but not related to wage theft. *See* Md. Code Ann., Lab. & Empl. § 3-504.

- **Audit Authority:**

None.

- **Employee Right to File an Administrative Complaint:**

Yes. Md. Code Ann., Lab. & Empl. § 3-507.1.

- **Private Right of Action:**

Yes. Md. Code Ann., Lab. & Empl. § 3-507.2.

- **Criminal Penalties:**

An employer that willfully violates the Maryland Wage Payment and Collection law is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000. Md. Code Ann., Lab. & Empl. § 3-508.

- **Civil Penalties/Remedies:**

If a court finds that an employer withheld the wage of an employee in violation of the Maryland Wage Payment and Collection law and not as a result of a bona fide dispute, the court may award the employee an amount not exceeding 3 times the wage, and reasonable counsel fees and other costs.

Md. Code Ann., Lab. & Empl. § 3-507.2.

- **Contractor Liability for Subcontractor Violations:**

In an action brought to recover payment of wages under the Maryland Wage Payment and Collection law, a general contractor on a project for construction services is jointly and severally liable for a violation of this subtitle that is committed by a subcontractor, regardless of whether the subcontractor is in a direct contractual relationship with the general contractor.

A subcontractor shall indemnify a general contractor for any wages, damages, interest, penalties, or attorney's fees owed as a result of the subcontractor's violation unless:

- indemnification is provided for in a contract between the general contractor and the subcontractor; or
- a violation of the subtitle arose due to a lack of prompt payment in accordance with the terms of the contract between the general contractor and the subcontractor.

Md. Code Ann., Lab. & Empl. § 3-507.2.



- **Miscellaneous:**

None.

## **28. Massachusetts**

- **Wage theft law:**

No legislation entitled “wage theft” passed, but the Minimum Wage and Overtime Law and Payment of Wages Law have elements of a Wage Theft Law.

- **Posting Requirement:**

Every employer shall post, in a place conspicuous to employees, a workplace notice issued by the Commonwealth containing the basic minimum wage rates and such other provisions of M.G.L. c. 151 and 454 CMR 27.00 as the law or the Director may require. The workplace notice shall be posted in English, and in any other language that is spoken by 5% or more of the employer's workforce and for which a translated notice in that language is available from the Commonwealth.

A copy of the poster can be found [here](#).

454 Mass. Code Regs. 27.07.

- **Notice Requirement:**

Massachusetts wage and hour law has notice requirements, but none related to wage theft. *See* 454 Mass. Code Regs. 27.07.

- **Audit Authority:**

Yes. *See* Mass. Gen. Laws Ann. ch. 149, § 3; Mass. Gen. Laws Ann. ch. 149, § 17/

- **Employee Right to File Administrative Complaint:**

### **Minimum Wage and Overtime Law**

Yes. *See* Mass. Gen. Laws Ann. ch. 151, § 20; Mass. Gen. Laws Ann. ch. 151, § 1B.

### **Payment of Wages**

Yes. *See* Mass. Gen. Laws Ann. ch. 149, § 150.

- **Private Right of Action:**

### Minimum Wage Act

Yes. *See* Mass. Gen. Laws Ann. ch. 151, § 20; Mass. Gen. Laws Ann. ch. 151, § 1B.

### Payment of Wages

An employee claiming to be aggrieved by a violation of sections 33E, 52E, 148, 148A, 148B, 148C, 150C, 152, 152A, 159C or 190 or section 19 of chapter 151 may, 90 days after the filing of a complaint with the attorney general, or sooner if the attorney general assents in writing, and within 3 years after the violation, may institute a civil action.

Mass. Gen. Laws Ann. ch. 149, § 150.

### • **Criminal Penalties**

- Willful violations: Any employer, contractor or subcontractor, or any officer, agent, superintendent, foreman, or employee thereof, or staffing agency or work site employer who *willfully* violates any provision of section 26, 27, 27A, 27B, 27F, 27G, 27H, 148, 148A, 148B or 159C or section 1A, 1B or 19 of chapter 151:
  - First offense: Will be punished by a fine of not more than \$25,000 or by imprisonment for not more than one year for a first offense, or by both fine and imprisonment
  - Subsequent willful offense: Will be punished by a fine of not more than \$50,000, or by imprisonment for not more than two years, or by both fine and imprisonment.
- Non-willful violations: Any employer, contractor or subcontractor, or any officer, agent, superintendent, foreman or employee thereof, or staffing agency or work site employer who *without a willful intent* to do so, violates any provision of section 26, 27, 27A, 27B, 27F, 27G, 27H, 148, 148A, 148B or 159C or section 1A, 1B or 19 of chapter 151:
  - First offense: Will be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months for a first offense.
  - Subsequent offense: Will be punished by a fine of not more than \$25,000 or by imprisonment for not more than one year, or by both fine and imprisonment.
- As an alternative to criminal proceedings, the attorney general may issue a written warning or a civil citation. For each violation, a separate citation may be issued requiring any or all of the following:
  - that the infraction be rectified,
  - that restitution be made to the aggrieved party, or
  - that a civil penalty of not more than \$25,000 for each violation be paid to the commonwealth, within 21 days of the date of issuance of such citation.

- The maximum civil penalty that may be imposed upon any employer, contractor or subcontractor, who has not previously been either criminally convicted of a violation of the provisions of this chapter or chapter 151 or issued a citation hereunder, will be no more than \$15,000.
- However, if the attorney general determines that the employer, contractor or subcontractor lacked specific intent to violate any applicable law, the citation will not be more than \$7,500.
- In determining the amount of any civil penalty to be assessed, said attorney general shall take into consideration previous violations of this chapter or said chapter 151 by the employer, the intent by such employer to violate the provisions of this chapter or said chapter 151, the number of employees affected by the present violation or violations, the monetary extent of the alleged violations, and the total monetary amount of the public contract or payroll involved.

Mass. Gen. Laws Ann. ch. 149, § 27C.

- **Civil Penalties/Remedies:**

Minimum Wage and Overtime Law:

An employee who prevails in an action for unpaid minimum wages is entitled to:

- Unpaid wages;
- Treble damages; and
- Costs of litigation and reasonable attorneys' fees.

Mass. Gen. Laws Ann. ch. 151, § 20; Mass. Gen. Laws Ann. ch. 151, § 1B.

Payment of Wages:

An employee who prevails in an action for payment of wages under sections 33E, 52E, 148, 148A, 148B, 148C, 150C, 152, 152A, 159C or 190 or section 19 of chapter 151 is entitled to:

- Unpaid wages;
- Treble damages; and
- Costs of litigation and reasonable attorneys' fees.

Mass. Gen. Laws Ann. ch. 149, § 150.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous:**

None.

**29. Boston, Massachusetts:**

None.

**30. Michigan:**

None.

**31. Minnesota**

- **Wage theft law:**

Minnesota Wage Theft Law amended the existing Minnesota Payment of Wages, Minnesota Fair Labor Standards Act, State Procurement law, Prevailing Wage law, and Criminal Code- Theft and Related Crimes

- **Posting Requirement:**

The Minnesota wage and hour laws have posting requirements, but the Wage Theft Law does not include any additional posting requirements. Minn. Stat. Ann. § 177.31 (minimum wage poster).

- **Notice Requirement:**

Earning Statement

At the end of each pay period, the employer shall provide each employee an earnings statement, either in writing or by electronic means, covering that pay period. An employer who chooses to provide an earnings statement by electronic means must provide employee access to an employer-owned computer during an employee's regular working hours to review and print earnings statements.

The earnings statement may be in any form determined by the employer but must include:

- the name of the employee;
- the rate or rates of pay and basis thereof, including whether the employee is paid by hour, shift, day, week, salary, piece, commission, or other method;
- allowances, if any, claimed pursuant to permitted meals and lodging;
- the total number of hours worked by the employee unless exempt from chapter 177;

- the total amount of gross pay earned by the employee during that period;
- a list of deductions made from the employee's pay;
- the net amount of pay after all deductions are made;
- the date on which the pay period ends;
- the legal name of the employer and the operating name of the employer if different from the legal name;
- the physical address of the employer's main office or principal place of business, and a mailing address if different; and
- the telephone number of the employer.

An employer must provide earnings statements to an employee in writing, rather than by electronic means, if the employer has received at least 24 hours' notice from an employee that the employee would like to receive earnings statements in written form. Once an employer has received notice from an employee that the employee would like to receive earnings statements in written form, the employer must comply with that request on an ongoing basis.

Minn. Stat. Ann. § 181.032.

#### Notice at Start of Employment

At the start of employment, an employer shall provide each employee a written notice containing the following information:

- the rate or rates of pay and basis thereof, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission, or other method, and the specific application of any additional rates;
- allowances, if any, claimed pursuant to permitted meals and lodging;
- paid vacation, sick time, or other paid time-off accruals and terms of use;
- the employee's employment status and whether the employee is exempt from minimum wage, overtime, and other provisions of chapter 177, and on what basis;
- a list of deductions that may be made from the employee's pay;
- the number of days in the pay period, the regularly scheduled pay day, and the pay day on which the employee will receive the first payment of wages earned;
- the legal name of the employer and the operating name of the employer if different from the legal name;
- the physical address of the employer's main office or principal place of business, and a mailing address if different; and

- the telephone number of the employer.

The employer must keep a copy of the notice signed by each employee acknowledging receipt of the notice. The notice must be provided to each employee in English. The English version of the notice must include text provided by the commissioner that informs employees that they may request, by indicating on the form, the notice be provided in a particular language. If requested, the employer shall provide the notice in the language requested by the employee. The commissioner of the Minnesota Department of Labor and Industry shall make available to employers the text to be included in the English version of the notice required by this section and assist employers with translation of the notice in the languages requested by their employees. A copy of the Department's notice can be found [here](#).

An employer must provide the employee any written changes to the information contained in the notice prior to the date the changes take effect.

Minn. Stat. Ann. § 181.032.

- **Audit Authority:**

The commissioner or an authorized representative may enter without unreasonable delay and inspect places of employment, during normal working hours, and investigate facts, conditions, practices or matters as the commissioner deems appropriate to enforce the laws within the commissioner's jurisdiction and to carry out the purposes of this chapter and chapter 177, 181, 181A, or 184. If an employer refuses to permit entry into the employer's place of employment, the commissioner may apply for an inspection order in the district court in the county in which the place of employment is located requiring the employer to permit entry of the commissioner or an authorized representative. The commissioner or an authorized representative may issue subpoenas, collect evidence, interview witnesses, take testimony, compel the attendance of witnesses, and shall have authority to administer oaths and take testimony under oath, but no person shall be compelled to attend as a witness unless paid the fees provided for witnesses in the district court. The commissioner may interview in private nonmanagement employees regarding the matter under investigation.

Minn. Stat. Ann. § 175.20.

The Minnesota Attorney General's Office, in addition to the Department of Labor and Industry, has the authority to enforce Minn. Stat., Chapters 177 (Minnesota Fair Labor Standards Act and Prevailing Wage Act) and 181 (Payment of Wages Act) under Minn. Stat. § 8.31.

Minn. Stat. §§ 177.45; 181.1721.

- **Employee Right to File Administrative Complaint:**

Employees have rights to file complaint of a violation of the Minnesota Fair Labor Standards Act, Payment of Wages Law, and Wage Deduction Law with the Minnesota Department of Labor and Industry, but no additional rights were created by the Wage Theft Law. *See* Minn. Stat. Ann. § 177.27; Minn. Stat. Ann. § 181.03.

- **Private Right of Action:**

Employees have a private right of action to file claims under the Minnesota Fair Labor Standards Act, Payment of Wages Law, and Wage Deduction Law, but no additional rights were created by the Wage Theft Law. *See* Minn. Stat. Ann. § 177.27; Minn. Stat. Ann. § 181.03; Minn. Stat. Ann. § 181.79.

- **Criminal Penalties:**

**Crime of Wage Theft**

Whoever commits wage theft may be sentenced as follows:

- Imprisonment for not more than 20 years, payment of a fine of not more than \$100,000 or both if the value of the wages stolen is more than \$35,000.
- Imprisonment for not more than 10 years, payment of a fine of not more than \$20,000 or both if the value of the wages stolen exceeds \$5,000.
- Imprisonment for not more than five years, payment of a fine of not more than \$10,000 or both if the value of wages stolen is more than \$1,000 but not more than \$5,000.
- Imprisonment for not more than one year, payment of a fine of not more than \$3,000 or both if the value of the property or services stolen is more than \$500 but not more than \$1,000.
- In all other cases where the value of the property or services stolen is \$500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both.

