



Sen. William Delgado

Filed: 4/12/2013

09800SB1568sam002

LRB098 07682 JLS 44375 a

1 AMENDMENT TO SENATE BILL 1568

2 AMENDMENT NO. _____. Amend Senate Bill 1568 on page 1,
3 line 5, by changing "Section 11" to "Sections 11 and 14"; and

4 on page 4 by inserting immediately below line 11 the following:

5 "(820 ILCS 115/14) (from Ch. 48, par. 39m-14)

6 Sec. 14. (a) Any employee not timely paid wages, final
7 compensation, or wage supplements by his or her employer as
8 required by this Act shall be entitled to recover through a
9 claim filed with the Department of Labor or in a civil action,
10 but not both, the amount of any such underpayments and damages
11 of 2% of the amount of any such underpayments for each month
12 following the date of payment during which such underpayments
13 remain unpaid. In a civil action, such employee shall also
14 recover costs and all reasonable attorney's fees.

15 (a-5) In addition to the remedies provided in subsections
16 (a), (b), and (c) of this Section, any employer or any agent of

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

9 (1) for unpaid wages, final compensation or wage
10 supplements in the amount of \$5,000 or less, a Class B
11 misdemeanor; or

12 (2) for unpaid wages, final compensation or wage
13 supplements in the amount of more than \$5,000, a Class A
14 misdemeanor.

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

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

21 (b) Any employer who has been demanded or ordered by the
22 Department or ordered by the court to pay wages, final
23 compensation, or wage supplements due an employee shall be
24 required to pay a non-waivable administrative fee ~~of \$250~~ to
25 the Department of Labor in the amount of \$250 if the amount
26 ordered by the Department as wages owed is \$3,000 or less; \$500

1 if the amount ordered by the Department as wages owed is more
2 than \$3,000, but less than \$10,000; and \$1,000 if the amount
3 ordered by the Department as wages owed is \$10,000 or more. Any
4 employer who has been so demanded or ordered by the Department
5 or ordered by a court to pay such wages, final compensation, or
6 wage supplements and who fails to seek timely review of such a
7 demand or order as provided for under this Act and who fails to
8 comply within 15 calendar days after such demand or within 35
9 days of an administrative or court order is entered shall also
10 be liable to pay a penalty to the Department of Labor of 20% of
11 the amount found owing and a penalty to the employee of 1% per
12 calendar day of the amount found owing for each day of delay in
13 paying such wages to the employee. All moneys recovered as fees
14 and civil penalties under this Act, except those owing to the
15 affected employee, shall be deposited into the Wage Theft
16 Enforcement Fund, a special fund which is hereby created in the
17 State treasury. Moneys in the Fund may be used only for
18 enforcement of this Act.

19 (b-5) Penalties and fees under this Section may be assessed
20 by the Department and recovered in a civil action brought by
21 the Department in any circuit court or in any administrative
22 adjudicative proceeding under this Act. In any such civil
23 action or administrative adjudicative proceeding under this
24 Act, the Department shall be represented by the Attorney
25 General.

26 (c) Any employer, or any agent of an employer, who

1 discharges or in any other manner discriminates against any
2 employee because that employee has made a complaint to his
3 employer, to the Director of Labor or his authorized
4 representative, in a public hearing, or to a community
5 organization that he or she has not been paid in accordance
6 with the provisions of this Act, or because that employee has
7 caused to be instituted any proceeding under or related to this
8 Act, or because that employee has testified or is about to
9 testify in an investigation or proceeding under this Act, is
10 guilty, upon conviction, of a Class C misdemeanor. An employee
11 who has been unlawfully retaliated against shall be entitled to
12 recover through a claim filed with the Department of Labor or
13 in a civil action, but not both, all legal and equitable relief
14 as may be appropriate. In a civil action, such employee shall
15 also recover costs and all reasonable attorney's fees.
16 (Source: P.A. 95-209, eff. 8-16-07; 96-1407, eff. 1-1-11.)".