When determining the value of the wages stolen, the law allows for the amount of employee wages that were stolen through wage theft to be aggregated within any six-month period.

“Wage theft” occurs when an employer with intent to defraud:

- fails to pay an employee all wages, salary, gratuities, earnings, or commissions at the employee's rate or rates of pay or at the rate or rates required by law, including any applicable statute, regulation, rule, ordinance, government resolution or policy, contract, or other legal authority, whichever rate of pay is greater;
- directly or indirectly causes any employee to give a receipt for wages for a greater amount than that actually paid to the employee for services rendered;
- directly or indirectly demands or receives from any employee any rebate or refund from the wages owed the employee under contract of employment with the employer; or
- makes or attempts to make it appear in any manner that the wages paid to any employee were greater than the amount actually paid to the employee.

“Employer” means any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

“Employee” means any individual employed by an employer.

Minn. Stat. Ann. § 609.52.

#### Misdemeanor violations of hindering performance of duties under Payment of Wages Law and Wage Deduction Law

An employer who does any of the following hinders or delays the commissioner in the performance of duties required under sections 177.21 to 177.435, 181.01 to 181.723, or 181.79 is guilty of a misdemeanor.

Minn. Stat. Ann. § 177.32

\*\*There are additional criminal penalties under existing Minnesota wage law in addition to the penalties outlined in the Wage Theft Act.

#### • **Civil Remedies/Penalties:**

For the failure to pay wages or commissions as required under Minn. Stat. § 181.101 (Minnesota’s Wage Payment Law), the Commissioner of the Department of Labor may order the employer to:

- Pay wages or commissions owed to an employee.
- Pay an amount equal to the wages or commissions owed as liquidated damages.
- Pay compensatory damages incurred by an employee.



- Cease and desist in the violative practice.
- A civil penalty of up to \$1,000 for each violation for each employee for repeated or willful violations.

The commissioner may also:

- order an employer to pay a penalty equal to either the employee's average daily wages earned or an amount equal to 1/15 of the commissions earned for each day payment is not made in accordance with the commissioner's order.
- Penalize an employer up to \$5,000 for each repeated failure to submit or deliver records to the commissioner as required by law.
- Penalize an employer up to \$5,000 for each repeated failure to keep and maintain records as required by law

Minn. Stat. Ann. § 177.27; Minn. Stat. Ann. § 181.101.

- **Contractor Liability for Subcontractor Violations:**

~~None~~ Yes

- **Miscellaneous Information:**

The Department of Labor and Industry, its commissioner or its authorized representative shall provide a copy of an order to comply issued to an employer and the disposition of the order or the data set out in the order to comply and its disposition to the following entities:

- A licensing or regulatory authority of one or more state agencies or agencies of political subdivision to which the employer is subject.
- A public contracting authority with which the employer is party to a public contract.
- The employees whose interests are affected by the order

Minn. Stat. § 177.27.

### 32. **Minneapolis, Minnesota:**

- **Wage theft law:**

Minneapolis Wage Theft Prevention Ordinance, Minneapolis Code of Ordinances §40.570.

**Note:** After completion of this guide, Minnesota enacted the [Construction Worker Wage Protection Act](#) amending its wage theft law effective 8/1/23. More info is found [here](#).

- **Posting Requirement:**

Every employer shall post, in a conspicuous place at any workplace or job site in the city where any employee works, in a place where it can be readily observed and easily reviewed by employees, a notice published by the Minneapolis Department of Civil Rights informing employees of their rights under the Ordinance. Every employer shall post this notice in English, and in any language spoken by at least five (5) percent of the employees at the workplace or job site, if published by the department. If the employer's employees do not perform work at a workplace or job site in which the notice may be posted, this requirement may be satisfied by providing a physical or electronic copy of the notice to each employee.

A copy of the poster can be found [here](#).

Minneapolis Code of Ordinances §40.570.

- **Notice Requirement:**

At the start of employment, an employer must provide each employee a written notice (“prehire notice”) containing the following information:

- The information required by Minnesota Statutes, Section 181.032(d) (Minnesota’s Wage Payment Law, included in the Notice Requirement for Minnesota above);
- The date on which the employment is to begin;
- A notice of the employee's rights under the sick and safe time ordinance, including the method by which the employee will accrue sick and safe time, the date upon which the employee is entitled to use accrued sick and safe time, and the date upon which the employer's year for the purpose of sick and safe time accrual begins and ends;
- A statement that the sharing of gratuities is voluntary, in accordance with Minnesota Statutes, Section 177.24, subd. 3, if applicable to the position; and
- The overtime policy applicable to the employee's position, if any, including when overtime shall be paid and the applicable rate or rates of pay.

The written notice may provide this information by explicit reference to an employee handbook, collective bargaining agreement, or similar document if employees are directed to the specific sections of the handbook in which such information is provided.

The employer must keep a copy of the notice signed by each employee acknowledging receipt of the notice, and the date the employee received it.

An employer must provide the employee any written changes to the information contained in the notice prior to the date the changes take effect. The changes must be signed by the employee before the changes go into effect, unless the change is an

increase in wages and the employee is informed in advance of the change of the specific amount of the wage increase and the specific date on which it will occur. The employer must keep a copy of all notices of changes, including a signature when required.

A copy of the Department's sample notice can be found [here](#).

Minneapolis Code of Ordinances §40.540.

- **Audit Authority:**

None.

- **Employee Right to File Administrative Complaint:**

An employee or other person may report to the Department any suspected violation of the Ordinance. A report of a suspected violation must be filed within two (2) years of the violation or, if the violation was willful and not the result of mistake or inadvertence, within three (3) year of the violation.

Minneapolis Code of Ordinances §40.580.

- **Private Right of Action:**

The Ordinance references that an employee may withdraw their report with the Department and file suit in court, but the statute does not specify a private right of action. *See* Minneapolis Code of Ordinances §40.580.

- **Criminal Penalties:**

None.

- **Civil Remedies/Penalties:**

If an employer is found to have violated this article, the director shall order the employer to cease and desist from engaging in the violative practice and may order any appropriate relief, including but not limited to:

- Reinstatement;
- Compensatory damages to the employee(s) in the amount of wages owed by reason of employment, less any amount that the employer can establish was actually paid to the employee(s). If the records maintained by the employer do not provide sufficient information to determine the exact amount of wages owed to an employee, the director may make a determination of the wages due based upon the available evidence;

- Liquidated damages to the employee(s) in an amount equal to the compensatory damages, or two hundred fifty dollars (\$250.00), whichever is greater.
  - For a second violation of section 40.530 (prohibited wage theft) by the employer within a three (3) year period from the date on which the first violation occurred, the liquidated damages may be increased to up to double the compensatory damages, or five hundred dollars (\$500.00), whichever is greater.
  - For a third violation of Section 40.530 within three (3) years from the date on which the first violation occurred, the liquidated damages may be increased to up to triple the compensatory damages, or one thousand dollars (\$1,000.00), whichever is greater.
  - Liquidated damages may be awarded to an employee as provided in this section in compensation for payment of wages more than seventy-two (72) hours after the regularly scheduled payday even if all wages earned by the employee are paid before the director makes a finding that the employer has violated this article.
  - In determining the amount of the liquidated damages, the size of the employer and the gravity of the violation shall be considered;
- For a second or subsequent violation of section 40.530 (prohibited wage theft) by the employer within a three (3) year period from the date on which the first violation occurred, payment to the department of a civil fine of up to one thousand dollars (\$1,000.00) per violation per affected employee. For the purposes of this provision, an affected employee is an employee who was not paid all wages owed as required by section 40.530, regardless of whether the employee filed a report of violation.
  - In determining the amount of the penalty, the size of the employer and the gravity of the violation shall be considered;
- Reimbursement of the department for reasonable costs of investigation expended in enforcing this article, unless the payment of costs would impose an extreme financial hardship on the employer, in which case the director may order the payment of a percentage of costs expended which will not cause extreme financial hardship on the employer;
- Payment to the department of a civil fine of up to one thousand dollars (\$1,000.00) for each failure to comply with section 40.560 (employer recordkeeping). For a second violation within three (3) years from the date on which the first violation occurred, the fine may be increased to up to one thousand five hundred dollars (\$1,500.00). For a third violation within three (3) years from the date on which the first violation occurred, the fine may be increased to up to two thousand dollars (\$2,000.00). In determining the amount of the fine, the size of the employer, the gravity of the violation, the employer's good faith efforts to comply with this article, and whether the violation was intentional or inadvertent shall be considered;

- Payment to the department of a civil fine of up to two hundred dollars (\$200.00) for each failure to comply with section 40.540, section 40.550, or section 40.570 (prehire notice, posting, and statement of earnings). For a second violation of the same section within three (3) years from the date on which the first violation occurred, the fine may be increased to up to four hundred dollars (\$400.00). For a third violation of the same section within three (3) years from the date on which the first violation occurred, the fine may be increased to up to six hundred dollars (\$600.00). In determining the amount of the fine, the size of the employer, the gravity of the violation, the employer's good faith efforts to comply with this article, and whether the violation was intentional or inadvertent shall be considered;
- Payment to the department of a civil fine of up to two thousand dollars (\$2,000.00) for failure to cooperate with the department's investigation into a report of violation of this ordinance;
- Payment to the department of a civil fine of not less than seven hundred dollars (\$700.00) nor more than three thousand dollars (\$3,000.00) for each violation of section 40.590 (retaliation). This fine shall be in addition to payment to the employee of compensatory damages for the retaliatory conduct in the amount of wages due but unpaid, up to one thousand dollars (\$1,000.00).

Minneapolis Code of Ordinances §40.580.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous Information:**

When a report of violation is finally resolved either through settlement, or through a determination of violation which has become final and unappealable, the Department:

- If other employees are affected by the settlement or the final, unappealable determination of violation, shall provide a summary of the determination of violation to the employer. Upon being provided with the summary of the determination of violation, the employer shall post it for thirty (30) days in the same location(s) as the notices required by section 40.570.(2) (the wage theft posters).
- May as appropriate provide the determination of violation to any department of the city with licensing authority over the employer.

Minneapolis Code of Ordinances §40.580.

### **33. Mississippi:**

None.

**34. Missouri:**

None.

**35. Montana:**

None.

**36. Nebraska:**

None.

**37. Nevada:**

None.

**38. New Hampshire:**

None.

**39. New Jersey:**

- **Wage theft law:**

New Jersey Wage Theft Act amended the Wage Payment Act, Wage Collection Law, and Wage and Hour law

- **Posting Requirement:**

See below.

- **Notice Requirement:**

Each employer shall provide each current employee and each newly hired employee of the employer, a written copy of the statement produced by the Department of Labor and Workforce Development of the employee's rights under the provisions of State wage and hour laws and the provisions of section C.2C:40A-2, with an explanation of how to file a claim or take an action pursuant to those laws. A copy of the statement can be found [here](#). Employers must also provide employees at time of hiring a required notice (**form number [MW-400](#)**) describing the employer's obligation to maintain and report records regarding wages, benefits, taxes and other contributions and assessments.

N.J. Stat. Ann. § 34:11-58.3.

- **Audit Authority:**

The New Jersey wage and hour laws provide for audit authority, *See* N.J. Stat. Ann. § 34:11-4.9; N.J. Stat. Ann. § 34:11-58.

- **Employee Right to File Administrative Complaint:**

Employees have rights to file an administrative complaint with the New Jersey Department of Labor and Workforce Development, but no additional authority was created by the New Jersey Wage Theft Act. However, under the Wage Theft Law, an employee may file a claim for wages owed up to six years prior to the date the claim for wages is filed. N.J. Stat. Ann. § 34:11-58.

- **Private Right of Action:**

Employees have a private right of action under New Jersey's wage and hour laws, but no additional authority was created by the New Jersey Wage Theft Act. However, under the Wage Theft Law, an employee may file a claim for wages owed up to six years prior to the date the claim for wages is filed. N.J. Stat. Ann. § 34:11-58.

- **Criminal Penalties:**

**Wage Payment Act**

Any employer who:

- knowingly fails to pay the full amount of wages to an employee agreed to or required by, or in the manner required by the Wage Payment Act;
- knowingly violates any other provision of the Wage Payment Act;
- who takes a retaliatory action against an employee by discharging or in any other manner discriminating against the employee because the employee has made a complaint to their employer, the commissioner, or their authorized representative that the employer has not paid the full amount of wages agreed upon or required by, and in the manner required by the Wage Payment Act;
- because the employee has caused to be instituted or about to cause to be instituted any proceeding under the Wage Payment Act;
- Because the employee has testified or is about to testify in any proceeding under or relating to the Wage Payment Act; or
- Because the employee has informed any employee of the employer about rights under state laws regarding wages and hours worked

Is guilty of a disorderly persons offense, and

- Upon conviction of a first violation, will be punished by a fine of not less than \$500 and no more than \$1000, or by imprisonment for no less than 10 and no more than 90 days or by both fine and imprisonment, and
- Upon conviction of a second or subsequent violation, be punished by a fine of not less than \$1,000 or and no more than \$2,000, or by imprisonment for not less than 10 and no more than 100 days, or by both fine and imprisonment.

Each week in any day of which there is a violation of the Wage Payment Act, continues will constitute a separate and distinct offense.

N.J. Stat. Ann. § 34:11-4.10.

### Wage and Hour Law

Any employer who:

- willfully hinders or delays the commissioner, the director or their authorized representatives in the performance of his duties in the enforcement of the Wage and Hour Law;
- fails to make, keep, and preserve any records as required under the provisions of the Wage and Hour Law,
- falsifies any such record,
- refuses to make any such record accessible to the commissioner, the director or their authorized representatives upon demand,
- refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this act to the commissioner, the director or their authorized representatives upon demand,
- pays or agrees to pay wages at a rate less than the rate applicable under this act or any wage order issued pursuant thereto, or
- otherwise violates any provision of this act or of any regulation or order issued under this act

will be guilty of a disorderly persons offense and will:

- upon conviction for a first violation, be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for not less than 10 nor more than 90 days or by both the fine and imprisonment; and
- upon conviction for a second or subsequent violation, be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less than 10 nor more than 100 days or by both the fine and imprisonment.



Each week, in any day of which an employee is paid less than the rate applicable to him under this act or under a minimum fair wage order, and each employee so paid, shall constitute a separate offense.

As an alternative to or in addition to any other sanctions, when the Commissioner of Labor finds that an individual has violated that act, the Commissioner is authorized to assess and collect administrative penalties, up to a maximum of \$250 for a first violation and up to a maximum of \$500 for each subsequent violation. When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors including:

- history of previous violations by the employer,
- the seriousness of the violation,
- the good faith of the employer
- and the size of the employer's business.

N.J. Stat. Ann. § 34:11-56a22.

#### Wage Collection Law

A person commits the crime of pattern of wage nonpayment if the person knowingly commits an act that violates the provisions of N.J.S.2C:40A-2, N.J.S.2C:20-2 if the property stolen consists of compensation the employer failed to provide to an employee as required under the provisions of any State wage and hour law as defined in R.S.34:11-57, subsection a. of section 10 of P.L.1965, c. 173 (C.34:11-4.10), or subsection a. of section 25 of P.L.1966, c. 113 (C.34:11-56a24), if the person has, on two or more prior occasions, been convicted of a violation of the provisions of any of those laws.

Pattern of wage non-payment is a crime of the third degree, except that the presumption of nonimprisonment set forth in subsection e. of N.J.S.2C:44-1 for persons who have not previously been convicted of an offense shall not apply. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction of pattern of wage non-payment shall not merge with a conviction of violation of N.J.S.2C:40A-2, N.J.S.2C:20-2, subsection a. of section 10 of P.L.1965, c. 173 (C.34:11-4.10), subsection a. of section 25 of P.L.1966, c. 113 (C.34:11-56a24), or any other criminal offense, nor shall such other conviction merge with a conviction under this section.

An employer found to be in violation of this section shall be deemed to have caused loss to the employees in the amount by which the employees were paid less than the full wages agreed upon or required by law and shall be subject to the provisions of N.J.S.2C:43-3 regarding fines and restitution to victims and be subject to other pertinent provisions of Title 2C of the New Jersey Statutes, including, but not limited to, N.J.S.2C:43-4, 2C:43-6 and 2C:44-1.

N.J. Stat. Ann. § 34:11-58.6.

- **Civil Remedies/Penalties:**

**Wage Payment Act**

If any employer fails to pay the full amount of wages to an employee agreed to or required by, or in the manner required by, the Wage Payment Act, the employee may recover in a civil action:

- the full amount of any wages due, or any wages lost because of any retaliatory action taken;
- an amount of liquidated damages equal to not more than 200 percent of the wages lost or of the wages due; and
- costs and reasonable attorney's fees as are allowed by the court.

However, if there is an agreement of the employee to accept payment of the unpaid wages supervised by the commissioner pursuant to section 9 of P.L.1965, c. 173 (C.34:11-4.9) or R.S.34:11-58, the liquidated damages will not be more than 200 percent of wages that were due prior to the supervised payment.

The payment of liquidated damages shall not be required for a first violation by an employer if the employer shows to the satisfaction of the court that the act or omission constituting the violation was an inadvertent error made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, and the employer acknowledges that the employer violated the law and pays the amount owed within 30 days of notice of the violation.

In a case of retaliation against an employee, the employer shall also be required to offer reinstatement in employment to the discharged employee and take other actions as needed to correct the retaliatory action. An employer taking an adverse action against an employee within ninety days of the employee filing a complaint with the commissioner, or a claim or action being brought by or on behalf of the employee in a court of competent jurisdiction, for a violation of provisions the Wage Payment Law shall raise a presumption that the employer's action was taken in retaliation against the employee, which presumption may be rebutted only by clear and convincing evidence that the action was taken for other, permissible, reasons.

The employee shall be entitled to maintain the action for and on behalf of other similarly situated employees, or designate an agent or representative to maintain the action for and on behalf of all similarly situated employees. The employee may bring the action for all appropriate relief, including reinstatement, the payment of damages and the recovery of lost wages or unpaid wages pursuant to this section in the Superior Court.

N.J. Stat. Ann. § 34:11-4.10.

As an alternative to or in addition to any other sanctions provided by law for violations of the Wage Payment Law, when the Commissioner of Labor and Workforce Development finds that an employer has violated that act, or taken any retaliatory action against the employee, the commissioner is authorized to assess and collect administrative penalties, up to a maximum of \$250 for a first violation and up to a maximum of \$500 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer and the size of the employer's business. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor and Workforce Development provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order.

N.J. Stat. Ann. § 34:11-4.10.

#### Wage and Hour Law

If any employee is paid by an employer less than the minimum fair wage to which the employee is entitled under the Minimum Wage Law or by virtue of a minimum fair wage order, or suffers a loss of wages or other damages because of a retaliatory action by the employer the employee may recover in a civil action the full amount of that minimum wage less any amount actually paid to him or her by the employer, or any wages lost due to the retaliatory action, and an additional amount equal to not more than 200 percent of the amount of the unpaid minimum wages or wages lost due to retaliatory action as liquidated damages, plus costs and reasonable attorney's fees as determined by the court.

However, if there is an agreement of the employee to accept payment of the unpaid wages or compensation supervised by the commissioner pursuant to section 24 of P.L.1966, c. 113 (C.34:11-56a23) or R.S.34:11-58, the liquidated damages shall be equal to not more than 200 percent of wages that were due prior to the supervised payment.

The payment of liquidated damages shall not be required for a first violation by an employer if the employer shows to the satisfaction of the court that the act or omission constituting the violation was an inadvertent error made in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation, and the employer

acknowledges that the employer violated the law and pays the amount owed within 30 days of notice of the violation. In a case of retaliation against an employee in violation of the provisions of section 24 of P.L.1966, c. 113 (C.34:11-56a24), the employer shall also be required to offer reinstatement in employment to the discharged employee, and take other actions as needed to correct the retaliatory action. For purposes of this section, an employer taking an adverse action against an employee within 90 days of the employee filing a complaint with the commissioner or a claim or action being brought by or on behalf of the employee in a court of competent jurisdiction for a violation of P.L.1966, c. 113 (C.34:11-56a et seq.) shall raise a presumption that the employer's action was taken in retaliation against the employee, which presumption may be rebutted only by clear and convincing evidence that the action was taken for other, permissible, reasons.

N.J. Stat. Ann. § 34:11-56a25. Wage Collection Law

An employer found to owe an employee wages shall pay the employee the wages owed plus liquidated damages equal to not more than 200% of the wages owed, exclusive of any costs or fees.

N.J. Stat. Ann. § 34:11-58.

- **Contractor Liability for Subcontractor Violations:**

A client employer and a labor contractor providing workers to the client employer shall be subject to joint and several liability and shall share civil legal responsibility for any violations of the provisions of State wage and hour laws or State employer tax laws, or violations of the provisions of section C.2C:40A-2 regarding compliance with State wage and hour laws or State employer tax laws, including provisions of those laws regarding retaliatory actions against employees for exercising their rights under any of those laws and provisions of those laws regarding the misclassification of workers, and both the client employer and the labor contractor may be subject to any remedy provided for violations of those laws.

A client employer shall not shift to the labor contractor any legal duties or liabilities under the provisions of the “Worker Health and Safety Act,” P.L.1965, c. 154 (C.34:6A-1 et seq.) or “The Worker and Community Right to Know Act,” P.L.1983, c. 315 (C.34:5A-1 et seq.) with respect to workers supplied by the labor contractor. A waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

“Client employer” means a business entity, regardless of its form, that obtains or is provided workers, directly from a labor contractor or indirectly from a subcontractor, to perform labor or services within its usual course of business, but does not include any contractor who enters into a contract subject to the New Jersey Prevailing Wage Act.

“Labor contractor” means any individual or entity that supplies, either with or without a contract, directly or indirectly, a client employer with workers to perform labor or services within the client employer's usual course of business, except that “labor

contractor” does not include a bona fide labor organization or apprenticeship program, or a hiring hall operated pursuant to a collective bargaining agreement.

N.J. Stat. Ann. § 34:11-58.2.

- **Miscellaneous Information:**

If an employer fails to comply with a final determination of the commissioner or a judgment of a court, including a small claims court, made under the provisions of State wage and hour laws or of section 10 of P.L.1999, c. 90 (C.2C:40-2), to pay an employee any wages owed or damages awarded within ten days of the time that the determination or judgement requires the payment, the commissioner may do either or both of the following:

(1) issue, in the manner provided in subsection b. of section 2 of P.L.2009, c. 194 (C.34:1A-1.12), a written determination directing any appropriate agency to suspend one or more licenses held by the employer or any successor firm of the employer until the employer complies with the determination or judgement; or

(2) issue a stop-work order against the violators requiring the cessation of all business operations at one or more worksites or across all of the employer's worksites and places of business. The stop-work order shall be effective when served upon the violator or at a place of business or employment by posting a copy of the stop-work order in a conspicuous location at the place of business or employment. The stop-work order shall remain in effect until the commissioner issues an order releasing the stop-work order upon a finding that the violation has been corrected. As a condition of release of a stop-work order under this section, the commissioner may require the employer against whom the stop-work order had been issued to file with the department periodic reports for a probationary period of two years. The commissioner may assess a civil penalty of \$5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order. That penalty shall be collected by the commissioner in a summary proceeding in accordance with the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.).

Stop-work orders and any penalties imposed under a stop-work order against a corporation, partnership, limited liability corporation, or sole proprietorship shall be effective against any successor entity that has one or more of the same principals or officers as the corporation, partnership, or sole proprietorship against which the stop-work order was issued and that is engaged in the same or equivalent trade or activity.

Any employee affected by a stop-work order issued pursuant to this section shall be paid by the employer for the first ten days of work lost because of the stop-work order.

A rebuttable presumption that an employer has established a successor entity shall arise if the two share at least two of the following capacities or characteristics:

- (1) perform similar work within the same geographical area;
- (2) occupy the same premises;
- (3) have the same telephone or fax number;
- (4) have the same email address or Internet website;
- (5) employ substantially the same work force, administrative employees, or both;
- (6) utilize the same tools, facilities, or equipment;
- (7) employ or engage the services of any person or persons involved in the direction or control of the other; or
- (8) list substantially the same work experience.

N.J. Stat. Ann. § 34:11-58.1.

#### **40. New Mexico:**

- **Wage theft law:**

No legislation entitled “wage theft” passed, but the Payment of Wages Law and Minimum Wage Act have elements of a Wage Theft Law.

- **Posting Requirement:**

New Mexico Payment of Wages Law has a posting requirement, but not in the area of wage theft. *See* N.M. Stat. Ann. § 50-4-25.

- **Notice Requirement:**

None.

- **Audit Authority:**

None.

- **Employee Right to File Administrative Complaint:**

Payment of Wages Law

Yes. *See* N.M. Stat. Ann. § 50-4-4.

- **Private Right of Action:**

Payment of Wages Law:

Yes, in case of failure to pay wages or compensation due an employee within the allotted timeframe, the wages and compensation of the employee may be recovered in a civil action brought by the employee.

N.M. Stat. Ann. § 50-4-4.

Minimum Wage Act

Yes. *See* N.M. Stat. Ann. § 50-4-26.

- **Criminal Penalties:**

Minimum Wage Act:

An employer who violates any of the provisions of the Minimum Wage Act is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

N.M. Stat. Ann. § 50-4-26.

Under Section 31-19-1 NMSA 1978:

- When the defendant has been convicted of a crime constituting a misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term less than one year or to the payment of a fine of not more than one thousand dollars (\$1,000) or to both such imprisonment and fine in the discretion of the judge;
- When the defendant has been convicted of a crime constituting a petty misdemeanor, the judge shall sentence the person to be imprisoned in the county jail for a definite term not to exceed six months or to the payment of a fine of not more than five hundred dollars (\$500) or to both such imprisonment and fine in the discretion of the judge; and
- When the court has deferred or suspended sentence, it shall order the defendant placed on supervised or unsupervised probation for all or some portion of the period of deferment or suspension.

N.M. Stat. Ann. § 31-19-1.

- **Civil Penalties/Remedies:**

- Payment of Wages Law:**

In case of failure to pay wages or compensation due an employee within the allotted timeframe, the wages and compensation shall continue from the date of discharge until paid at the same rate the employee received at the time of discharge, and; provided that the employee shall not be entitled to recover any wages or compensation for any period subsequent to the date of discharge unless he pleads in his complaint and establishes that he made demand within a reasonable time upon his employer at the place designated for payment and payment was refused, provided further that the employee shall not be entitled to recover any wages or compensation for any period subsequent to the sixtieth day after the date of discharge.

N.M. Stat. Ann. § 50-4-4.

- Minimum Wage Act**

An employer who violates fails to pay employees minimum wage shall be liable to the employees affected in the amount of their unpaid or underpaid minimum wages plus interest, and in an additional amount equal to twice the unpaid or underpaid wages.

A court may also order costs of the action and reasonable attorney fees to be paid by the defendant. In any proceedings brought for unpaid minimum wage, the employee shall not be required to pay any filing fee or other court costs necessarily incurred in such proceedings.

In addition to any remedy or punishment provided pursuant to the Minimum Wage Act, a court may order appropriate injunctive relief, including requiring an employer to post in the place of business a notice describing violations by the employer as found by the court or a copy of a cease and desist order applicable to the employer.

N.M. Stat. Ann. § 50-4-26.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous:**

- Payment of Wages Law:**



It shall not be a defense to any action brought under the Payment of Wages law that the plaintiff or complainant is an undocumented worker.

N.M. Stat. Ann. § 50-4-8.

#### **41. New York:**

- **Wage theft law:**

Wage Theft Prevention Act amended the Construction Industry Wage Theft; Wage Theft Prevention and Enforcement Construction Contracts; New York Labor Law

- **Posting Requirement:**

New York wage and hour laws have posting requirements, but no additional requirements from the Wage Theft Prevention Act. For posting requirements, *see*: <https://dol.ny.gov/posting-requirements-0>.

- **Notice Requirement:**

Every employer must provide its employees, in writing in English and in the language identified by each employee as the primary language of the employee, at the time of hiring, and at least seven calendar days prior to the time any information changes, (unless the changes are reflected on the wage statement) a notice containing the following information:

- the rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances
- the benefit portion of the minimum rate of home care aide total compensation as defined in section thirty-six hundred fourteen-c of the public health law (“home care aide benefits”), if applicable;
- prevailing wage supplements, if any, claimed as part of any prevailing wage or similar requirement pursuant to article eight of this chapter;
- the regular pay day designated by the employer in accordance with section one hundred ninety-one of this article; the name of the employer;
- any “doing business as” names used by the employer;
- the physical address of the employer's main office or principal place of business, and a mailing address if different;
- the telephone number of the employer; plus

- any information as the Commissioner of the New York Department of Labor deems material and necessary.

If prevailing wage supplements are claimed, or home care aide benefits are provided, the notice must identify, for each type of supplement claimed or each type of home care aide benefits provided:

- the hourly rate claimed;
- the type of supplement or type of home care aide benefits, including when applicable, but not limited to, pension or healthcare;
- the names and addresses of the person or entity providing such supplement or such home care aide benefits; and
- (the agreement, if any, requiring or providing for such supplement or such home care aide benefits, together with information on how copies of such agreements or summaries thereof may be obtained by an employee.

Employers must also:

- obtain a signed and dated written acknowledgement from the employee, in English and in the employee's primary language, of receipt of this notice;
- must preserve and maintain the signed and dated acknowledgement for six years;
- ensure that the acknowledgement includes an affirmation by the employee that the employee accurately identified his or her primary language to the employer, and that the notice was in that language.

For all employees who are not exempt from overtime compensation as established in the commissioner's minimum wage orders or otherwise provided by New York state law or regulation, the notice must state the regular hourly rate and overtime rate of pay.

A copy of the sample notice can be found [here](#).

N.Y. Lab. Law § 195.

- **Audit Authority:**

The NY Department of Labor has audit authority, but no new authority was created by the wage theft acts. *See* N.Y. Lab. Law § 21.

- **Employee Right to File Administrative Complaint:**

Employees have rights to file administrative complaints, but no new authority was created by the wage theft acts. *See* N.Y. Lab. Law § 663; N.Y. Lab. Law § 196-a.

- **Private Right of Action:**

Employees have the right to bring an action to recover unpaid wages within six years of a violation. N.Y. Lab. Law § 198.

- **Criminal Penalties:**

Every employer who does not pay employees all of their wages and the officers and agents of any corporation, partnership, or limited liability company who knowingly permit the corporation, partnership, or limited liability company to violate this law by failing to pay the wages of any of its employees, is guilty of a misdemeanor for the first offense and upon conviction will be fined between \$500 and \$20,000 or imprisoned for not more than one year.

If any second or subsequent offense occurs within six years of the date of conviction for a prior offense, the employer or officer/agent is guilty of a felony for the second or subsequent offense, and upon conviction, will be fined not less than between \$500 and \$20,000 or imprisoned for not more than one year plus one day, or punished by both fine and imprisonment.

Every employer who violates or fails to comply with the requirements of subdivision four of section one hundred ninety-five of this Labor Article (maintaining payroll records), and the officers and agents of any corporation, partnership, or limited liability company who knowingly permit the corporation, partnership, or limited liability company to violate or fail to comply therewith, is guilty of a misdemeanor and upon conviction will be fined between \$500 and \$5,000 or imprisoned for not more than one year.

Every employer who *knowingly* violates or fails to comply with the requirements of subdivision four of section one hundred ninety-five of this article (maintaining payroll records), and the officers and agents of any corporation, partnership, or limited liability company who knowingly permit the corporation, partnership, or limited liability company to violate or fail to comply therewith, is guilty of a felony if previously convicted of the same violation within the previous six years, and upon conviction therefor will be fined between \$500 and \$20,000, or imprisoned for not more than one year plus one day, or punished by both such fine and imprisonment, for each such offense. In determining the penalty, the court shall consider the severity of the violation, the size of the employer, and the employer's good faith effort to comply with the requirements of subdivision four of section one hundred ninety-five of this article.

N.Y. Lab. Law § 198-a.

- **Civil Remedies/Penalties:**

In any action instituted in the courts upon a wage claim by an employee or the commissioner in which the employee prevails, the court shall allow such employee to recover:

- the full amount of any underpayment,
- all reasonable attorney's fees,
- prejudgment interest as required under the civil practice law and rules, and,
- unless the employer proves a good faith basis to believe that its underpayment of wages was in compliance with the law, an additional amount as liquidated damages equal to one hundred percent of the total amount of the wages found to be due, except that liquidated damages may be up to three hundred percent of the total amount of the wages found to be due for a willful violation.

N.Y. Lab. Law § 198.

- **Contractor Liability for Subcontractor Violations:**

A contractor making or taking a construction contract shall be liable for any debt resulting from an action under Section 198 of Labor Law Article 6 (payment of wages), owed to an employee or third party on the employee's behalf, incurred by a subcontractor at any tier acting under, by, or for the contractor or its subcontractors for the employee's performance of labor. In the case of an action against a subcontractor, the contractor shall be considered jointly and severally liable for any unpaid wages, benefits, wage supplements, and any other remedies available pursuant to the requirements of Section 198 of Labor Law Article 6 (payment of wages). The remedies available for a claim shall only be civil and administrative actions. This does not limit the liability of a subcontractor under Section 198 of Labor Law Article 6 (payment of wages).

An employee or subcontractor cannot waive liability of a contractor. A contractor or any other person cannot evade, or commit any act that negates, the requirements of this law. However, this law does not prohibit a contractor or subcontractor from entering into a contract or enforcing any other lawful remedies against a subcontractor it hires for liability created by violation of this law, provided that the contract or arrangement does not diminish the right of employees to bring an action under the provisions of this law. The provisions of this law do not impair the rights of a contractor to maintain an action against a subcontractor for amounts for owed wages that are paid by a contractor pursuant to this law.

Nothing precludes the attorney general from bringing a civil action to collect unpaid wages and penalties on behalf of employees pursuant to this law.

A contractor's liability is only for claims occurring within three years of the initiation of such claim in a court of competent jurisdiction or the commencement of a civil action brought forth by the attorney general or department.

Before bringing a civil action, an employee, or third party on such employee's behalf, must give the contractor notice of the alleged violation. The notice has to describe the general nature of the claim. The notice will not limit the liability of the contractor or preclude subsequent amendments of an action to encompass additional employees employed by the subcontractor.

An employee may not bring a civil action until ten business days after giving the contractor notice of the alleged violation and may not bring a civil action if the contractor corrects the alleged violation. An employee is not required to give notice to a contractor before bringing a civil action if any employee previously has given notice to such contractor of the same alleged violation or a prior alleged violation by the same subcontractor.

N.Y. Lab. Law § 198-e.

- **Miscellaneous**

Upon request of a contractor, or a contractor's subcontractor, to any subcontractor which performs any portion of work within the scope of the contractor's construction contract with an owner, the subcontractor must provide certified payroll records which, at a minimum, contain all lawfully required information required by articles six (payment of wages) and nineteen (minimum wage act) of the labor law for all employees providing labor on the project. The payroll records must contain sufficient information to apprise the contractor or subcontractor of the subcontractor's payment status in paying wages and benefits, as defined by section one hundred ninety-eight-c of the labor law, including payments or contributions on the employee's behalf. Payroll records must be marked or redacted to an extent only to prevent disclosure of an individual's full social security number but must show the last four digits of the social security number.

Upon request of a contractor, or a contractor's subcontractor, to any subcontractor which performs any portion of work within the scope of the contractor's construction contract with an owner, the subcontractor must provide:

- the names of all workers of such subcontractor on the project, including the names of all those designated as independent contractors;
- when applicable, the name of the contractor's subcontractor with whom such subcontractor is under contract; (c) the anticipated contract start date;
- the scheduled duration of work;
- when applicable, local unions with whom such subcontractor is a signatory contractor; and
- the name, address and phone number of a contact for such subcontractor.

Failure to timely comply with a request for information will be a basis for a contractor to withhold payments owed to a subcontractor at any tier.

“Contractor” means any person, firm, partnership, corporation, association, company, organization or other entity, including a construction manager, general or prime contractor, joint venture, or any combination thereof, which enters into a construction contract with an owner.

“Owner” means any person, firm, partnership, corporation, company, association or other organization or other entity, or a combination of any thereof, (with an ownership interest, whether the interest or estate is in fee, as vendee under a contract to purchase, as lessee or another interest or estate less than fee) that causes a building, structure or improvement, new or existing, to be constructed, altered, repaired, maintained, moved or demolished or that causes land to be excavated or otherwise developed or improved.

“Subcontractor” means any person, firm, partnership, corporation, company, association, organization or other entity, or any combination thereof, which is a party to a contract with a contractor, and/or party to a contract with the contractor's subcontractors at any tier, to perform any portion of work within the scope of the contractor's construction contract with the owner, including where the subcontractor has no direct privity of contract with the contractor.

N.Y. Gen. Bus. Law § 756-f.

**42. New York City, New York:**

None.

**43. North Carolina:**

None.

**44. North Dakota:**

None.

**45. Ohio:**

None.

**46. Oklahoma:**

None.

**47. Oregon:**

None.

**48. Portland, Oregon:**

None.

**49. Pennsylvania:**

None

**50. Philadelphia, Pennsylvania**

- **Wage theft law:**

Philadelphia Wage Theft Complaints Ordinance, Chapter 9-4300.

- **Posting Requirement:**

See below.

- **Notice Requirement:**

Employers shall give notice that employees are entitled to file complaints for unpaid wages under this Chapter; that retaliation against employees who file complaints under this Chapter is prohibited and that each employee has the right to file a complaint or bring a civil action if the employer fails to pay all wages earned by the employee. This information shall also be included in any employee handbooks that are distributed to employees.

Employers shall comply by either (a) supplying each of their employees with a notice in English and in any language that is the first language spoken by at least five percent (5%) of the employer's workforce that contains the information required in subsection (1); or (b) displaying a poster in a conspicuous and accessible place in each establishment where such employees are employed which contains in English and in any language that is the first language spoken by at least five percent (5%) of the employer's workforce, all information required under subsection (1).

A copy of the poster from the City of Philadelphia can be found [here](#).

Phila. Code § 9-4309.

- **Audit Authority:**

None.

- **Employee Right to File Administrative Complaint:**

An employee may file a signed complaint for wage theft with the wage theft coordinator less than three years from the date the wage theft occurred. To file a claim with the wage theft coordinator, the claim must be for at least \$100, but no more than \$10,000. Phila. Code § 9-4302.

- **Private Right of Action:**

An employee may file an action under this Chapter for claims of at least \$100, but no more than \$10,000 in any court of competent jurisdiction. Phila. Code § 9-4305.

- **Criminal Penalties:**

Upon finding a violation of the Ordinance, an employer may be imprisoned for a period not exceeding ninety days in accordance with state law (53 Pa. Stat. Ann. § 13131). Phila. Code § 9-4307.

- **Civil Remedies/Penalties:**

Upon a finding of a violation of the Ordinance, the court shall award the employee:

- the unpaid wages due,
- costs,
- reasonable attorney's fees
- penalties, not exceeding two thousand three hundred dollars (\$2,300).

An employer who willfully violates the notice and posting requirements shall be subject to a civil fine in an amount not to exceed one hundred dollars (\$100) for each separate offense.

Any person who makes or causes to be made any false entry or false statement of fact in any complaint, answer, report, account, record or other document submitted to the wage theft coordinator, or who shall willfully mutilate, alter or by any other means falsify any documentary evidence, may be fined up to two thousand dollars (\$2,000).

Phila. Code §§ 9-4305, 9-4307, 9-4309; 53 Pa. Stat. Ann. § 13131.

- **Contractor Liability for Subcontractor Violations:**



None.

- **Miscellaneous Information:**

The City may deny, suspend or revoke any license or permit issued or pending, if, during the 3 year period prior to the date of denial, suspension or revocation, the applicant or licensee admitted guilt or liability or has been found guilty, liable or responsible of committing a violation of the Wage Theft Complaints Ordinance.

§ 9-4308.

Each week during which any wages due remain unpaid is a separate violation.

§ 9-4301.1.

## **51. Rhode Island**

- **Wage theft law:**

No legislation entitled “wage theft” passed, but the Rhode Island Payment of Wages Act has elements of a Wage Theft Law.

- **Posting Requirement:**

Each employee must be notified in writing, or by posted notice that may readily be seen by all employees, of a change in the scheduled payday at least three (3) paydays in advance of a scheduled change.

28 R.I. Gen. Laws Ann. § 28-14-2.

- **Notice Requirement:**

Each employee must be notified in writing, or by posted notice that may readily be seen by all employees, of a change in the scheduled payday at least three (3) paydays in advance of a scheduled change.

28 R.I. Gen. Laws Ann. § 28-14-2.

- **Audit Authority:**

The Rhode Island Department of Labor and Training (RIDLT) has authority to conduct audits on employers. The Director of the RIDLT and their authorized representatives shall have the right to enter any place of employment for the purpose of inspecting the employment records required by § 28-14-12 and seeing that all provisions of the Payment of Wages Act are complied with.

28 R.I. Gen. Laws Ann. § 28-14-13.

- **Employee Right to File Administrative Complaint:**

Yes, *see* 28 R.I. Gen. Laws Ann. § 28-14-19. All claims for wages may be filed with the director within three (3) years from the time of services rendered by an employee to his or her employer. 28 R.I. Gen. Laws Ann. § 28-14-20.

- **Private Right of Action:**

Any employee or former employee, or any organization representing the employee or former employee aggrieved by the failure to pay wages and/or benefits or misclassification in violation of the Rhode Island Minimum Wage Act or the Payment of Wages Act may file a civil action in any court of competent jurisdiction to obtain relief within three years after the cause of action accrued.

An action instituted pursuant to this section may be brought by one or more employees or former employees individually and/or on behalf of other employees similarly situated.

28 R.I. Gen. Laws Ann. § 28-14-19.2.

- **Criminal Penalties:**

Any employer who or that violates or fails to comply with any of the provisions of the Payment of Wages Act shall be guilty of a misdemeanor, and upon conviction of the misdemeanor, the employer must be punished by a fine of not less than four hundred dollars (\$400) for each separate offense, or by imprisonment of up to one year, or by both fine and imprisonment. Each day of failure to pay wages due an employee at the time specified in the Payment of Wages Act constitute a separate and distinct violation.

28 R.I. Gen. Laws Ann. § 28-14-17.

- **Civil Remedies/Penalties:**

For claims filed in court:

An aggrieved party that brings a claim under the Rhode Island Minimum Wage Act or the Payment of Wages Act is entitled to recover:

- any unpaid wages and/or benefits,
- compensatory damages,
- liquidated damages in an amount up to two (2) times the amount of unpaid wages and/or benefits owed,

- an award of appropriate equitable relief, including reinstatement of employment, fringe benefits and seniority rights,
- reasonable attorney's fees and costs, and/or
- such other appropriate relief or penalties authorized the Rhode Island Minimum Wage Act or the Payment of Wages Act.

In determining the amount of any penalty imposed, consideration will be given to the size of the employer's business, the good faith of the employer, the gravity of the violation, the history of previous violations, and whether or not the violation was an innocent mistake or willful.

Any unpaid fringe benefit contributions owed pursuant to this section in any form shall be paid to the appropriate benefit fund: however, in the absence of an appropriate fund, the benefit shall be paid directly to the aggrieved employee.

28 R.I. Gen. Laws Ann. § 28-14-19.2.

Any employer found guilty of violations of Payment of Wages Act who or that does not pay wages and fines within thirty (30) days of a final decision and after notification by the Department of Labor and Training may have the employer's business license revoked by the state of Rhode Island until the employer pays such wages and fines in full or enters into a payment agreement with which the employer stays in compliance.

28 R.I. Gen. Laws Ann. § 28-14-17.

For administrative claims:

If after a hearing the hearing officer finds that the complainant is owed wages, the hearing office shall issue an order that directs payment of any wages and/or benefits found to be due and/or award such other appropriate relief or penalties authorized under the Payment of Wages Act and the Minimum Wage Act, and the order may direct payment of reasonable attorney's fees and costs to the complaining party. Interest at the rate of twelve percent (12%) per annum shall be awarded in the order from the date of the nonpayment to the date of payment.

The order shall also require payment of a further sum as a civil penalty in an amount up to two (2) times the total wages and/or benefits found to be due, exclusive of interest, which shall be shared equally between the department and the aggrieved party. In determining the amount of any penalty to impose, the director, or his or her designee, shall consider the size of the employer's business, the good faith of the employer, the gravity of the violation, the previous violations, and whether or not the violation was an innocent mistake or willful.

28 R.I. Gen. Laws Ann. § 28-14-19.

Additionally, any employer found to have violated the provisions of this chapter upon final determination by the department of labor and training, including claims settled via settlement agreement and administrative hearing, shall be assessed an administrative penalty equal to fifteen percent (15%) to twenty-five percent (25%) of the amount of back wages ordered to be paid for a first violation within a three-year (3) period. For subsequent violations within a three-year (3) period, the assessment shall equal twenty-five percent (25%) to fifty percent (50%) of the amount of back wages ordered to be paid.

In determining the amount of any penalty imposed under this section, the director or his or her designee shall consider the good faith of the employer; the gravity of the violation; the history of previous violations; and whether or not the violation was an innocent mistake or willful violation.

28 R.I. Gen. Laws Ann. § 28-14-17.1.

- **Contractor Liability for Subcontractor Violations:**

No. An employer's responsibility and liability hereunder is solely to the employer's own employees. 28 R.I. Gen. Laws Ann. § 28-14-19.2.

- **Miscellaneous Information:**

The filing of a civil action under 28 R.I. Gen. Laws Ann. § 28-14-19.2 shall not preclude the director of labor and training from investigating the matter and/or referring the matter to the attorney general, contractors' registration board, and/or the tax administrator.

28 R.I. Gen. Laws Ann. § 28-14-19.2.

No employer shall deduct or withhold from the payment of wages owed to an employee for the performance of work or other reason set forth in this chapter, any monies not authorized by federal or state law or by court order, without first getting written or electronic approval from the employee. However, a deduction shall never be authorized by an employee or deducted by an employer from an employee's wage for:

- (1) Spoilage or breakage;
- (2) Shortages or losses; or
- (3) Fines or penalties for tardiness, misconduct, or quitting by an employee without notice.

In addition to any other penalty or enforcement provision set forth in this chapter, any employer violating the provisions of this section shall be subject to treble damages, payable to the employee, of the amount not authorized to be deducted or withheld

28 R.I. Gen. Laws Ann. § 28-14-3.2.

**52. South Carolina:**

None.

**53. South Dakota:**

None.

**54. Tennessee:**

None.

**55. Texas:**

None.

**56. Utah:**

None.

**57. Vermont:**

- **Wage theft law:**

No legislation entitled “wage theft” legislation passed, but the Vermont Minimum Wage and Overtime Law and Wage Payment Law have elements of a Wage Theft Law.

- **Posting Requirement:**

Vermont wage and hour law has posting requirements, but no additional posting requirements related to Wage Theft. *See* Vt. Stat. Ann. tit. 21, § 393.

- **Notice Requirement:**

None.

- **Audit Authority:**

Minimum Wage and Overtime Law

Yes. *See* Vt. Stat. Ann. tit. 21, § 385.

- **Employee Right to File Administrative Complaint:**

Minimum Wage and Overtime Law

Yes. *See* Vt. Stat. Ann. tit. 21, § 385.

Wage Payment Law

An employee or the Department on its own motion may file a complaint that wages have not been paid to an employee, not later than two years from the date the wages were due. Vt. Stat. Ann. tit. 21, § 342a.

- **Private Right of Action:**

Minimum Wage and Overtime Law

Yes. *See* Vt. Stat. Ann. tit. 21, § 395.

Wage Payment Law

Yes. *See* Vt. Stat. Ann. tit. 21, § 347.

- **Criminal Penalties:**

None.

- **Civil Penalties/Remedies:**

Minimum Wage and Overtime

If any employee is paid by an employer less than the applicable wage rate to which the employee is entitled, the employee shall recover, in a civil action, twice the amount of the minimum wage less any amount actually paid by the employer, together with costs and reasonable attorney's fees.

Vt. Stat. Ann. tit. 21, § 395.

Wage Payment Law

### *Administrative Complaints*

If the Commissioner determines that the unpaid wages were willfully withheld by the employer, the order for collection may provide that the employer is liable to pay an additional amount not to exceed twice the amount of unpaid wages, one-half of which will be remitted to the employee and one-half of which shall be retained by the Commissioner to offset administrative and collection costs.

Vt. Stat. Ann. tit. 21, § 342a.

Each employer who violates section 342, 343, 482, or 483 of this title shall be fined not more than \$5,000.00. Where the employer is a corporation, the president or other officers who have control of the payment operations of the corporation shall be considered employers and liable to the employee for actual wages due when the officer has willfully and without good cause participated in knowing violations.

In addition to any other penalty or punishment otherwise prescribed by law, any employer who, pursuant to an oral or written employment agreement, is required to provide benefits to an employee shall be liable to the employee for actual damages caused by the failure to pay for the benefits, and where the failure to pay is knowing and willful and continues for 30 days after the payments are due shall be assessed a civil penalty by the Commissioner of not more than \$5,000.00.

Vt. Stat. Ann. tit. 21, § 345.

### *Civil Action*

An employer who violates section 342 or 343 of this title shall forfeit to the individual injured twice the value thereof, to be recovered in a civil action, and all costs and reasonable attorney's fees. However, an action may not be maintained under this section unless at the time the action is brought, the wages remain unpaid or improperly paid.

Vt. Stat. Ann. tit. 21, § 347.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous:**

None.

## 58. Virginia

- **Wage theft law:**

Virginia Wage Theft Law amended the Virginia Wage Payment Act

- **Posting Requirement:**

None

- **Notice Requirement:**

None

- **Audit Authority:**

None

- **Employee Right to File Administrative Complaint:**

Employees may file administrative complaints with the Virginia Department of Labor and Industry. The Commissioner may require a written complaint of the violation of Va. Code Ann. § 40.1-29 and, with the written and signed consent of an employee, may institute proceedings on behalf of an employee to enforce compliance with Va. Code Ann. § 40.1-29, and to collect any moneys unlawfully withheld from such employee that shall be paid to the employee entitled thereto.

Va. Code Ann. § 40.1-29.

- **Private Right of Action:**

If an employer fails to pay wages to an employee in accordance with Va. Code Ann. § 40.1-29, the employee may bring an action, individually, jointly, with other aggrieved employees, or on behalf of similarly situated employees as a collective action consistent with the collective action procedures of the Fair Labor Standards Act, 29 U.S.C. § 216(b), against the employer in a court of competent jurisdiction to recover payment of the wages.

Any action for failure to pay wages under Va. Code Ann. § 40.1-29 must commenced within three years after the cause of action accrued. The period for filing is tolled upon the filing of an administrative action until the employee has been informed that the action has been resolved or until the employee has withdrawn the complaint, whichever is sooner.

Va. Code Ann. § 40.1-29.



- **Criminal Penalties:**

An employer who willfully and with intent to defraud fails or refuses to pay wages in accordance with § 40.1-29 or § 40.1-29.3, unless the failure to pay was because of a bona fide dispute between the employer and its employee:

- To an employee or employees is guilty of a Class 1 misdemeanor if the value of the wages earned and not paid by the employer is less than \$10,000; and
- To an employee or employees is guilty of a Class 6 felony (i) if the value of the wages earned and not paid is \$10,000 or more or (ii) regardless of the value of the wages earned and not paid, if the conviction is a second or subsequent conviction under § 40.1-29 or § 40.1-29.3.

Va. Code Ann. § 40.1-29.

- **Civil Remedies/Penalties:**

An employer can recover wages owed, an additional equal amount as liquidated damages, plus prejudgment interest, and reasonable attorney fees and costs.

If the court finds that the employer knowingly failed to pay wages to an employee in accordance with Va. Code Ann. § 40.1-29, the court shall award the employee an amount equal to triple the amount of wages due and reasonable attorney fees and costs.

A person acts “knowingly” if the person, with respect to information, (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information, or (iii) acts in reckless disregard of the truth or falsity of the information. Establishing that a person acted knowingly does not require proof of specific intent to defraud.

Va. Code Ann. § 40.1-29.

- **Contractor Liability for Subcontractor Violations:**

Any construction contract between a general contractor and its subcontractor and any lower tier subcontract entered into on or after July 1, 2020, shall be deemed to include a provision under which the general contractor, its subcontractor, and the subcontractor at any lower tier are jointly and severally liable to pay the employees of any subcontractor at any lower tier the greater of (i) all wages due to a subcontractor's employees or to the lower tier subcontractor's employees at such rate and upon such terms as shall be provided in the employment agreement between the subcontractor and its employees or (ii) the amount of wages that the subcontractor or any lower tier subcontractor is required to pay to its employees under the provisions of

applicable law, including the provisions of the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.) and the federal Fair Labor Standards Act (29 U.S.C. § 201 et seq.).

A general contractor shall be deemed to be the employer of a subcontractor's employees at any tier for purposes of § 40.1-29. If the wages due to the subcontractor's employees under the terms of the employment agreement between a subcontractor and its employees are not paid, the general contractor shall be subject to all penalties, criminal and civil, to which an employer that fails or refuses to pay wages is subject under § 40.1-29. Any liability of a general contractor pursuant to § 40.1-29 shall be joint and several with the subcontractor that failed or refused to pay the wages to its employees.

Except as otherwise provided in a contract between the general contractor and the subcontractor, the subcontractor shall indemnify the general contractor for any wages, damages, interest, penalties, or attorney fees owed as a result of the subcontractor's failure to pay wages to the subcontractor's employees, unless the subcontractor's failure to pay the wages was due to the general contractor's failure to pay moneys due to the subcontractor in accordance with the terms of their construction contract.

The above only applies if (i) it can be demonstrated that the general contractor knew or should have known that the subcontractor was not paying his employees all wages due, (ii) the construction contract is related to a project other than a single family residential project, and (iii) the value of the project, or an aggregate of projects under one construction contract, is greater than \$500,000. As evidence a general contractor or subcontractor, regardless of tier, may offer a written certification, under oath, from the subcontractor in direct privity of contract with the general contractor or subcontractor stating that (a) the subcontractor and each of his sub-subcontractors has paid all employees all wages due for the period during which the wages are claimed for the work performed on the project and (b) to the subcontractor's knowledge all sub-subcontractors below the subcontractor, regardless of tier, have similarly paid their employees all such wages. Any person who falsely signs such certification shall be personally liable to the general contractor or subcontractor for fraud and any damages the general contractor or subcontractor may incur.

Va. Code Ann. § 11-4.6.

- **Miscellaneous Information:**

N/A

**59. Washington:**

- **Wage theft law:**

No legislation entitled “wage theft” passed, but the Minimum Wage and Overtime Law and Wage Payment Law have elements of a Wage Theft Law.

- **Posting Requirement:**

Washington wage and hour laws have posting requirements, but none specific to wage theft. *See* Wash. Admin. Code 296-126-080.

- **Notice Requirement:**

None.

- **Audit Authority**

**Minimum Wage and Overtime**

Every employer subject to any provision of this chapter or of any regulation issued under this chapter shall make, and keep in or about the premises wherein any employee is employed, a record of the name, address, and occupation of each of his or her employees, the rate of pay, and the amount paid each pay period to each such employee, the hours worked each day and each workweek by such employee, and such other information as the director shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this chapter or of the regulations thereunder. Such records shall be open for inspection or transcription by the director or his or her authorized representative at any reasonable time.

Wash. Rev. Code Ann. § 49.46.070.

**Wage Payment**

The director or authorized representative shall have free access to all places and works of labor. Any employer or any agent or employee of such employer who refuses the director or authorized representative admission therein, or who, when requested by the director or authorized representative, willfully neglects or refuses to furnish the director or authorized representative any statistics or information pertaining to his or her lawful duties, which statistics or information may be in his or her possession or under the control of the employer or agent, shall be guilty of a misdemeanor.

Wash. Rev. Code Ann. § 49.48.040.

- **Employee Right to File Administrative Complaint:**

Minimum Wage and Overtime

Yes. See <https://secure.lni.wa.gov/wagecomplaint/#/>

Wage Payment

Yes. See <https://secure.lni.wa.gov/wagecomplaint/#/>

- **Private Right of Action:**

Minimum Wage and Overtime.

Yes. See Wash. Rev. Code Ann. § 49.46.090.

Wage Payment

Yes. See Wash. Rev. Code Ann. § 49.48.030; 49.52.070.

- **Criminal Penalties:**

Minimum Wage and Overtime

Any employer who:

- hinders or delays the director or his or her authorized representatives in the performance of his or her duties in the enforcement of the Minimum Wage law;
- refuses to admit the director or his or her authorized representatives to any place of employment;
- fails to make, keep, and preserve any records as required under the provisions of this law, or falsifies any such record, or refuses to make any record accessible to the director or his or her authorized representatives upon demand;
- refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this law to the director or his or her authorized representatives upon demand;
- pays or agrees to pay an employee less than the employee is entitled to under this law;
- discharges or in any other manner discriminates against any employee because such employee has made any complaint to his or her employer, to the director, or his or her authorized representatives that he or she has not been paid wages in accordance with the provisions of this chapter, or that the employer has violated any provision of this chapter, or because such employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this chapter, or because such employee has testified or is about to testify in any such proceeding shall be deemed in violation of this chapter; or

- otherwise violates any provision of this law or of any regulation issued under this law

shall, upon conviction therefore, be guilty of a gross misdemeanor.

Wash. Rev. Code Ann. § 49.46.100.

#### Wage Payment

Any person, firm, or corporation which violates any of the provisions of RCW 49.48.010 through 49.48.030 and 49.48.060 shall be guilty of a misdemeanor.

Wash. Rev. Code Ann. § 49.48.020.

- **Civil Penalties/Remedies:**

#### Minimum Wage and Overtime

Any employer who pays any employee less than the amounts to which such employee is entitled under or by virtue of this chapter, shall be liable to such employee affected for:

- the full amount due to such employee, less any amount actually paid to such employee by the employer;
- costs and such reasonable attorney's fees as may be allowed by the court; or
- for willful violations, double damages, unless the employee who has knowingly submitted to such violation.

Wash. Rev. Code Ann. § 49.46.090.

#### Wage Payment

##### *Administrative*

If the department determines that an employer has violated a wage payment requirement and issues to the employer a citation and notice of assessment, the department may order the employer to pay employees all wages owed, including interest of one percent per month on all wages owed, to the employee. The wages and interest owed must be calculated from the first date wages were owed to the employee, except that the department may not order the employer to pay any wages and interest that were owed more than three years before the date the wage complaint was filed with the department.

If the department determines that the violation of the wage payment requirement was a willful violation, the department also may order the employer to pay the department a civil penalty as specified above.

A civil penalty for a willful violation of a wage payment requirement shall be not less than one thousand dollars or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a willful violation of a wage payment requirement shall be twenty thousand dollars.

The department may not assess a civil penalty if the employer reasonably relied on: (i) A rule related to any wage payment requirement; (ii) a written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or (iii) an interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an employer is immune from civil penalties under (b)(ii) of this subsection.

The department shall waive any civil penalty assessed against an employer under this section if the employer is not a repeat willful violator, and the director determines that the employer has provided payment to the employee of all wages that the department determined that the employer owed to the employee, including interest, within ten business days of the employer's receipt of the citation and notice of assessment from the department.

Wash. Rev. Code Ann. § 49.48.083.

#### *Civil action*

In any action in which any person is successful in recovering judgment for wages or salary owed to him or her, reasonable attorney's fees, in an amount to be determined by the court, shall be assessed against said employer or former employer: PROVIDED, HOWEVER, this does not apply if the amount of recovery is less than or equal to the amount admitted by the employer to be owing for said wages or salary.

Wash. Rev. Code Ann. § 49.48.030.

Any employer and any officer, vice principal or agent of any employer who shall violate any of the provisions of RCW 49.52.050 (1) and (2) shall be liable in a civil action by the aggrieved employee or his or her assignee to judgment for twice the amount of the wages unlawfully rebated or withheld by way of exemplary damages, together with costs of suit and a reasonable sum for attorney's fees: PROVIDED, HOWEVER, that this is not available to any employee who has knowingly submitted to such violations.

Wash. Rev. Code Ann. § 49.52.070.

- **Contractor Liability for Subcontractor Violations:**

None.

- **Miscellaneous:**

If upon investigation by the director, after taking assignments of any wage claim under RCW 49.48.040 or after receiving a wage complaint as defined in RCW 49.48.082 from an employee, it appears to the director that the employer is representing to his or her employees that he or she is able to pay wages for their services and that the employees are not being paid for their services, the director may require the employer to give a bond in such sum as the director deems reasonable and adequate in the circumstances, with sufficient surety, conditioned that the employer will for a definite future period not exceeding six months conduct his or her business and pay his or her employees in accordance with the laws of the state of Washington.

If within ten days after demand for such bond the employer fails to provide the same, the director may commence a suit against the employer in the superior court of appropriate jurisdiction to compel him or her to furnish such bond or cease doing business until he or she has done so. The employer shall have the burden of proving the amount thereof to be excessive.

If the court finds that there is just cause for requiring such bond and that the same is reasonable, necessary, or appropriate to secure the prompt payment of the wages of the employees of such employer and his or her compliance with one or more wage payment requirements as defined in RCW 49.48.082, the court shall enjoin such employer from doing business in this state until the requirement is met, or shall make other, and may make further, orders appropriate to compel compliance with the requirement.

Upon being informed of a wage claim against an employer or former employer, the director shall, if such claim appears to be just, immediately notify the employer or former employer, of such claim by mail. If the employer or former employer fails to pay the claim or make satisfactory explanation to the director of his or her failure to do so, within thirty days thereafter, the employer or former employer shall be liable to a penalty of ten percent of that portion of the claim found to be justly due. The director shall have a cause of action against the employer or former employer for the recovery of such penalty, and the same may be included in any subsequent action by the director on said wage claim, or may be exercised separately after adjustment of such wage claim without court action. This does not apply to wage complaints made under RCW 49.48.083.

Wash. Rev. Code Ann. § 49.48.060.

**60. Seattle, Washington:**

- **Wage theft law:**

Seattle Wage Theft Ordinance, Chapter 14.20

- **Posting Requirement:**

Employers must also display a poster made by the Office of Labor Standards in a conspicuous and accessible place at any workplace or job site where any of their employees work. Employers shall display the poster in English and in the primary language of the employee(s) at the particular workplace. If display of the poster is not feasible, including situations when the employee works remotely or does not have a regular workplace or job site, employers may provide the poster on an individual basis in an employee's primary language in physical or electronic format that is reasonably conspicuous and accessible.

A copy of the poster can be found [here](#).

Seattle Mun. Code §14.20.025.

- **Notice Requirement:**

Employers must give employees written notice of:

- Name of employer and any trade ("doing business as") names used by the employer;
- Physical address of the employer's main office or principal place of business and, if different, a mailing address;
- Telephone number and, if applicable, email address of the employer;
- Employee's rate or rates of pay, and, if applicable, eligibility to earn an overtime rate or rates of pay;
- Employer's tip policy, with an explanation of any tip sharing, pooling, or allocation policies;
- Pay basis (e.g. hour, work shift, day, week, commission);
- Employee's established pay day for earned compensation due by reason of employment;
- For employees covered by Chapter 14.22 (the Secure Scheduling Ordinance), a written good faith estimate of the employee's work schedule including the median number of hours the employee can expect to work each work week, and whether the employee will be expected to work on-call shifts; and
- Pursuant to rules issued by the Director, other information that is material and necessary to effectuate the terms of this Chapter.

Employers must give the written notice given to employees at the time of hire and to all employees who work for the employer as of that date and in the future. Employers must also revise this written notice before any change to such employment information, or as soon as practicable for retroactive changes to such employment information. For the written good faith estimate of the employee's work schedule in subsection 14.20.025.4.h, the employer is required to revise the notice once every year and when there is a significant change to the work schedule due to changes in the employee's availability or to the employer's business needs.

A copy of the Office of Labor Standards model notice can be found [here](#).



Additionally, each time compensation is paid, employers shall give written notice that contains the following information:

- All hours worked with regular and overtime hours shown separately;
- All rate or rates of pay whether paid on hourly, salary, commission, piece rate or combination thereof, or other basis during the pay period. Workers paid on rate other than hourly or salary are entitled to a detailed printed accounting of commissions, piece rate or other methods of payment earned during the pay period;
- Tip compensation;
- Pay basis (e.g. hour, shift, day, week, commission);
- Gross wages; and
- All deductions for that pay period.
- Pursuant to rules issued by the Director, other information that is material and necessary to effectuate the terms of this Chapter 14.20.

Seattle Mun. Code §14.20.025.

- **Audit Authority:**

The Office of Labor Standards has the power to investigate violations of this Chapter 14.20, and has the powers and duties in the performance of these functions as are defined in this Chapter 14.20 and otherwise necessary and proper in the performance of the same and provided for by law. The Office of Labor Standards is authorized to coordinate implementation and enforcement of this Chapter 14.20.

Seattle Mun. Code §14.20.040.

The Office of Labor Standards has the power to investigate any violations of this Chapter 14.20 by any respondent. The Office may initiate an investigation including, but not limited to, in situations when the Director has reason to believe that a violation has occurred or will occur, or when circumstances show that violations are likely to occur within a class of businesses because the workforce contains significant numbers of workers who are vulnerable to violations of this Chapter 14.20 or the workforce is unlikely to volunteer information regarding such violations.

Seattle Mun. Code §14.20.050.

- **Employee Right to File Administrative Complaint:**

An investigation may also be through the receipt by the Office of Labor Standards of a report or complaint filed by an employee or any other person

Seattle Mun. Code §14.20.050

- **Private Right of Action:**

Any person or class of persons that suffers financial injury as a result of a violation of this Chapter 14.20 or is the subject of prohibited retaliation under Section 14.20.035 may bring a civil action in a court of competent jurisdiction against the employer or other person violating this Chapter 14.20.

Seattle Mun. Code §14.20.090.

- **Criminal Penalties:**

None.

- **Civil Remedies/Penalties:**

For Claims filed with the Office of Labor Standards

For retaliation claims, an employer may be liable for:

- reinstatement of the aggrieved party,
- front pay in lieu of reinstatement with full payment of unpaid compensation plus interest in favor of the aggrieved party, and liquidated damages in an additional amount of up to twice the unpaid compensation. The Director also shall order the imposition of a penalty payable to the aggrieved party of up to \$5,000.

For claims of unpaid wages, an employer may be liable for:

- Payment of unpaid compensation,
- Liquidated damages,
  - For a first violation of this Ordinance, the Director of Labor Standards *may* assess liquidated damages in an additional amount of up to twice the unpaid compensation. However, for subsequent violations, these liquidated damages will be assessed.
  - For purposes of establishing a first and subsequent violation, the violation must have occurred within ten years of the Director's Order.
- Civil penalties,
- Penalties payable to aggrieved parties,
- Fines, and
- Interest.

- Interest shall accrue from the date the unpaid compensation were first due at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.

If there is a remedy due to an aggrieved party, the Director may waive the total amount of civil penalties and fines due to the Office if the Director determines that the respondent paid the full remedy due to the aggrieved party within ten days of service of the Director's Order. The Director may waive half the amount of civil penalties and fines due to the Office if the Director determines that the respondent paid the full remedy due to the aggrieved party within 15 days of service of the Director's Order. The Director shall not waive any amount of civil penalties and fines due to the Office if the Director determines that the respondent has not paid the full remedy due to the aggrieved party after 15 days of service of the Director's Order.

When determining the amount of liquidated damages, civil penalties, penalties payable to aggrieved parties, and fines due, for a Settlement Agreement or Director's Order, including but not limited to the mitigation of civil penalties and fines due to the Office for timely payment of remedy due to an aggrieved party, the Director shall consider the total amount of unpaid compensation, liquidated damages, penalties, fines, and interest due; the nature and persistence of the violations; the extent of the respondent's culpability, the substantive or technical nature of the violations; the size, revenue, and human resources capacity of the respondent; the circumstances of each situation; the amounts of penalties in similar situations; and other factors pursuant to rules issued by the Director.

With regard to penalties:

- A respondent who willfully violates the notice and posting requirements of Section 14.20.025.B shall be subject to a civil penalty of \$750 for the first violation and \$1,000 for subsequent violations.
- A respondent who willfully hinders, prevents, impedes, or interferes with the Director or Hearing Examiner in the performance of their duties shall be subject to a civil penalty of not less than \$1,000 and not more than \$5,000.
- For a first violation of this Chapter the Director may assess a civil penalty of up to \$500 per aggrieved party. For a second violation of this Chapter, the Director shall assess a civil penalty of up to \$1,000 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater. For a third or any subsequent violation of this Chapter, the Director shall assess a civil penalty of up to \$5,000 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater. The maximum civil penalty for a violation of this Chapter shall be \$20,000 per aggrieved party, or an amount equal to ten percent of the total amount of unpaid compensation, whichever is greater. For purposes of the above, a violation is a second, third, or subsequent violation if the respondent has been a party to one, two or more than two Settlement Agreements, respectively, stipulating that a violation has occurred; and/or one, two, or more than two Director's Orders, respectively, have issued against the respondent in the ten years preceding the date of the violation; otherwise, it is a first violation.

- For the following violations, the Director may assess a fine in the amounts set forth below:

Violation	Fine
Failure to provide employees with written notice of rights under subsection 14.20.025.B	\$500
Failure to provide employee with written notice of employment information under subsection 14.20.025.D	\$500 per aggrieved party
Failure to provide employees with written notice of pay information under subsection 14.20.025.E	\$500 per aggrieved party
Failure to maintain payroll records for three years under subsection 14.20.030.A	\$500 per missing record
Failure to comply with prohibitions against retaliation for exercising rights protected under <a href="#">Section 14.20.035</a>	\$1,000 per aggrieved party
Failure to provide notice of investigation to employees under subsection 14.20.050.B.2	\$500
Failure to provide notice of failure to comply with final order to the public under Section 14.20.080.A.1	\$500

Seattle Mun. Code §14.20.060.

#### For Court Claims

A prevailing employee may be awarded reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, the payment of any unpaid compensation plus interest due to the person and liquidated damages in an additional amount of up to twice the unpaid compensation; a penalty payable to any aggrieved party of up to \$5,000 if the aggrieved party was subject to prohibited retaliation. Interest shall accrue from the date the unpaid compensation were first due at 12 percent per annum, or the maximum rate permitted under RCW 19.52.020.

Seattle Mun. Code §14.20.090.

- **Contractor Liability for Subcontractor Violations:**

None

- **Miscellaneous Information:**

An employer that is the subject of a final order for which all appeal rights have been exhausted shall not be permitted to bid, or have a bid considered, on any City contract until such amounts due under the final order have been paid in full to the Director of the Office of Labor Standards. If an employer is the subject of a final order two times or more within a five-year period, the contractor or subcontractor shall not be allowed to bid on any City contract for two years.

Seattle Mun. Code §14.20.060.

## **61. West Virginia**

- **Wage theft law:**

No legislation entitled “wage theft” passed, but the West Virginia Wage Payment and Collection Law has elements of a Wage Theft Law.

- **Posting Requirement:**

Every employer must:

- Notify its employees in writing, at the time of hiring of the rate of pay, and of the day, hour, and place of payment.
- Notify its employees in writing, or through a posted notice maintained in a place accessible to its employees of any changes in the arrangements specified above prior to the time of such changes.
- Make available to its employees in writing or through a posted notice maintained in a place accessible to its employees, employment practices and policies with regard to vacation pay, sick leave, and comparable matters.
- Furnish each employee with an itemized statement of deductions made from its wages for each pay period such deductions are made.
- Keep posted in a place accessible to its employees an abstract of this article furnished by the commissioner, and
- Make such records of the persons employed by it, including wage and hour records, preserve such records for such periods of time, and make such reports therefrom to the commissioner, as the commissioner shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this article.

W. Va. Code Ann. § 21-5-9.

- **Notice Requirement:**

See above.

- **Audit Authority:**

The commissioner shall enforce and administer the Wage Payment and Collection Law accordance with chapter twenty-nine-A of this Code. The commissioner or their authorized representatives are empowered to enter and inspect such places, question such employees, and investigate such facts, conditions, or matters as they may deem appropriate, to determine whether any person, firm or corporation has violated any provision of the Wage Payment and Collection Law, or any rule or regulation issued hereunder or which may aid in the enforcement of the provisions of this article.

W. Va. Code Ann. § 21-5-11.

- **Employee Right to File Administrative Complaint:**

An employee or former employee who reasonably believes that he or she is owed unpaid wages or that his or her employer has violated any provision of the Act or this rule, and who wants the Division to investigate his or her claim, can submit a request for assistance (“RFA”) to the Director, and provide the information and documents in support of the claim.

W. Va. Code R. 42-5-10.

- **Private Right of Action:**

Yes. *See* W. Va. Code Ann. § 21-5-12.

- **Criminal Penalties:**

None

- **Civil Remedies/Penalties:**

If a person, firm, or corporation fails to pay an employee wages after an employee separates employment, the person, firm, or corporation, in addition to the amount which was unpaid when due, is liable to the employee for two times that unpaid amount as liquidated damages. Liquidated damages that can be awarded under W. Va. Code Ann. § 21-5-4 are not available to employees claiming they were misclassified as exempt from overtime under state and federal wage and hour laws.

W. Va. Code Ann. § 21-5-4.

However, an employee, in bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee's separation of employment is not entitled to seek liquidated damages or attorney's fees from an employer without first making a written demand to the employer seeking the payment of any alleged underpayment or nonpayment, unless the

employer fails to notify the employee when issuing their final paycheck of who the employer's authorized representative is and where to send a written demand by both e-mail and regular mail.

W. Va. Code Ann. § 21-5-4a.

- **Contractor Liability for Subcontractor Violations:**

a) Whenever any person, firm, or corporation contracts with another for the performance of any work which the prime contracting person has undertaken to perform for another, the prime contractor shall become civilly liable to employees engaged in the performance of work under the contract for the payment of wages and fringe benefits relating to such work only, exclusive of attorney's fees, interest, liquidated damages, or any other damages of any kind, as provided in § 21-5-4(e) of the Wage Payment and Collection law, or other applicable law and/or common law, to the extent that the employer of the employee fails to pay the wages and fringe benefits: for work performed under the contract with the prime contractor. The employer, and its shareholders, owners, directors, and officers shall be personally and civilly liable to the prime contractor for any sums paid under this section W. Va. Code Ann. § 21-5-7, including attorney's fees.

(b) Any individual or entity seeking redress pursuant to subsection (a) of this section must:

- (1) Notify the prime contractor, by certified mail, only that wages or fringe benefits have not been paid within 100 days of the date the wages or fringe benefits become payable to the employee; and
- (2) Commence the action within one year of the date the employee delivered notice to the prime contractor pursuant to subdivision (1) of this subsection.

(c) The employer of the employee to whom wages and/or fringe benefits are owed, shall whenever feasible provide, immediately upon request by the employee or the prime contractor, complete payroll records relating to work performed under the contract with the prime contractor.

(d) Whenever the employee to whom wages and/or fringe benefits are due is represented by a union or other plan administrator, the union or other plan administrator, shall whenever feasible, immediately upon notice of a claim hereunder, cooperate with the employee and the prime contractor to identify and quantify the wages and fringe benefits owed for work performed under the contract with the prime contractor. Further, if the union or agents thereof or other plan administrator, including, but not limited to, third party administrators, trustees, administrators, or employees, become aware that an employer is not timely in the payment of wages and/or fringe benefits, the union or other plan administrator shall immediately notify the affected employee and the prime contractor for whom the affected employee provided work.

(e) A prime contractor must notify the owner and the architect prior to the completion of the contract if any subcontractor has not been paid in full.

W. Va. Code Ann. § 21-5-7.

- **Miscellaneous Information:**

- Bond Required for Construction Work**

(a) Bond required. -- With the exception of those who have been doing business in this state actively and actually engaged in construction work, or the severance, production or transportation of minerals for at least one year next preceding the posting of the bond required by this section, every employer, person, firm or corporation engaged in or about to engage in construction work, or the severance, production or transportation (excluding railroads and water transporters) of minerals, shall, prior to engaging in any construction work, or the severance, production or transportation of minerals, furnish a bond on a form prescribed by the commissioner, payable to the State of West Virginia, with the condition that the person, firm or corporation pay the wages and fringe benefits of his or her or its employees when due. The amount of the bond shall be equal to the total of the employer's gross payroll for four weeks at full capacity or production, plus fifteen percent of the total of employer's gross payroll for four weeks at full capacity or production. The amount of the bond shall increase or decrease as the employer's payroll increases or decreases. However, the amount of the bond shall not be decreased, except with the commissioner's approval and determination that there are not outstanding claims against the bond.

If the employer, person, firm or corporation meets one of the following, then they are exempt from the requirements of this subsection:

- (1) Has been in business in another state for at least five years;
- (2) Has at least \$100,000 in assets; or
- (3) Is a subsidiary of a parent company that has been in business for at least five years.

(b) Waiver. -- The commissioner shall waive the posting of any bond required by subsection (a) of this section upon their determination that an employer is of sufficient financial responsibility to pay wages and fringe benefits. The commissioner shall promulgate rules and regulations according to the provisions of chapter twenty-nine-a of this code which prescribe standards for the granting of such waivers.

(c) Form of bond; filing in office of circuit clerk. -- The bond may include, with the approval of the commissioner, surety bonding, collateral bonding (including cash and securities), letters of credit, establishment of an escrow account or a combination of these methods. The commissioner shall accept an irrevocable letter of credit in lieu of any other bonding requirement. If collateral bonding is used, the employer may deposit cash, or collateral securities or certificates as follows:



Bonds of the United States or its possessions, or of the federal land bank, or of the homeowner's loan corporation; full faith and credit general obligation bonds of the State of West Virginia or other states, and of any county, district or municipality of the State of West Virginia or other states; or certificates of deposit in a bank in this state, which certificates shall be in favor of the state. The cash deposit or market value of such securities or certificates shall be equal to or greater than the sum of the bond. The commissioner shall, upon receipt of any such deposit of cash, securities or certificates, promptly place the same with the State Treasurer whose duty it shall be to receive and hold the same in the name of the state in trust for the purpose for which such deposit is made. The employer making the deposit shall be entitled from time to time to receive from the State Treasurer, upon the written approval of the commissioner, the whole or any portion of any cash, securities or certificates so deposited, upon depositing with him or her in lieu thereof, cash or other securities or certificates of the classes herein specified having value equal to or greater than the sum of the bond. The commissioner shall cause a copy of the bond to be filed in the office of the clerk of the county commission of the county wherein the person, firm or corporation is doing business to be available for public inspection.

(d) Employee cause of action. -- Notwithstanding any other provision in this article, any employee, whose wages and fringe benefits are secured by the bond, as specified in subsection (c) of this section, has a direct cause of action against the bond for wages and fringe benefits that are due and unpaid.

(e) Action of commissioner. -- Any employee having wages and fringe benefits unpaid may inform the commissioner of the claim for unpaid wages and fringe benefits and request certification thereof. If the commissioner, upon notice to the employer and investigation, finds that such wages and fringe benefits or a portion thereof are unpaid, he or she shall make demand of such employer for the payment of such wages and fringe benefits. If payment for such wages and fringe benefits is not forthcoming within the time specified by the commissioner, not to exceed thirty days, the commissioner shall certify such claim or portion thereof, and forward the certification to the bonding company or the State Treasurer, who shall provide payment to the affected employee within fourteen days of receipt of such certification. The bonding company, or any person, firm or corporation posting a bond, thereafter shall have the right to proceed against a defaulting employer for that part of the claim the employee paid. The procedure specified herein shall not be construed to preclude other actions by the commissioner or employee to seek enforcement of the provisions of this article by any civil proceedings for the payment of wages and fringe benefits or by criminal proceedings as may be determined appropriate.

(f) Posting and reporting by employer. -- With the exception of those exempt under subsection (a) of this section, any employer who is engaged in construction work or the severance, production or transportation (excluding railroad and water transporters) of minerals shall post the following in a place accessible to his or her or its employees:

- (1) A copy of the bond or other evidence of surety specifying the number of employees covered as provided under subsection (a) of this section, or notification that the posting of a bond has been waived by the commissioner; and

(2) A copy of the notice in the form prescribed by the commissioner regarding the duties of employers under this section. During the first year that any person, firm or corporation is doing business in this state in construction work, or in the severance, production or transportation of minerals, such person, firm or corporation shall on or before February 1, May, August and November of each calendar year file with the department a verified statement of the number of employees, or a copy of the quarterly report filed with the Bureau of Employment Programs showing the accurate number of employees, unless the commissioner waives the filing of the report upon his or her determination that the person, firm or corporation is of sufficient stability that the reporting is unnecessary.

(g) Termination of bond. -- The bond may be terminated, with the approval of the commissioner, after an employer submits a statement, under oath or affirmation lawfully administered, to the commissioner that the following has occurred: The employer has ceased doing business and all wages and fringe benefits have been paid, or the employer has been doing business in this state for at least one year and has paid all wages and fringe benefits. The approval of the commissioner will be granted only after the commissioner has determined that the wages and fringe benefits of all employees have been paid. The bond may also be terminated upon a determination by the commissioner that an employer is of sufficient financial responsibility to pay wages and fringe benefits.

W. Va. Code Ann. § 21-5-14.

#### Insufficiency of the Bond, Manner of Distribution

In the event that the claim of any employee or group of employees having wages and fringe benefits unpaid is in an amount in excess of the bond required in section fourteen of this article, the manner of distribution and order of priority of claims shall be as follows: Unpaid wages; unpaid fringe benefits; damages or expenses incurred or arising out of actual injury: Provided, that nothing contained in this section shall be construed so as to limit any other cause of action against any person, firm or corporation.

W. Va. Code Ann. § 21-5-14a.

#### Failure to Provide Adequate Bond

(a) Any person, firm or corporation who knowingly and willfully fails to provide and maintain an adequate bond as required by section fourteen of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$200 nor more than \$5,000, or imprisoned in the county jail not more than one month, or both fined and imprisoned.

(b) Any person, firm or corporation who knowingly, willfully and fraudulently disposes of or relocates assets with intent to deprive employees of their wages and fringe benefits is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$60,000, or imprisoned in the state correctional facility not less than one nor more than three years, or both fined and imprisoned.

(c)(1) At any time the commissioner determines that a person, firm or corporation has not provided or maintained an adequate bond, as required by section fourteen of this article, the commissioner shall issue a cease and desist order which is to be issued and posted requiring that said person, firm or corporation either post an adequate bond or cease further operations in this state within a period specified by the commissioner; which period shall be not less than five nor more than fourteen days. The cease and desist order may be issued by the commissioner at his or her own instance or at his or her direction, with or without application to or the approval of any other officer, agent, department or employee of the state or application to any court for approval thereof. Any person, firm or corporation who continues to engage in construction work or the severance, production or transportation of minerals without an approved bond after such specified period shall be guilty of a felony, and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$30,000, or imprisoned in the penitentiary not less than one nor more than three years, or both fined and imprisoned. Any cease and desist order issued by the commissioner pursuant to this subsection may be directed by the commissioner to the sheriff of the county wherein the business activity of which the order is the subject, or to any officer or employee of the department, commanding such sheriff, officer or employee to serve such order upon the business in question within seventy-two hours and to make proper return thereof.

(2) Any other provision of law to the contrary notwithstanding, any person against whom a cease and desist order has been directed shall be entitled to judicial review thereof by filing a verified petition taking an appeal therefrom within fifteen days from the date of service of such order. Such verified petition shall be filed in the circuit court of the county wherein service of the order was completed, at the option of the petitioner, or in the circuit court of Kanawha County, West Virginia. If the appeal is not perfected within such fifteen-day period, the cease and desist order shall be final and shall not thereafter be subject to judicial review. No appeal shall be deemed to have been perfected except upon the filing with the clerk of the circuit court of the county wherein the appeal is taken, of a bond or other security to be approved by the court, in an amount of not less than the amount of the bond otherwise required to be posted under the provisions of section fourteen of this article. The person so filing a petition of appeal shall cause a copy of the petition and bond or other posted security to be served upon the commissioner by certified mail, return receipt requested, within seven days after the date upon which the petition for appeal is filed.

(d) Any person who threatens any officer, agent or employee of the department or other person authorized to assist the commissioner in the performance of his or her duties under any provision of section fourteen of this article or of this section or who shall interfere with or attempt to prevent any such officer, agent, employee or other person in the performance of such duties shall be guilty of a felony and, upon conviction thereof, shall be fined in an amount of not less than \$1,000 nor more than \$3,000 or imprisoned in the penitentiary not less than one nor more than three years, or both such fine and imprisonment.

W. Va. Code Ann. § 21-5-15.

Contractors and Subcontractors to Notify Commissioner

Whenever a person, firm or corporation (hereinafter referred to in this section as “the prime contractor”) contracts or subcontracts with an employer and such contract or subcontract contemplates the performance of either construction work or the severance, production or transportation (excluding railroads or water transporters) of minerals or any combination of the foregoing, then the prime contractor shall, within ten days next following the execution of such contract or subcontract, notify the commissioner in writing by certified mail, return receipt requested, of such contract, which notice shall include the employee's name, the location of the job site and the employer's principal business location: Provided, That if it is ascertained by the prime contractor from the commissioner that the commissioner has obtained the information required to be included in such notice from another agency of this state, then the filing of such notice by the prime contractor shall not be required. If the prime contractor is a firm, corporation or association, then any and all of the officers of such firm, corporation or association shall be responsible to see to the proper notification required by this section. If any prime contractor fails to give the notice required by this section when required to do so, such prime contractor is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars nor more than five thousand dollars.

W. Va. Code Ann. § 21-5-16.

**62. Wisconsin:**

None

**63. Wyoming:**

None

